

The Oregonian

Google Fiber puts the pressure on local governments with checklist, May deadline

By Mike Rogoway

Most businesses seeking city permits or franchising agreements must comply with local rules and regulations. They have to work through reams of laws and guidelines and conform to city codes.

With Google Fiber it's the other way around: the cities must meet the company's demands.

When Google announced last month that it would like to offer a high-speed Internet service in Portland and five suburbs, it— and a May 1 deadline to respond.

The checklist isn't exactly an ultimatum — there's a certain degree of flexibility built into Google's planning process. And many U.S. cities, Portland included, had already been working to streamline their planning and permitting processes for broadband networks in hopes that Google, or someone else, would leap in and build one.

Still, Google arrived at its City Hall press conference last month with a great deal of leverage. The company has a powerful brand and an appealing offer: Who doesn't want faster Internet, and more competition?

Last month, even as Google held out the possibility of coming to Portland, the company warned of regulatory or logistical hurdles that might stand in its way.

"It's entirely possible we won't be able to bring Google Fiber to the Portland area," said Google Fiber general manager Kevin Lo. That put the onus squarely on the smiling local officials at Google's press conference to make it happen.

After four weeks of planning, they're still smiling.

"There's an incredible amount of coordination and collaboration. And, thankfully, I love it," said Mary Beth Henry, director of Portland's office for community technology. The Portland City Council will vote Wednesday to give her an additional title — project manager for the Google Fiber initiative.

Building a brand-new network across the metro area will require stringing, or burying, hundreds of miles of fiber-optic cable. Beyond local permits and franchises to use the public rights of way, Google may also need to strike deals with the private companies that own the region's utility poles.

That's why Google put together its checklist — to simplify its own planning process by making local governments do the legwork.

"This is a lot of information to put together," said Rondella Hawkins, telecommunications and regulatory affairs manager for the city of Austin, where Google has been planning a new fiber network for nearly a year.

Google originally hoped to start offering service in Austin by April 2014, but Hawkins said that — to her knowledge — network construction hasn't begun.

Google and Austin are working together, she said, to overcome logistical issues created by challenging terrain and by bigger construction projects, already under way, that create obstacles for the new fiber network.

"Getting your arms around and coordinating all this issues, that's the biggest challenge," Hawkins said.

Google's strategy for enlisting city agencies to help with its planning echoes what the company did four years ago, when it held a national competition for its first residential fiber project — a contest Kansas City

ultimately won. More than 1,100 cities bid for Google's attention, including Portland, which crafted a detailed analysis of how the project could work here.

This time Google started with a list of nine metro areas, including Portland, and presented each with the same set of needs and requirements. Potentially, Google says, its fiber project could come to all of them – but it insists on civic help.

And Google plays hardball. Last fall, when the Kansas City suburb of Overland Park briefly delayed approval of a Google Fiber deal while it reviewed legal language, the company put plans to expand there on hold indefinitely – a decision broadly interpreted as a slap at local officials.

"We need to refocus our energy and our resources on the communities that are waiting for Fiber," the company told the Kansas City Star.

While Google wants planning help, it's not asking for financial assistance. In fact, if Google Fiber moves forward the company (or, more likely, its customers) will almost certainly have to pay the city – paying the same type of assessment that Comcast, CenturyLink and other telecommunications companies do.

"All of our franchises require compensation for the right of way. The right of way is public property," said Henry, Portland's project manager.

How much that will cost, obviously, is up for discussion. So is the network's footprint.

Existing phone and cable TV networks were built under an agreement that they serve every part of the city. But Portland didn't ask for anything similar when Qwest Communications contemplated a competitive cable TV network in 2007 (company officials in Denver killed that plan), and Google wouldn't countenance a universal service requirement now.

To win consideration as a Google "fiberhood," the company says local residents will have to demonstrate an appetite for the service. That could skew service toward wealthier parts of the city. (In areas it serves, Google does plan to offer free, 5 megabit-per-second Internet connections to customers who will pay a \$300, up-front installation fee. That's 20 times slower than Google's standard gigabit service, but perfectly adequate for basic web surfing and e-mail.)

Portland also requires that a new communications franchise meet some "public benefit," opening the door to further negotiations over where Google will bring its service and how much it will cost.

Google says it wants to make a decision on which cities will get its fiber network by the end of the year. If that happens, everyone will have to move fast. Henry said Portland has a four-month approval process, so that means the city and Google will need a franchise deal by the end of the summer.

Compare that to the two years Comcast spent negotiating a renewal for its Portland cable TV franchise. In statements, Comcast and CenturyLink each said they want to ensure Google gets no special treatment in its franchise negotiations, and that all competitors are treated equally.

There are many other considerations and complications. In addition to Portland, Google will also need to negotiate some kind of franchise agreement with the five suburbs – Hillsboro, Beaverton, Tigard, Lake Oswego and Gresham – that it says it wants to serve.

And since Google wants to avoid digging up every sidewalk in the metro area, an expensive and disruptive process, it will need agreements to string its fiber along tens of thousands of existing utility poles. Most of those poles aren't in public hands – they're owned and maintained by other utilities, including Portland General Electric and prospective Google Fiber competitor CenturyLink.

PGE won't say whether it's had talks with Google yet, but spokesman Steve Corson said the company has more than 55,000 utility poles in the cities Google is considering. More than 110 companies and local governments lease space on PGE poles, Corson said.

"We have sort of a basic template we work off with these folks," Corson said. "They can request changes. That's where the negotiation comes in."

Google and Portland began negotiating, secretly, last fall for a “broadband franchise” – a new hybrid modeled on templates created by existing phone and cable TV franchises. Henry, the city’s community technology director, said she’s under a nondisclosure agreement and can’t discuss the ongoing talks.

Meanwhile, Portland and other cities have assembled working groups and task forces to coordinate planning efforts, and Portland Mayor Charlie Hales has said the city will meet Google’s needs without hiring additional staff.

The six Oregon cities selected by Google have already met with each other, and their Google Fiber project managers plan to meet at least weekly through the May deadline. Portland is checking in every week with Google, too, Henry said, and already has some of information it requested ready for upload to Google.

It’s a complicated process, she said, but not an overwhelming one – and Henry said she’s “confident” Google will be satisfied with the results.

“We’re collaborating,” she said, “and it’s going well.”

City of Portland wants to 'own' police reforms and limit federal court intervention

By Maxine Bernstein

The City of Portland needs to own the police reforms required under a proposed settlement agreement with the U.S. Department of Justice, and urges the federal court to play a limited role, according to a legal brief filed late Tuesday.

"In designing the Agreement, the parties shared the expectation that the pace of compliance and City performance post-Agreement will benefit from the City 'owning' the reforms rather than responding to edicts from an outside monitor," deputy city attorney Ellen Osoinach wrote.

Osoinach joined with federal prosecutors and the Portland Police Association in trying to convince U.S. District Court Judge Michael H. Simon that the negotiated settlement agreement is fair and reasonable, and does not require amendments, despite extensive community testimony last month that the reforms don't go far enough. The agreement stems from a federal investigation that in 2012 found Portland police engaged in excessive force against people with mental illness.

"The City never intended to preclude further discussion or reforms to officer accountability, and thus the Agreement does not include every measure that might 'give greater effect to and faith in the process,'" Osoinach wrote.

Crafting any amendments to the agreement – which calls for a wide range of changes to Portland police policies, training and oversight – would be a "monumental task" that could jeopardize support from the Portland Police Association, one of the parties to the case, the deputy city attorney argued.

"It would be ironic if the City's good faith effort to expand the remedies resulted in the Agreement's rejection," Osoinach wrote.

Throughout her legal brief, the deputy city attorney referred to the members of the public who testified against the settlement agreement as the "objectors."

She argued that settlement does not preclude the city's elected officials from pursuing broader reforms in the future.

Osoinach argued that the city's system of investigating alleged police misconduct cases is not broken.

"The City has been both willing and able to impose the ultimate sanction for misconduct: termination. From 2005 to 2012, the outcome of the complaint process included ten terminations and thirty-three resignations or retirements. In other words, about forty-three officers were either asked to leave or voluntarily left during the complaint process," she wrote.

During the period cited, no Portland police officer has been fired for use of deadly force, however. (The city fired Officer Ron Frashour for his fatal shooting of Aaron Campbell in 2010, but an arbitrator reinstated him. The city is appealing that decision.)

Responding to questions that the judge issued to each party in the case, the deputy city attorney wrote: the city would recommend extending the deadlines for citizen appeals to be heard on police investigations of alleged officer misconduct, after the settlement agreement is adopted; the city does not endorse putting body cameras on its cops because of limitations in the technology; the city is opposed to changing the 'reasonable' standard of proof considered by Citizen Review Committee members; and does not want to muddy up the agreement by altering the bureau's 48-hour rule now in place that allows officers to wait two days before they're interviewed by an investigator following an officer-involved shooting.

Altering that rule will take further discussions between the Police Bureau, the district attorney's office, the police union and the Independent Police Review Division, Osoinach wrote.

"The City intends to balance the competing demands and interests involved in securing officer statements in officer involved shootings with the full benefit of input from a variety of sources," Osoinach wrote. "...the Agreement wisely avoided proscribing a particular outcome and instead focuses on ensuring that appropriate decision-making occurs."

Osoinach sought to assure the judge that oversight by the city-hired compliance officer and a community oversight board will be sufficient to make sure the reforms are adopted. Only if the parties are unable to iron out through mediation any differences that might emerge should the court get involved, she wrote.

"The City is dedicated to reform and chose to enter into this particular Agreement not to avoid it but rather to ensure its success," the city's brief said. "The compliance mechanism contemplated by plaintiff's voluntary dismissal and the court's ancillary jurisdiction is most likely to support the goal of reform. An end to the distractions of litigation is central to this goal."

The other parties to the case - the U.S. Department of Justice, the Portland Police Association and the Albina Ministerial Alliance's Coalition for Justice and Police Reform - submitted their own responses to the judge earlier Tuesday.

Portland's 'innovation fund' looks to spend money to make money -- and crack down on tax scofflaws

By Brad Schmidt

Portlanders beware: the Tax Man is coming.

The city of Portland's Revenue Bureau has a new plan to ensure better compliance with local tax laws, a move that officials speculate could bring the city \$780,000 to \$2.3 million in ongoing annual revenue and up to \$540,000 more in Arts Tax collections.

But, as the old saying goes, it takes money to make money.

And as part of the plan, Portland Mayor Charlie Hales on Wednesday will ask the City Council to bless a \$295,000 infusion to the Revenue Bureau to establish a taxpayer exchange with the Internal Revenue Service.

City officials say the exchange will "greatly assist in the administration and collection of local income taxes" -- aka watch out tax scofflaws.

The \$295,000 represents the largest chunk of Hales' \$1 million "innovation fund," which he rolled out last year hoping to spark some creativity within government.

What makes the "innovation fund" particularly ironic was the lack of innovation in the ideas from within city government.

An innovation task force that reviewed the proposals "concluded that very few of the proposals were truly innovative," according to a memo from the task force to Hales.

"Our seven recommended proposals all have innovative qualities, but in general, we thought that none of the proposals radically rethought the way the City does business," the memo stated. "Rather, we were surprised that many of the proposals had not already been implemented using resources within bureaus' current budgets."

In a memo to the City Council, Hales conceded that some of the ideas weren't real barn-burners.

"I agree with the task force that many of the proposals were good ideas, but that the City can do more to encourage an innovative culture," Hales wrote. "I also agree with the task force that few of the proposals address the City's equity goals, and we should be working with our bureaus on equity proposals that they could bring forward for next year's Innovation Fund."

Here's the list of those not-so-innovative items that Hales will also ask the City Council to informally green light:

Portland Bureau of Transportation: \$35,000 to create a plan for variable-priced parking in the South Waterfront district, where parking stalls would cost more or less depending on demand.

Portland Housing Bureau: \$48,000 for a pilot data-sharing program that would enable city bureaus to feed information to the Housing Bureau, reducing the "data entry burden" on the city.

Portland Development Commission: \$80,000 for an "early adapter program." What's that? From the proposal: "The bureaus will work as a team (with guidance from consultant) to craft a technology-based tool that will provide an interface between bureaus and industry to exchange needs and proposed solutions."

Portland Planning & Sustainability Bureau: \$90,000 to update the city's landslide maps.

Portland Fire Bureau: \$108,000 for the "PulsePoint" smart phone app. The program would notify citizen volunteers that someone nearby is in cardiac arrest and provide information for the nearest defibrillator.

Portland Bureau of Transportation: \$250,000 for a "web-based application system for tracking and mapping agencies' capital improvement (CIP) and maintenance plans, plus management systems to enable coordinated decisions for both immediate and long term work in the public right of way at the most comprehensive level."

The Portland Tribune

PDC to spend \$1 million on Lents brewpub

By KOIN News 6

Four years ago, the City of Portland leased a city-owned building to Ararat Bakery and showered them with more than \$650,000 in loans to get started in the Lents neighborhood. It didn't last long.

The Ararat Bakery opened in 2009 in the Lents neighborhood after getting \$650,000 from the city of Portland. It closed in 2011.

The owners couldn't pay the rent, the city kicked them out and the loan the city made to the bakery owners ended up being taxpayer money down the drain.

They only repaid a total of \$10.

Now, the city is about to spend \$1 million on a new brewery in the Lents neighborhood.

Eric Garner told KOIN 6 News he's lived in the Lents neighborhood long enough to have seen a big improvement. He lives about a block away from where the proposed new brewery will be built. He's seen the failures, and he hopes the new business coming here sticks.

But he said the city "spent a lot of money and most of it hasn't worked."

He likes the brewery idea, though.

"Excellent idea, especially since it's a very family oriented type of brewery," he said. "It'd be nice to have a place to go and have a burger with the kids and sit down."

Jesse Cornett, the chair of the Lents Neighborhood Association, said the use of taxpayer money to try and grow a business in the area is worth it.

"When the same tools don't always work they're looking for new ones now and this new brew pub is a potential new catalyst for the neighborhood," Cornett said.

A family friendly, craft beer making facility is the right fit, he said, since it would attract the locals and produce beer that will likely be exported to other neighborhoods of Portland and beyond.

"If this neighborhood is going to thrive we're going to have to make things here that are going to go to other parts of Portland and beyond," he told KOIN 6 News. "This is a great first step and this type of business is going to be a catalyst that will bring a lot of other businesses to the neighborhood."

Willamette Week

Shibley's Side Of The Story

Hales' chief of staff responds to a claim she targeted an HIV-positive employee.

By Aaron Mesh

Portland Mayor Charlie Hales' chief of staff, Gail Shibley, is fighting back against allegations she pressured a staffer into revealing he was HIV-positive and called him a "skank" after he told her about his illness.

Instead, Shibley says the employee filed a civil-rights complaint against her only after she denied him paid hours off from work.

The Hales staffer filed the Jan. 14 complaint with the Oregon Bureau of Labor and Industries, alleging that Shibley made illegal inquiries into his HIV-positive status, harassed him after learning of his disease, and retaliated against him for complaining about her actions.

WW has obtained a draft copy of the city's response to the discrimination allegations, which includes Shibley's denials.

In the response, Shibley denies the staffer's charges. She also provides state investigators with testimonial letters from friends and colleagues saying she's not prejudiced. (Shibley is a lesbian who in 1991 revealed her sexual orientation, becoming the first openly gay member of the Oregon Legislature.)

"She submits these testimonials," the draft response says, "in an effort to show that the allegation that she is a person who harbors discriminatory feelings about people who are HIV-positive or would treat someone unfavorably upon knowing of their illness is completely unfounded."

Hales' office declined to comment on the city's response.

In the complaint, the Hales staffer claims Shibley insisted he explain why he had a TriMet "Honored Citizen" pass, which gives discounted fares and priority seating to seniors and people with disabilities.

The staffer says Shibley continued to ask him about the pass, and he felt pressured into revealing his HIV status.

In the city's response, Shibley tells the BOLI investigator that she never made the staffer explain why he had the pass. Shibley says another co-worker asked about the pass—and when Shibley tried to defuse an awkward situation, the staffer met with her privately.

"He confided that the reason he has the pass is because he is HIV-positive and expressed that he felt comfortable sharing that with her because of their shared experiences being members of the gay community," the response says.

The staffer who filed the complaint had previously worked for former Mayor Sam Adams, who is also openly gay. In the original complaint, the staffer alleges Shibley made derogatory comments about Adams and him.

"Shibley stated to me that Adams must have been something of a 'skank,' adding that I must be a 'skank' as well, since working for Adams required a different or special skill set," the staffer says in the complaint.

In the city's response, Shibley "emphatically denies" the staffer's charge and says it was the staffer who "made some unflattering statements about the former mayor."

The complaint against Shibley is the latest in a series of allegations of misbehavior by Hales' staff.

Last summer, the mayor's top police aide, Baruti Artharee, remarks to Multnomah County Commissioner Loretta Smith, and was suspended for a week. Former top financial executive Jack Graham was accused of improperly moving money between city accounts, while Office of Equity director Dante James violated city policy by complimenting a staffer's eyes. The incidents have led some observers to call for increased city protections for whistle-blowers.

The staffer's BOLI complaint alleges that the discrimination continued when other employees in the mayor's office received paid time off while he was denied the same benefit.

The city's response says Shibley only gave paid time off to two staffers, who had worked unusually long hours, and suggests that her more conservative allocation of paid leave is the real motivation behind the civil-rights complaint.

The city document says the staffer first complained about discrimination to the city's Human Resources Bureau nearly eight months after the alleged incidents—and two months after Shibley denied him paid time off, a bonus he had received working for Adams.

The staffer complained one month after a second employee in Hales' office asked him about his TriMet pass.

"Respondent asserts that as time passed and [the staffer] was challenged to perform his job differently than how he had performed under Mayor Adams, he began to resent Ms. Shibley's style of management."

The staffer's BOLI complaint says city human resources director Anna Kanwit discouraged him from filing a complaint against Shibley.

The city's response says Kanwit didn't try to get him to drop the complaint. Instead, the response says, she investigated it.

"After reviewing the intake interview and talking to Ms. Shibley," the city's response says, "Ms. Kanwit determined that there was not enough evidence of a violation of city rules to proceed with an investigation."

The city says Shibley didn't commit a civil-rights violation, but it offers to "participate in a conciliation process" to heal Shibley's relationship to the employee.

That probably won't happen: The employee has since left the mayor's office.

The Daily Journal of Commerce

Hales encouraging Trader Joe's project revival

By Lee Fehrenbacher

After a highly publicized debate over gentrification killed a proposed Trader Joe's development in Northeast Portland, Mayor Charlie Hales is looking to commit \$20 million to combat displacement and spark resurrection of the \$8 million project.

The Portland Development Commission planned to sell a 1.79-acre parcel at the northwest corner of Northeast Martin Luther King Jr. Boulevard and Alberta Street to Los Angeles-based developer Majestic Realty for construction of a 20,000-square-foot retail center. Proposed anchor tenant Trader Joe's pulled out after community stakeholders targeted the project amid claims that the PDC's actions, past and present, were causing displacement of longtime residents.

The controversy even received national attention when talk-show host Conan O'Brien joked about it in a monologue.

On Monday, following a meeting with members of the African-American community in Northeast Portland, Hales announced that he would reach out to Trader Joe's.

Dana Haynes, spokesman for Hales, said that after the retailer pulled out, the mayor's office received hundreds of comments from residents, business leaders and African-American community stakeholders who said they supported the project.

"The mayor wants Trader Joe's to know that," Haynes said. "The reason he called the meeting ... was to say, 'Look, I really want to go after this thing, but I need to tell them I'm going with wholehearted support.'"

Some of it came via an online petition that the Oregon chapter of the National Association of Minority Contractors initiated; it called on the mayor to bring a commercial project to the site. The petition pointed out that, though the property is zoned for commercial and residential use, site constraints make mixed-use development too costly. The organization also noted that upwards of \$15 million in subsidies could be required to make an affordable housing project feasible. NAMC-Oregon suggested that other sites would be more appropriate for affordable housing; its plea has garnered support from approximately 700 individuals.

Cyreena Boston Ashby, director of the Portland African American Leadership Forum, which criticized the development plan, said in a prepared statement that her organization never opposed Trader Joe's, but rather a lack of transparency and community engagement in the city's land development processes.

Hales is now proposing to set aside \$20 million in tax increment financing over five years for new affordable housing projects in the Interstate Corridor Urban Renewal Area. That plan would need to be approved by the PDC's board of commissioners and Portland City Council, but Ashby said it would be a

victory for all people who have been displaced and marginalized over the past 20 years. PAALF could not be reached immediately for comment, but Haynes acknowledged its objections.

“We heard there are historic problems that the city needs to own about investments and disinvestments that have had consequences – unintended and intended,” he said. “Absolutely there is a historic tradition of not doing well by certain parts of our community. Having said that, Trader Joe’s would mean jobs and economic vitality for that region.”

The \$20 million injection would add to \$16.6 million currently earmarked for affordable housing in the area. Shawn Uhlman, spokesman for the PDC, said accounting details will be ironed out in early April during a series of budgetary work sessions.

The PDC also is proposing creation of a Community Benefits Agreement for the Trader Joe’s site. It would include goals for minority contracting, as well as a commitment that 50 percent of tenants in the development’s second building be local businesses. Haynes said city staffers have already contacted the retailer and Majestic Realty to discuss the prospect.

Approximately 50 community members attended Monday’s meeting with Hales. He said in a prepared statement that the city could not change the past, but it could learn from it to create a future where longtime African-American community members enjoy new economic opportunities.

“Step one is to get this popular grocer to come back to the table,” Hales stated. “That will mean jobs. Step two is our commitment for more affordable housing. That will keep people from being displaced. Step three will be a long-term commitment to the economic vitality of the Interstate Corridor area. And that’s going to take all of us as a team.”

Getting there, however, will require some legwork.

“Let’s not sugarcoat this,” Haynes said. “It will be an uphill climb. When Trader Joe’s said they were moving on, they walked out the door ... The mayor’s job is to get them to walk back through the door.”

Meanwhile, Andrew Colas, president and chief operating officer of Colas Construction – the general contractor chosen for the project – recently traveled to Los Angeles to talk with development stakeholders.

“I went down there and I met with Majestic, and I met with representatives from Trader Joe’s,” said Colas, who also is the president of NAMC-Oregon. “And really, the biggest thing was I presented the petition that NAMC-Oregon put together to support bringing the project back ... I left the meeting cautiously optimistic that there was a chance that they might come back.”

He added that the two groups were waiting to hear from Hales.

The Observer

Recasting Trader Joes

Mayor meets with community to revive controversial project

By Donovan M. Smith

The public outcry that led to specialty grocer Trader Joe’s pullout of a city-negotiated economic development project in the heart of Portland’s historic African American community may get reversed if the mayor and other city leaders are successful in new efforts to recast the project.

Mayor Charlie Hales and Commissioner Dan Saltzman met with leaders of the African-American community, neighborhood, and business representatives at City Hall in an effort to bring the popular retail chain back, perhaps with more compromises for all parties at the table.

The issues discussed at Monday's gathering included past policies that led to the displacement of people of color and other disadvantaged residents from inner north and northeast Portland, along with pledges to increase affordable housing and minority-owned businesses in the Interstate Corridor Urban Renewal Area, a large section of north and northeast Portland which includes the proposed Trader Joe's site at Northeast Alberta and Martin Luther King Jr. Boulevard.

The community leaders who attended the meeting went mostly unnamed, but included representatives of the Portland African American Leadership Forum or PAALF, the group which brought major opposition to the tax supported project when it was announced in November.

The new proposal by city officials would boost spending on affordable housing in the corridor by some \$20 million over 5 years, using future property taxes dedicated for urban renewal as a way to reverse some of the gentrification that's occurred over the past few decades.

The plan would also call for the Portland Development Commission to work with small businesses and stakeholders, especially firms owned by persons of color, to create and support a robust business and commercial district.

PAALF Executive Director Cyreena Boston Ashby did not have a comment on the new efforts when reached Tuesday.

Colas Construction, the locally owned African-American company that had been selected as the general contract for the \$8 million dollar Trader Joe's project just days before the pullout was announced early last month, was pleased with the new efforts.

Andrew Colas told The Portland Observer Tuesday that his company had never ceased discussions with Majestic Realty, the Los Angeles-based developer which was the major backer of the project.

He said developing the site was "a critical project to spawn economic development" in the neighborhood, and particularly for the small business owners in Vanport Square, the adjacent retail center which was promised an anchor tenant nearly 10 years ago

Bottom of Form

Colas says he flew out to Los Angeles as recently as last Wednesday to show Majestic a petition supporting a Trader Joe's that was sponsored by the Oregon chapter of the National Association of Minority Contractors, which Colas Construction is a member.

He says of the 684 names listed as supporters, the Urban League of Portland was one of the signees.

Colas gave the Mayor credit for his leadership and said he was "cautiously optimistic" the deal will be revived.