

The Oregonian

City will pay \$30,000 to former Portland police desk clerk and rescind her firing to settle federal lawsuit

By Maxine Bernstein

The city of Portland will pay \$30,000 to a former police desk clerk to settle her federal lawsuit that claimed the city unjustly fired her in 2012, violated her rights as a domestic violence victim and retaliated against her for identifying misuse of money.

Attorneys for the city and the plaintiff, Kathryn E. Johns, discussed the settlement before U.S. District Magistrate Judge Dennis Hubel in a telephone conference Tuesday.

The city also agreed to rescind Johns' termination and alter city records to reflect she resigned instead. The city will return any private property to her that they seized, and the city's Bureau of Human Resources will provide a letter stating the years she worked for the city and the effective date of her resignation.

Johns alleged that North Precinct Cmdr. Mike Leloff verbally reprimanded her for taking medical leave on at least four occasions and improperly demanded that she disclose her home address, although she strove to keep her street address confidential as a domestic violence victim who was part of a witness protection program, the state's Address Confidentiality Program. Her lawsuit was filed against the city, Leloff and Police Chief Mike Reese.

"It was a blatant abuse of power by the Portland police on an employee under duress to keep her job and support her family," said Johns' lawyer, Charese Rohny. "And, in this case, given the protection of her address as a domestic violence victim – a violation of her right to privacy."

Rohny said her client needs to find a new job, and accused the Portland police of having "beaten her down."

"My client is still somewhat in hiding due to her abusive ex-husband. She fears for the safety of her children. She is beaten down emotionally. It is difficult finding a job after a termination and after two years, she just wants closure," Rohny said.

The city argued in court papers that Johns' address is not constitutionally protected. Johns disclosed it to two internal affairs investigators who were looking into her use of medical leave and went to her home to seize her personal computer, according to court records.

City attorneys called the settlement reasonable. "Although they felt that the employment separation was valid, given the complicated facts involved in this case, a settlement was an acceptable resolution," said Dana Haynes, the mayor's spokesman.

The city fired Johns in August 2012 after investigating her use of medical leave and for having confidential work information on her home computer. Johns said she needed medical leave for a permanent injury she sustained from pregnancy complications and to attend doctor appointments for a child who suffers from epilepsy. She said she also had taken time off for court-related matters, child custody appointments and counseling stemming from a domestic violence case against her ex-husband. Her ex-husband had pleaded guilty to assault and harassment, according to court documents.

"She was repeatedly berated by her supervisors, particularly Cmdr. Leloff, for her use of medical leaves," the lawsuit said. "She was called into meetings with PPB management who interrogated her regarding how many more times she would need medical leave, either for herself or for her children."

Johns, who had served on the bureau's safety committee, further alleged that she was retaliated against for complaining about alleged misuse of state grant money given to the Police Bureau. In 2012, Johns reported to the chief that she believed \$12,000 to \$14,000 of safety incentive money -- granted to the

bureau as a reward for successful safety inspections -- was unaccounted for and had been used by Leloff to buy "quick clot" kits for his North Precinct officers without going through the proper channels for authorization.

Under the settlement, Johns agreed to review certain court documents with city lawyers to see if she will retract a portion of her complaint. The portion the city is concerned about was not identified Tuesday.

Deputy City Attorney Heidi Brown told the court that the negotiated settlement must go before City Council for approval.

Portland's roads are bad and getting worse, according to the most recent transportation report card

By Andrew Theen

Portland's roads are bad and getting worse, according to the most recent status report issued by the city's transportation bureau on Tuesday.

"Every year, every month, every day that we don't act [it] gets worse," Commissioner Steve Novick said Tuesday. Novick oversees the Portland Bureau of Transportation, and is leading the push to find new revenue sources to address what the city says is a long-standing decline of roads, sidewalks, street lights and other necessities.

The 2013 annual report underscores what Novick, Mayor Charlie Hales and PBOT officials have been saying for months: Portland needs to do something to improve its deteriorating transportation network. It's a refrain outlined in a report from City Auditor LaVonne Griffin-Valade last year in a scathing audit.

"Time really does matter," Novick said. "Time is our enemy."

Novick and Hales are hosting the last scheduled transportation town hall meeting on Thursday at Woodstock School in Southeast Portland from 6:30 - 8:30 p.m. A proposed \$8 or \$12 monthly street fee for residents to help pay for safety and maintenance projects continues to be the frontrunner in terms of potential funding strategies. Novick said the city needs to make a decision within the next couple months.

More of the city's 4,827 lane miles of roads were classified as either in "poor" or "very poor" condition in the 2012-13 fiscal year than in the previous year. All told, 48 percent of arterial and collector streets, the largest and most heavily used roads, are in poor or very poor condition, according to the report. That's an 8 percentage point increase from the previous year.

Neighborhood streets are actually in worse shape, according to the report, with 54 percent of roads in poor or very poor condition, compared to 47 the previous year..

PBOT officials rate the roads on a scale of 0-100 (worst to best) with a score of 65 or greater representing fair, good or very good condition. A rating of 40 or fewer represents "very poor" condition.

Novick and PBOT director Leah Treat held a press conference Tuesday at a busy West Burnside Street intersection as work crews finished a road rehab project.

Last year, Mayor Charlie Hales set a goal for the 2013-14 fiscal year: do preventative maintenance and/or rehabilitative work on 100 miles of Portland's streets.

In November, Treat said the city had reached the 76 mile mark. On Tuesday, she said the total stood at 87 miles. PBOT officials said they're on pace to meet or exceed the 100 mile goal by the ends of June.

While a city audit last year said Portland would need to spend \$70 million a year for a decade to bring streets up to better condition, Novick said there's a sense of urgency to do something. The \$8 fee could

bring up to \$34 million annually, and the \$12 fee could haul in \$52 million, not to mention the added anticipated revenue from local businesses paying into the street fee.

Technology like the FOG seal, a preventative street seal used in Hales' 100 mile challenge, is a cheap alternative, Novick said, but it's "not enough to get us out of the hole." It's also not reflected in the 2013 asset and condition report, because the preventative work started after the 2012-13 fiscal year ended.

Novick said ultimately the FOG sealing and 100 mile challenge could sway next year's report a few percentage points, moving roads from very poor to poor condition. But it doesn't do anything to address the 60 miles of completely unpaved roads, or the costly repairs needs to completely rebuild other streets.

All told, the city has \$916 million in unmet maintenance needs for paved streets, according to the report.

Roads aren't the only asset in the city's \$8 billion transportation network that need attention. But they do make up the largest percentage, some \$4.8 billion in replacement value.

All told, the city's unmet needs to maintain its assets totals \$1.5 billion, according to the report.

Willamette Week

Space of Waste

An office building project for city sewer engineers triples in cost to \$11.4 million—at the worst possible time.

By Aaron Mesh

In December 2011, a coalition of angry water and sewer ratepayers sued the city of Portland. Their basic allegation: The city had squandered \$127 million in ratepayers' money on questionable projects.

That should have been a warning to City Council members to watch their spending on the next ratepayer-financed idea that came along.

It wasn't. A month later, in January 2012, the City Council without debate voted to increase spending on a Bureau of Environmental Services office project on its way to \$11.4 million in costs—triple its original price tag.

Records obtained by WW show how the city turned what was supposed to be a utilitarian office building into a gleaming environmental showcase and the "new face" of the Portland's sewage treatment plant. The city's own contractors called the building, which opened last month, a "poster-child facility" for wastewater engineers in North Portland.

There's no suggestion the spending was improper, but the records show the City Council failed to keep the project under control. Five times, between 2010 and 2012, the council agreed to keep spending more money on the project, and did so without debate.

"I totally take ownership that this project got way beyond its ways and means," says City Commissioner Dan Saltzman, who then oversaw the Bureau of Environmental Services. "We did push back on the contracts, but we didn't push back hard enough. I kept seeing the scope change quite a bit. That's the problem. It's never a good thing to do."

Final all-in construction costs make the Columbia Boulevard Wastewater Treatment Plant support facility one of the city's most expensive office spaces.

Bureau of Environmental Services director Dean Marriott tells WW the building's construction costs were \$5.5 million, which translates to \$478 per square foot. If true, that makes the sewer engineers' offices

more expensive than the proposed downtown Sustainability Center promoted in 2009 by then-Mayor Sam Adams. That building died on the drawing board because its estimated cost—\$462 a square foot—would likely have made it the city’s most expensive building.

But records obtained by WW under the Oregon Public Records Law show Marriott is leaving out millions of dollars in costs, including planning, design and landscaping expenses typically included in the price of construction.

Based on the records, the project’s true per-square-foot costs would range between \$799 and \$956.

Marriott says the project’s purpose expanded, from an office building to a welcome center that could provide security for the sewer treatment plant.

“We’re accomplishing multiple purposes with this development, which seems to be beyond some people’s ability to understand,” Marriott says. “This is what you want from your government. We adapted. We solved a lot of problems at that campus.”

On May 20, Portland voters will decide whether to strip control of the city’s water and sewer bureaus and give control of them to a seven-person, independently elected board. The ballot measure has been pushed by large corporate water users that have pointed to what they say are wasteful and unnecessary projects funded with ratepayer money (“Talkin’ Bull,” WW, April 23, 2014).

Those projects include an environmental display home called the “Water House,” and a \$1.1 million visitors’ center and caretaker’s house at a new underground reservoir on Powell Butte (“Million-Dollar Water Park,” WW, Oct. 23, 2013).

But the \$11.4 million office project for sewer engineers has largely gone without public scrutiny.

KOIN-TV first reported the building’s increased price tag in March, but documents released to WW under the Oregon Public Records Law explain for the first time how costs spiraled out of control.

The Bureau of Environmental Services runs the Columbia Boulevard Wastewater Treatment plant at 5001 N Columbia Blvd., along the Columbia Slough about two miles west of Interstate 5.

It’s where the city flushes its wastes, pumping in 70 million gallons (when it’s not raining) to 450 million gallons (when it does rain) of sewage and stormwater a day.

In 2009, the bureau proposed a \$3.2 million office building to replace modular buildings where 38 BES employees, including engineers, worked. But records show the BES had underestimated the building’s basic costs. The price went up to \$4.6 million by the time the City Council voted on the design contract in June 2010.

The bureau awarded the design contract for the office building to Skylab Architecture, known for such projects as the log-cabin nightclub Doug Fir Lounge.

Skylab designed an 11,500-square-foot angular steel and glass structure that appears to rise out of wetland grasses that slope down the building’s sides and roof.

The building was designed to show off the environmental work the BES does in other parts of the city, from bioswales to ecoroofs. The design called for native plants to cover 80 percent of the roof, a wooden deck with a gas barbecue overlooking an existing pond, and vented windows at the top of the roof to give workers fresh air.

Even the doors to the restrooms reflect the LEED Gold-certified building’s environmental mission: The frosted glass shows silhouettes of men and women, drawn out of wetland creatures like snakes, salmon and heron.

“It will be the poster-child facility for the BES,” architects wrote, “representing the function of the [wastewater plant] and providing an interactive, educational depiction of current programs of the BES.”

In February 2012, Saltzman put the greatly expanded \$7.9 million project on the council's consent agenda, where items considered routine are passed without public discussion. The council, again without comment, approved it.

Over the next year, the council wordlessly approved more design changes—and cost increases—until the project hit \$10.2 million.

But BES wasn't done: Without needing the City Council's approval, the bureau signed off on 85 change orders totalling \$1 million sought by the project's contractors.

Marriott says the \$3.7 million cost of designing and managing the project—and the \$2.2 million spent on improving the surrounding site—should not count as part of the building's cost per square foot.

Will Macht, a real-estate developer and professor at Portland State University, says such related costs should be included. "Without looking at the project in detail, certainly the number is extraordinarily high," he says. "It would invite further questions, attention and scrutiny."

On April 25, after WW started asking questions about the project, City Commissioner Nick Fish, who now oversees the BES, asked City Auditor LaVonne Griffin-Valade to investigate it in a formal audit.

"A lot of things land on our consent agenda," Fish says. "A lot of projects grow in cost. The question is, was there enough transparency?"

Streetcar Money Arrives Late in Water District Ballot Fight

By Aaron Mesh

Portland Mayor Charlie Hales has been working the after-hours phones and sending out mass emails trying to raise money to fight the ballot measure that would remove City Hall's control of water and sewer utilities.

Those pleas have now netted donations from Hales' longtime allies in streetcar construction—including his former employer.

HDR, Inc., the engineering company where Hales worked for a decade marketing streetcar systems, has used its federal political action committee to donate \$1,000 to the "no" campaign on Measure 26-156. That money joins a \$5,000 donation made last week by another streetcar and light-rail builder—and big Hales mayoral campaign donor—Stacy & Witbeck. That company is currently building TriMet's Portland-Milwaukie light-rail project.

Other new contributions to the "Stop the Bull Takeover PAC" include Powell's Books owner Michael Powell (\$1,000) and the Fire Fighters Political Action Committee (\$5,000).

On the "yes" side, the backers of the measure, which would create a new public utility, picked up another big check from Portland Bottling Co., the soda-pop manufacturer furious over its water bills.

The Portland Bottling donation dwarfs those on the "no" side: It's \$25,000.