

The Oregonian

Portland street fee: City polls on possibility of income tax -- City Hall Roundup

*By Brad Schmidt
July 17, 2014*

Portlanders were split at the prospect of paying a \$12 monthly street fee three months ago.

Today, they're similarly divided about the creation of an income tax that could replace the street fee.

On Thursday, Portland Commissioner Steve Novick released details from a new survey that asked Portlander voters whether they'd support an income tax or higher business taxes to pay for street repairs.

The survey found that 50 percent of respondents supported a new income tax while 45 percent opposed it. The margin of error is 5.7 percent. (This story has been updated with the poll documents. Read the full breakdown of results).

Three months ago, support for the street fee – estimated at the time to be \$8 or \$12 monthly – registered at 44 to 47 percent.

The latest poll, which included four sets of 300 Portland voters, set tax rates of one-quarter of 1 percent on incomes below \$100,000; 1 percent for income between \$100,000 and \$250,000; 2 percent for income between \$250,000 and \$500,000; and 3 percent on income above \$500,000.

According to Novick's office, those rates would raise more money than the city is targeting and would actually be cut in half: one-eighth of 1 percent below \$100,000 and so on.

For a couple with a gross income of \$60,000, the annual bill would be about \$50 a year – significantly less than the \$144 that a homeowner would pay under the street fee proposal put on ice in June. Many had criticized the city's original street fee proposal as regressive.

The new poll also found division among Portlanders about increasing city taxes on businesses profits from today's 2.2 percent to 4 percent. Of those polled, 47 percent offered support while 48 percent were opposed.

Novick, who oversees the Portland Bureau of Transportation, and Mayor Charlie Hales hope to raise in excess of \$50 million a year to repair and preserve city streets and make safety improvements, with taxes or fees split among residents and businesses.

Dylan Rivera, a spokesman for the transportation bureau, stressed that the poll only explored options and don't represent any actual proposal by the city.

Novick said he released the polling data, conducted June 19 to June 22, this week to correspond with a work group that began meeting. The poll cost \$16,500 and funding came from Novick's office -- not the transportation bureau.

The City Council is expected to vote on a street funding proposal in November.

Top things you should know about city's controversial settlement with Portland police Capt. Mark Kruger

*By Maxine Bernstein
July 18, 2014*

The city's settlement with Portland police Capt. Mark Kruger, which erases his past discipline and pays him \$5,000 plus 80 hours of vacation time, has drawn heated criticism from city commissioners and the community.

On Thursday, Mayor Charlie Hales, who serves as police commissioner, publicly characterized it as a "distasteful decision," but said he took full responsibility for signing it.

Here's top things you should know about the settlement and the aftermath:

1. The settlement was signed in June by four city officials, including the mayor, Police Chief Mike Reese, Human Resources Director Anna Kanwit and senior deputy city attorney Jenifer Johnston.
2. After the settlement was publicized Wednesday by The Oregonian, the mayor Thursday morning sent an email to city commissioners saying he was unaware of all the terms of the agreement, sources said, and later met with legal staff to see if the city could back out of it. The mayor's office has declined to release that email. In response to a public records request by The Oregonian, Hales' spokesman Dana Haynes called the email "a confidential communication to facilitate legal advice on the issue."
3. Tracy Reeve, who as a deputy city attorney represented Kruger when he faced several federal lawsuits between 2002 and 2005 that accused him of excessive force stemming from downtown anti-war protests, now serves as the Portland city attorney. As the federal suits were pending, Kruger removed the plaques from Rocky Butte and stashed them in the city attorney's office. It was Reeve who Kruger gave the plaques to while those federal cases were pending. After Kruger last year filed a notice to sue the city and the police bureau's top civilian supervisor, Mike Kuykendall, the city attorney's office hired outside counsel to negotiate a settlement, citing a conflict of interest. Kruger alleged Kuykendall's text messages with a female lieutenant that characterized him as a Nazi were slanderous.
4. For years, past police chiefs and city attorneys have vigorously fended off critics who called Kruger a "Nazi sympathizer." They said he was simply a history buff who collected military memorabilia and had belonged to a World War II reenactment club. But in 2010, a Portland commander and a Portland Police Performance Review Board found Kruger brought "discredit and disgrace upon the Bureau and the City," by building a public tribute to five Nazi-era German soldiers at a city park, Rocky Butte, while employed by the police bureau. It was Commissioner Dan Saltzman who demanded a full investigation at that time, facing intense pressure and a formal complaint from a former friend of Kruger's, Robert Seaver.
5. Kruger's commander at the time, Dave Famous, wrote that he was "deeply concerned" that the plaques purported to honor SS- Obersturmfuhrer Michael Wittman, a member of the Waffen SS, and Kdr. Harald von Hirschfeld who commanded a regiment that participated in the execution of thousands of prisoners of war on the Greek island of Cephalonia in 1943.

Kruger told internal affairs that he was "honoring the men because of their military exploits rather than their political affiliations."

Yet Famous, noting Kruger's degree in history and extensive study of German history, found Kruger should have known that memorializing "a Waffen SS member and the commander of a battalion responsible for a large-scale massacre of prisoners of war could alarm a member of the public familiar with these historical events."

Famous is now captain of police internal affairs.

6. And this nugget I found in one of my prior stories: In November 2010, when Reese disciplined Kruger for the memorial tribute to Nazi-era soldiers, Kruger waived his right to any arbitration challenging the discipline. At the time, Reese said he considered terminating or demoting Kruger, and might have, had the conduct occurred more recently.

Four years later, as part of the recent settlement, Reese wrote a laudatory letter to Kruger, saying in part: "I am writing to affirm that I consider you to be a competent and valuable member of the Portland Police Bureau. Your skills and talents as a Critical Incident Commander and ability to connect with the community are outstanding."

Portland Mayor Charlie Hales calls Capt. Mark Kruger settlement a 'distasteful decision' that he's not happy about

*By Maxine Bernstein
July 17, 2014*

Amid growing outrage about a city settlement that wiped away discipline for a controversial Portland police captain, Mayor Charlie Hales claimed in an email to City Council members Thursday morning that he didn't know about certain terms of the agreement when he signed it, according to several city sources.

Hales, who serves as police commissioner, also consulted with legal staff to see if there was any way to back out of the deal.

The mayor's office declined to release the email, saying it was "a confidential communication to facilitate legal advice on the issue."

By Thursday afternoon, Hales released a prepared statement, describing the agreement with Capt. Mark Kruger as a "distasteful decision" and called community outrage "right and just." But he said he was advised that the city "might well have lost a court fight."

"As mayor I signed the settlement agreement. I am not happy with this settlement. I wish it had turned out differently. But it did not, and I take full responsibility for signing the document, making it a binding legal agreement," he said. "Mayors often must make distasteful decisions for the good of the city. This is one of those times.

"My signature does not mean I condone, in any way, the actions of Kruger in 1999," Hales said.

Under the agreement, obtained by The Oregonian through a public records request, the city is dismissing past discipline against Kruger. That includes an 80-hour suspension without pay that Kruger faced in 2010 for his public tribute to five Nazi-era German soldiers at a city park sometime between 1999 and 2001, and a written reprimand he got this year for retaliating against a female lieutenant.

The city also paid Kruger \$5,000, gave him an extra 80 hours of vacation time and had Police Chief Mike Reese write a complimentary letter to Kruger praising his work and how he's strengthened ties with immigrants.

The deal settles Kruger's legal claim against the city. He filed a notice of intent to sue the city in January 2013 over texts that police Director of Services Mike Kuykendall sent to Lt. Kristy Galvan characterizing Kruger as a Nazi sympathizer.

Hales signed the settlement on June 16. Reese signed it two days later. Senior Deputy City Attorney Jenifer Johnston signed it on June 24 and Anna Kanwit, the city's human resources director, signed it June 30.

Kruger's lawyer, Sean Riddell, questioned the mayor's explanation of his role in the agreement. "His comments about the settlement are disingenuous," Riddell said.

City Council members didn't learn of the agreement until The Oregonian wrote about it Wednesday. Commissioner Steve Novick was particularly angry about being kept in the dark.

Only settlements that require the city to pay out more than \$5,000 require council approval, under current city rules.

"That will change," Hales said Thursday. The city must flag "major, important disciplinary issues" for the attention of the full council, he said.

Commissioner Nick Fish, a former labor lawyer, said the city should have gone to court instead of settling.

"I am deeply offended by the alleged conduct of Capt. Kruger, and I am disappointed that this settlement was authorized and approved without the mayor or police chief ever consulting the Portland City Council," Fish said. "There are times when settling a case is the prudent course of action. Unfortunately, in this case, the City should have let the courts decide the dispute in a public forum."

In Kruger's notice of intent to sue the city, he argued that the city and Kuykendall slandered him in a series of texts. Kuykendall, in messages to Galvan, repeatedly referred to Kruger as a Nazi.

Kuykendall, a close friend of the police chief, resigned once the text messages surfaced in an internal police investigation and then became public in Kruger's tort claim.

Outside lawyers negotiated the settlement with Kruger because of a conflict of interest in the city attorney's office.

City Attorney Tracey Reeve had represented Kruger when he faced federal lawsuits between 2002 and 2005 that accused him of excessive force during an anti-war protest in the city's downtown. During the lawsuits, a plaintiff's attorney had sought to obtain plaques Kruger posted on Rocky Butte as a memorial to Nazi-era soldiers. Reeve, representing the city and Kruger, vigorously objected and didn't turn them over.

The plaques weren't uncovered until 2010 when Portland Commissioner Dan Saltzman ordered a full police internal investigation of what happened on Rocky Butte. That's when an internal affairs investigator discovered the plaques had been stashed in the city attorney's office.

The mediation for Kruger's settlement occurred at the outside counsel's office in Portland and lasted a full day, stretching into early evening. The police chief wrote up the complimentary letter for Kruger, with lawyers from both sides then asking for changes or additions.

As part of Kruger's tort claim, he also shared with the city emails he received from Assistant Chief Larry O'Dea and then-East Precinct Cmdr. Mike Lee. O'Dea and Lee told Kruger in separate emails that they'd been in a meeting with Chief Reese and heard Reese say that he wouldn't promote Kruger because Kruger had filed a tort claim notice with the city.

Earlier this week, the City Council approved paying \$50,000 to settle a tort claim notice that Galvan had filed against the city. Galvan, who has since resigned, alleged Kruger had harassed her on the job and retaliated against her.

Kruger now serves as head of the bureau's Drugs and Vice Division.

Last Thursday: Mayor Charlie Hales' staff hopes to hand over management of NE Alberta street fair

*By Casey Parks
July 17, 2014*

Staff in Mayor Charlie Hales office want a nonprofit group to take over Last Thursday.

And when a group of artists announced earlier this week they are raising money to create a nonprofit to manage the Northeast Alberta Street event, Hales' staff said they would work with them.

"We are all supportive of this process happening with someone," said Chad Stover, a city project manager. "We would love it if somebody were to create nonprofit status and were able to legitimately make serious contributions to Last Thursday. That would be a sweet ticket, and we can start handing this off so it is sustained and managed properly. That would be the ultimate win."

Taxpayers have always paid for the fair, which draws between 15,000 and 20,000 people to the neighborhood. But Alberta-area residents complained for years that the festival was out of hand. They begged city hall leaders to step in and control noise, littering and other issues.

Stover, who has fielded more than 200 calls about the event over the past year, said the mayor's office is in a better position than ever to hand off the street fair. That's because city leaders now know exactly what it takes to run such a large, freewheeling event.

"Previous groups made good faith efforts at trying to run it, but how much of a logistical playbook people had, I don't know," Stover said. "We were able to put some metrics to the street fair."

Stover and other staff spent the past two years gathering data. They know how many portable toilets the event needs. They know when it should end to keep both neighbors and event-goers happy. They know how much it costs to hire security, secure permits, buy barricades and pay for a firefighter to watch over the fire performers. It's about \$80,000 a summer.

That price tag -- and all of the required organization it implies -- has historically been too big for one nonprofit to take on, Stover said, and it might still be. The city is willing to work with someone to begin gradually handing it over, though.

"We are willing to have someone take over some of the duties, just cover a little bit," Stover said. "The taxpayers have been footing the bill for Last Thursday as long as it has existed."

He pointed to other neighborhood events such as The Mississippi Street Fair and The Kenton Street Fair, where residents and business owners foot the bills themselves.

In Kenton, Posies owner Jessie Burke said she and other business owners spend about \$10,000 a year to put on their once-a-summer event. They provide street-closure maps and neighborhood signatures approving the closures. They create a traffic control plan and talk with TriMet to reroute buses. They apply for the noise variance, which has run between \$350 and \$700.

Stover said she does sometimes pitch in for those smaller events, sending an officer or two out to check on the action.

"But none are as great as this," Stover said. "We have a role call at Last Thursday. There are 75 to 80 people."

Hales has suggested charging vendors a fee to make up for some of the cost. The organizers behind the new nonprofit say Hales' suggestions "cause harm to good people."

Stover said artists and attendees like the organic nature of Last Thursday, so they bristle when there's talk of a fee.

"We're trying to find the sweet spot to where it's tolerable for those who aren't fans of Last Thursday and preserve it for the artists," Stover said. "We want to find a way to manage it economically without it coming straight from taxpayers."

Developer finds home demolition loophole, neighbors say 'playing ping-pong with the rules is not acceptable'

*By Melissa Binder
July 17, 2014*

Responding to residents concerned about a rise in home demolitions citywide, Portland in April created a new requirement: Developers obtaining a building permit to replace an old house with two or more new ones had to wait 35 days and notify neighbors.

Developers could avoid the delay and notification requirements in a demolition only if they applied to build one new house on the property.

Neighbors were skeptical and predicted developers would find a loophole.

They were right.

Renaissance Homes applied to demolish a 1949 ranch at 3620 S.E. Rural St. and build two homes. The Eastmoreland neighborhood association was notified, as required, and requested an additional 120-day delay to talk with the developers about the design.

The Portland Bureau of Development Services gives neighborhood associations the option to ask for an extended delay, which is always 120 days.

Renaissance owner Randy Sebastian didn't want to wait that long, calling the delay "onerous" and "punitive."

So he canceled his application to build two new houses and submitted another -- this time requesting to build only one replacement house.

"We're going to build two houses eventually," he said. "I'm just starting with one now."

There is no rule preventing developers from splitting a lot after demolishing a home based on an application to build only one replacement.

The president of the Eastmoreland Neighborhood Association would have none of it.

"Playing ping-pong with the rules is not acceptable," Robert McCullough said. "There is either one structure going in or there are two."

McCullough parked his car in front of the driveway at 3620 S.E. Rural St. early Thursday morning and called on neighbors to park along the street, making it impossible to get demolition equipment on the property.

The neighborhood is known for being vigilant, particularly when it comes to home demolitions.

Robert McCullough talks about his problem with the scheduled home demolition on SE Rural Street

Two police officers arrived by 7 a.m. and threatened to tow McCullough's car if the developer requested it. When Sebastian arrived on site, he and McCullough negotiated.

"We own the property, we have the permit, we have the rights," Sebastian told McCullough in front of a small army of neighbors and media. "I'm not telling you how to live on your property."

"You're going to be in the land use board of appeals later this week," McCullough replied. The neighborhood association's lawyer "will tie you up," he said.

Sebastian ultimately agreed to postpone the demolition one week. The neighborhood association will meet with him to discuss minor changes to the construction plans, McCullough said, such as preserving a tree.

While the neighborhood does value having time to discuss the plans, McCullough said the real purpose of Thursday's protest was to get the city's attention.

"This is not a developer issue, this is a city issue," he said.

The new city requirement on notification in demolitions is a re-interpretation of existing city policy.

Rod Merrick, the neighborhood association's land use chair, said the Portland Bureau of Development Services' new interpretation and voluntary door hangar program "remains a patronizing gesture by BDS and its advisory panel."

"Change comes from the top in the city," Merrick said. "The neighborhoods are deeply unhappy and we hope that the politicians will begin to grasp this and engage."

Sebastian said he doesn't feel bad at all about finding a way around BDS's new "hurdle." His company pays interest every day, he said, making demolition delays costly. Any other smart developer would do the same thing, he said.

"This is just a day in the life of a Portland builder," he said.

Diversity retreat for white men was a good start: Guest opinion

*By Guest Columnist Roy Jay
July 17, 2014*

Recently, there have been articles, comments and compliments about Portland Mayor Charlie Hales along with Police Chief Mike Reese attending a diversity conference for white men in Welches that cost an estimated \$56,000.

Now, there two sides to this coin. Critics complain that taxpayers' money was spent to the tune of \$56,000 for a few days to have a select group of white men in a remote location hear and feel the message of being comfortable with diversity. On the other side of the coin, there were some people of color in an uproar as to why the conference only included white men.

Let's face facts. Portland and Oregon are known to be among the whitest cities and states on the west coast. It's nothing to be ashamed of or to brag about. The secret here is how both public and private sector leadership know how to be inclusive rather than exclusive. The demographics of Portland and the entire state are changing, even as I write this. This is NOT your grandfather's state anymore. You can't use the same methods in today's game. Mayor Hales, Chief Reese and others are on their first steps in a journey that will help make our entire community better.

Many people do not realize that diversity in your workplace and neighborhoods affects you in many different ways. A well-known Portland law firm told me several years ago that one of the reasons that they were able to land a huge national retailer was simply because they had a diverse workforce, including women, gays, lesbians, African-Americans and Latinos. They went beyond traditional "good faith efforts" and decided to walk the walk and talk the talk. It paid off in big dividends.

When strategic evaluators are looking at cities and regions for business expansion, investment and other opportunities they look far beyond the customary facts and figures. Is your company, your city, your organization a leader or a follower?

So let's get back to the \$56,000. It's a drop in the bucket and good investment for the future of our community. After all, I have seen charity golf tournaments that cost five to 10 times more with little if any benefit for the end user. Chief Reese and the city of Portland have been under fire by community members from various zip codes. A properly executed retreat to help you become an inclusive leader and impart a clearer understanding and appreciation of coworkers and customers of a different ethnicity, culture and lifestyle speaks volumes to potential success in Portland.

Please do not think that Chief Reese and Mayor Hales are taking bold steps. Simply go to DiversityInc.com and read the articles entitled "Ask the White Guy." This diversity site, magazine and blog was started well over 30 years ago by a white guy who recognized the need for and benefit of inclusion. He simply decided to take it to the next level and has millions of readers.

It is important for everyone to try and have an understanding of our neighbor's culture. Every day you need to put on a jacket to embrace others of different genders, cultures and lifestyles. Portland is changing, and the old system will kill us all and put Portland further behind other cities that are not drinking the same, old Kool Aid.

At the same time, hopefully the next step is to have a diversity workshop retreat in which people of color can also sit and become more informed and educated about how to live in a more harmonious atmosphere. This cannot be a one way street. Anyone who simply tells you that it's all the white man's fault has the same dumb mentality as the person who points to African-Americans and Latinos and wants to label them all as "less than."

Yes, Portland has many Donald Sterlings. They are in all colors, shapes and sizes. It is our community responsibility to help remove this type of cancer before it spreads to our children and grandchildren. A retreat for city officials is just a start, but commended.

Roy Jay is president and CEO of the African American Chamber of Commerce as well as the Alliance of Minority Chambers.

Portland taxpayers should forget about recall and focus on elections: Editorial Agenda 2014

*By The Oregonian Editorial Board
July 17, 2014*

Mount Tabor resident Ray Horton, a retired graphic artist who calls himself "one of the most left-wing people in Portland," has had it with Mayor Charlie Hales and Commissioner Steve Novick. He's filed petitions to recall the two officials and is confident he'll be able to round up the roughly 35,000 signatures he'll need for each. In part, this is because he plans to gather them online, to which end he says he'll have a website soon.

Both of Horton's prospective petitions list the same rationale: "Failure to exercise fiduciary duties of his office, specifically regarding management of public funds and initiation and application of taxes." The city's spending decisions could, at times, tempt even Donald Trump to pull out his hair, from opening the checkbook to establish the Portland Streetcar while basic road infrastructure crumbled to lavishing \$56,000 on a cushy diversity retreat reserved for white men, including Hales.

What's really motivating him isn't the taxes, Horton says, but, rather, simple disrespect. He points to the street fee championed by the mayor and Novick, who oversees the Portland Bureau of Transportation. "During the rollout," Horton says, "Novick and Hales just did such a poor job of introducing this whole idea, and their attitude at the initial public meetings was so arrogant and almost hostile." It almost seemed, he said, as if they were "sneering" at those with reservations about their proposal.

Novick, in particular, is prone to pugnacity, observing at one point that those who disagreed with the fee could always vote him and Hales out of office in 2016. And when Commissioner Nick Fish had the audacity to ask some pointed questions, Novick addressed him as "Captain Renault" in a written response. Captain Renault is a corrupt cop in the movie *Casablanca*.

It's one thing to ask your constituents for higher taxes or impose new fees after taking the time needed to establish your case and assure taxpayers that you've exhausted other alternatives. It's quite another to act as if taking other people's money is a personal entitlement for which skepticism justifies disparagement. And to turn around only weeks later and spend \$56,000 on a diversity junket ... well, you get the idea. That stuff makes people mad, and rightly so.

Still, none of this justifies recall. Hales and Novick have stumbled, they've rubbed a lot of people the wrong way and they've seemed at times completely out of touch with taxpayers. When all is said and done, they may prove to be terrible commissioners, though we hope not. So far, however, even their most controversial decisions have been consistent with the authority of their offices. Recall should be reserved for moral turpitude, malfeasance and other truly egregious offenses.

Yes, voters can recall them if they want to, but doing something simply because you can isn't always such a hot idea. Ask Novick and Hales, who learned that lesson this year with the street fee.

Besides, recalling commissioners doesn't produce better representation. It produces vacancies, which will be filled eventually by means of elections. That's where dissatisfied Portlanders should focus their efforts. People who don't like the representation Novick and Hales are providing should identify qualified candidates to oppose them during regularly scheduled elections.

Novick and Hales, meanwhile, should take the criticism of Horton and others to heart.

Hales explains Kruger settlement decision

By Jim Redden
July 17, 2014

Mayor Charlie Hales is defending his management of the Portland Police Bureau, despite a recent decision to remove disciplinary actions from the personnel record of a captain who honored Nazi-era soldiers on his own time.

The bureau had suspended Mark Kruger for posting the plaque and reprimanded him for retaliating against a lieutenant. The city will also pay Kruger \$5,000 after Kruger threatened to sue, claiming a city official repeatedly slandered him in text messages by referring to him as a Nazi.

In a statement released late Thursday afternoon, Hales said:

"On Wednesday, the community learned the details of a settlement between Capt. Mark Kruger and the City of Portland.

Community reaction has been outrage. I hear that outrage and agree with much of the substance of it. The issues involved bring up very personal, long-standing feelings of hurt and anger. These issues awaken our values as a community, especially where it comes to the behavior we expect from our public servants.

I do not minimize these feelings. The community has every right to feel this way.

The Portland City Council shares these values, as well as frustrations with this situation.

As mayor, I signed the settlement agreement. I am not happy with this settlement. I wish it had turned out differently. But it did not, and I take full responsibility for signing the document, making it a binding legal agreement. Mayors often must make distasteful decisions for the good of the city. This is one of those times.

My signature does not mean I condone, in any way, the actions of Capt. Kruger in 1999.

Instead, this complex settlement marks the end of multiple legal battles that have engulfed the city for more than a decade and involved four mayoral administrations. The constitutional issues present in the situation meant that past mayors were advised by counsel that the city might well have lost a court fight. I have been advised the same.

I'm not happy with the settlement. But I signed it. The final decision was mine.

Regarding the Portland Police and relationships with the community, we have implemented significant structural changes, including:

- *The hiring of a more diverse workforce.*
- *Creation of a new discipline guide.*
- *Implementation of new rules of conduct regarding use of force.*
- *Implementation of officer performance evaluations.*

We also have pushed forward with the implementation of reforms negotiated after a Department of Justice investigation, even though a judge has not yet ruled on the issue.

We did not wait for the judge, but are working with the DOJ, the Police Bureau, and others in Portland to improve the relationship between the Police Bureau and the community.

Here's what we have not done, but will do: Create a better process by which the details of major, important disciplinary issues – regardless of which bureau – are flagged for the attention of the full City Council. Currently, this process involves the City Attorney,

Human Resources, the city's Risk Management, the bureau and a single commissioner, but does not always include a full discussion with the full City Council. That will change.

I and other members of the Portland City Council intend to address that process immediately.

But in regards to the legal issue between the city and Capt. Kruger: The outrage felt by the community is right and just.

This case needs to be resolved. I take responsibility for ending the legal dispute about past performance, and for setting clear expectations for future performance in service to Portlanders.

But Rev. Chuck Currie, an outspoken local human rights advocate, blasted the agreement in a Wednesday statement, saying:

"Capt. Kruger must see this as a victory. But his worship of SS troops might be erased from a city file as part of some bizarre move after he harassed a female colleague — another incident he has not been held fully accountable for — but Portlanders will remember this police officer who dressed as a Nazi and built a shrine in honor of Hitler's most fearsome troops. We won't forget. And our trust of the Portland Police Bureau and the Portland City Council will be further diminished because of this day. The U.S. Department of Justice investigation of the Portland Police, which found a pattern of civil rights abuses by Portland officers, didn't go far enough. There is a cancer in our bureau and no effective civilian control of this entity whose employees can get away with literally anything."

KOIN News 6 contributed to this story.

Hales, Novick recall campaign schedules first meeting

*By Jim Redden
July 17, 2014*

The campaign to recall Mayor Charlie Hales and Commissioner Steve Novick because of their handling of the proposed street fee is moving ahead. It now has a Facebook page, a scheduled Saturday kickoff meeting, and interest from the company that collected more than enough signatures to place the Portland Public Water District measure on the May 20 Primary Election ballot.

No agreement has been reached between the recall leader Ray Horton and Encore Political Services, however.

"I'm not working with anyone yet," says Horton, a Southeast Portland resident and graphic designer who must collect nearly 35,000 valid signatures from registered Portland voters on each petition by early October to force the recall elections.

Hiram Asmuth, who owns the signature collection firm, says he hopes to help Horton, however.

"Hales has let the city down on multiple levels. The street fee is just the most recent of his terrible regressive ideas. Novick's callousness on that issue deserves to be repaid in kind. Both of these politicians seem to forget they're technically employed by Portland. They should be fired," says Asmuth, whose firm collected more than the required 29,786 signatures to place the water measure on the ballot. It was overwhelmingly defeated by Portland voters, however.

Horton, a graphic designer who says he voted for Hales and Novick, has started a Facebook page for his campaign at www.facebook.com/Hales.and.Novick.Recall. It includes an announcement of the first organizational meeting and petition training workshop at 3:00 p.m. Saturday, July 19, in Muir Hall at TaborSpace, 5441 S.E. Belmont.

Portlanders: Tax rich, business profits for streets

*By Jim Redden
July 17, 2014*

Commissioner Steve Novick released the results of new poll Thursday that showed Portlanders support a progressive income tax on the wealthiest residents to pay for street maintenance and safety improvement projects.

According to the poll, by a margin of 60 percent to 37 percent, city Portlanders support the idea of an income tax of 1 percent on incomes above \$125,000, 2 percent on income above \$250,000, and 3 percent on income above \$500,000.

But Portlanders oppose the idea of combining a 3.1 percent tax on business profits and a one-quarter of one percent sales tax to pay for such projects by a nearly identical margin of 59 percent against to 36 percent in favor. The poll question said uncooked food would be exempt from the sales tax, and there would also be a rebate for low-income people.

Novick said the poll was conducted to measure opinions on alternatives to the street fee he and Mayor Charlie Hales have proposed on businesses based on estimates of the number of motor vehicle trips they generate.

"Some business owners were concerned that the proposed non-residential fee, based on trip generation, didn't take into account the profitability of the business. So we tested people's attitudes toward increasing the tax on business profits. The most common concern we heard about the residential fee was that it was regressive. So we tested new versions of the progressive income tax. We also tested a revised version of a sales tax, combined with a business profits tax," Novick said.

The poll also found that Portlanders are nearly evenly split on two other alternatives. One is raising the city tax on business profits from its current rate of 2.2 percent to 4 percent. The other is an income tax of one-quarter of one percent on incomes below \$100,000, 1 percent on the amount of income between \$100,000 and \$250,000, 2 percent on the amount of income between \$250,000 and \$500,000, and 3 percent on income above \$500,000.

Hales and Novick want the City Council to approve a Transportation User Fee in November that would raise around \$50 million a year for street maintenance and safety project. Three advisory committees are currently looking at alternatives. Novick says he expects them to take the results of the new survey into account.

But Novick said the strong opposition to a sales tax means it's off the table.

The new survey of 300 voters was conducted by DHM Research from June 19 to 22.

Willamette Week

New Street Fee Survey Says: Tax the Rich

Novick finds strong support for income tax on people who make more than \$125,000 a year.

*By Aaron Mesh
July 17, 2014*

City Commissioner Steve Novick has had the city pay for another phone survey—the third this year—trying to find a popular way to raise about \$50 million a year to pave Portland streets.

He may have found one: an income tax on the city's richest people.

The survey, conducted last month by Davis, Hibbitts, & Midghall, shows Portlanders clearly favor an income tax that places the biggest burden on people making more than \$500,000 a year.

"Portlanders supported, by a margin of 60% to 37%, the idea of an income tax of 1% on incomes above \$125,000, 2% on income above \$250,000, and 3% on income above \$500,000," the survey summary says.

But pollsters found softer support for an income tax the people taking the survey might actually have to pay. Fifty percent of people polled said they'd support an income tax of one-half of one percent on citizens making less than \$100,000 a year.

"The most common concern we heard about the residential fee was that it was regressive," Novick said today in a statement. "So we tested new versions of the progressive income tax."

Novick took a barrage of criticism in May when he debuted a street-fee plan that would charge Portland households a flat fee of \$144 a year to fix the city's street-paving backlog. He and Mayor Charlie Hales delayed the proposal after small businesses recoiled at the plan to charge them even more.

The new phone survey found mixed reactions to an idea Novick suggested to WW last month: raising the city tax on business profits. People polled opposed that idea 48 percent to 47 percent.

UPDATE, 2:18 pm: Following a records request by WW, Novick's office has released the full results of the survey, along with 40 pages of data on the people polled. Novick says his office paid for the survey, which cost \$16,500. (Previous surveys by the same pollster have cost the transportation bureau \$28,000 each.) Novick says he'll present the survey findings to the working groups that are re-working the street fee proposal. (Those groups now include some of the fee's harshest critics: petroleum lobbyist Paul Romain and Woodstock hair-salon owner Ann Sanderson, who started the online "Stop the Portland Street Fee" campaign.)

One idea that won't be considered: a sales tax.

A sales tax of one-quarter of one percent received dismal polling numbers, with 59 percent of people saying they'd oppose it.

"One message I take from the survey," Novick says, "is that a sales tax is unacceptable to such a large percentage of Portlanders that we can safely say that's off the table."

The Mercury

Mayor Accepts "Outrage," Defends Settlement Erasing Discipline for Cop Who Put Up Nazi-Era Shrine

*By Denis C. Theriault
July 17, 2014*

Mayor Charlie Hales has issued a second statement this afternoon defending a settlement he signed wiping away discipline for a police captain who'd been punished in 2010 for putting up a shrine to Nazi-era German soldiers several years before and then again this year for retaliating against a former subordinate who'd accused him of harassment.

Hales argues he was told that the city would have lost a court fight against Kruger, who filed a tort claim in January over the harassment complaints and a senior police bureau official's mockery of Kruger's reputation as the city's "Nazi cop." Separately, the Oregonian this afternoon has reported that Hales told his colleagues on the city council that he wasn't aware of all the details of the settlement when he signed it and that he was looking for a way to back out.

Not only has the police bureau agreed to wipe away Kruger's discipline, with a two-week suspension paid back as vacation time, but Police Chief Mike Reese also agreed to write a complimentary letter about Kruger that would be inserted into his file instead.

Hales is promising, from now on, that major discipline decisions will be aired more widely among the city council before they move forward.

"Mayors often must make distasteful decisions for the good of the city. This is one of those times," Hales wrote. "My signature does not mean I condone, in any way, the actions of Capt. Kruger in 1999."

His full, and very long, statement is on the jump.

On Wednesday, the community learned the details of a settlement between Capt. Mark Kruger and the City of Portland.

Community reaction has been outrage. I hear that outrage and agree with much of the substance of it. The issues involved bring up very personal, long-standing feelings of hurt and anger. These issues awaken our values as a community, especially where it comes to the behavior we expect from our public servants.

I do not minimize these feelings. The community has every right to feel this way.

The Portland City Council shares these values, as well as frustrations with this situation.

As mayor, I signed the settlement agreement. I am not happy with this settlement. I wish it had turned out differently. But it did not, and I take full responsibility for signing the document, making it a binding legal agreement. Mayors often must make distasteful decisions for the good of the city. This is one of those times.

My signature does not mean I condone, in any way, the actions of Capt. Kruger in 1999. Instead, this complex settlement marks the end of multiple legal battles that have engulfed the city for more than a decade and involved four mayoral administrations. The constitutional issues present in the situation meant that past mayors were advised by counsel that the city might well have lost a court fight. I have been advised the same.

I'm not happy with the settlement. But I signed it. The final decision was mine.

Regarding the Portland Police and relationships with the community, we have implemented significant structural changes, including:

- *The hiring of a more diverse workforce.*
- *Creation of a new discipline guide.*
- *Implementation of new rules of conduct regarding use of force.*
- *Implementation of officer performance evaluations.*

We also have pushed forward with the implementation of reforms negotiated after a Department of Justice investigation, even though a judge has not yet ruled on the issue. We did not wait for the judge, but are working with the DOJ, the Police Bureau, and others in Portland to improve the relationship between the Police Bureau and the community.

Here's what we have not done, but will do: Create a better process by which the details of major, important disciplinary issues – regardless of which bureau – are flagged for the attention of the full City Council. Currently, this process involves the City Attorney, Human Resources, the city's Risk Management, the bureau and a single commissioner, but does not always include a full discussion with the full City Council. That will change.

I and other members of the Portland City Council intend to address that process immediately.

But in regards to the legal issue between the city and Capt. Kruger: The outrage felt by the community is right and just.

This case needs to be resolved. I take responsibility for ending the legal dispute about past performance, and for setting clear expectations for future performance in service to Portlanders.

Independent Police Review Director Answers Union President's Claims of Rule-Breaking: Not True

By Denis C. Theriault
July 17, 2014

Yesterday, for the second time in as many months, Portland Police Association President Daryl Turner sent his rank-and-file members a missive impugning the work and reputation of the city's civilian-led Independent Police Review.

That memo, which was not shared publicly, accused IPR staffers of flouting city rules approved earlier this year that enshrine IPR's right to launch its own investigations into cops and police issues—without waiting for citizen complaints or for the bureau's internal affairs division to take the lead.

Turner wagged his finger and told his members that cops were being contacted directly by IPR employees, in violation of protocols that still have that kind of contact running through their supervisors, union reps, and internal affairs. IPR Director Constantin Severe didn't immediately comment on what comes off a pretty damning accusation, but he sent a statement last night that leaves things far more clear.

Yes, IPR staffers will sometimes directly contact cops. But, Severe says, not to do investigative interviews. It's because officers are sometimes slow to return personal property that's been confiscated as evidence (we wrote about one such case earlier this year). And people often contact IPR to help break through the stony wall of silence—something he says that precedes his six years of employment with the city.

"Often miscommunication is at the root of the issue," Severe wrote. "It is a very time-intensive process that requires an inordinate amount of staff time but has proven to be an effective way of resolving an issue without a complaint being generated."

Severe also states plainly: "IPR has never interviewed a PPB officer without their PPA rep being present. There are a number of protocols, in city code and the PPA collective bargaining agreement that must be followed in order for IPR to conduct an officer interview."

Furthermore, Severe mentions that neither Turner nor the PPA bothered to personally convey any concerns before writing another blistering memo that only PPA members were meant to see. Severe also argues that PPA members—maybe they've been cleared of misconduct in investigations or maybe they've been able to win some relief in a bad workplace situation—have benefited from IPR's work.

Turner, in fact, was the union rep for former Sergeant Kristy Galvan—whose substantiated retaliation complaint against Captain Mark Kruger would have been dismissed by bureau brass if IPR hadn't stepped in. An investigative report obtained by the Mercury quotes Turner defending Galvan in her quest for justice and calling Kruger's actions retaliatory.

Turner, reached on his phone this morning, declined to comment even before hearing what IPR had to say in response to his allegations.

Severe's full statement is after the jump.

IPR has never interviewed a PPB officer without their PPA rep being present. There are a number of protocols, in city code and the PPA collective bargaining agreement that must be followed in order for IPR to conduct an officer interview.

The one area where IPR will contact an officer or a direct supervisor (usually through a brief email inquiry) are in cases when a community member contacts IPR requesting property be returned that was taken as evidence in a criminal prosecution by a PPB officer. Often after a case has been dismissed at arraignment or at the end of prosecution, for a community member to get their property back they need a release from the arresting officer. For a variety of reasons, some community members do not hear back from officers when they make an initial request for a release of their property. Usually after contacting the DA's Office and PPB property and evidence division they contact our office. Generally the community member is not interested in filing a complaint but would like their property returned.

For several years IPR has acted as a liaison in facilitating the return of property to community members. Not every community member gets their property returned, as a case may be ongoing and therefore unreleasable, but we have had some measure of success. Often miscommunication is at the root of the issue. It is a very time-intensive process that requires an inordinate amount of staff time but has proven to an effective way of resolving an issue without a complaint being generated.

I am surprised by Mr. Turner's latest missive to his members, as PPA members have benefited from IPR's efforts as have members of the public. It is a process that allows all parties to come out ahead. I have received no prior communication from the PPA that this was an issue. This is a practice that predates my employment with the city in 2008.

Police Union President Publicly Accuses Independent Police Review of Skirting Rules on Interviews

*By Denis C. Theriault
July 16, 2014*

A month after a sour-grapes complaint to cops accusing the city's Independent Police Review of incompetence in how it's handled independent investigations—a new right enshrined in city code this year and sought by the federal Department of Justice—the president of the city's rank-and-file police union is still pretty steamed about the way things turned out.

How do I know? This month, he's doubled down on his complaints, accusing IPR investigators of breaking the very rules designed to give them the power to do investigations.

In a memo to Portland Police Association members, Officer Daryl Turner is exhorting cops to let him know if IPR investigators come calling—saying the investigators have been directly contacting cops without first running through internal affairs and taking other steps laid out in the city's contract with the PPA and the code change that gives form to the IPR's work.

"It's unacceptable for IPR to have 'off-the-cuff' email requests and other direct communications with PPA members," Turner wrote.

The fresh complaints come, ironically, the same day that a former PPA member, Sergeant Kristy Galvan, won a \$50,000 legal settlement from the city in a retaliation case that resulted in discipline only because the IPR investigated it. If IPR hadn't stepped in, according to a report detailed by the Mercury, bureau officials and city attorneys would have let her claims about Captain Mark Kruger drop. (Kruger, in his own settlement, managed to get that discipline wiped away from his police file.)

Turner was supposed to appear at the July 2 meeting of the Citizen Review Committee to address his concerns about IPR's probes. But the CRC pulled the plug after it was decided that the cases he was complaining about were still open and couldn't be discussed, with specifics, in public.

IPR Director Constantin Severe and City Auditor LaVonne Griffin-Valade weren't immediately available for comment this afternoon. Here's Turner's memo:

It has come to the attention of the PPA that IPR is directly contacting PPA members regarding ongoing IPR investigations without following the procedures set forth in Articles 61 and 62 of the collective bargaining agreement.

This is unacceptable to the PPA and is directly contrary to the IPR Director's multiple representations to the PPA and City Council that IPR will follow the provisions of the CBA. This also violates City Code 3.21.220.

The solution to this issue is for IPR to honor Articles 61 and 62 of the CBA and City Code 3.21.220. That means, among other things, providing advance notice to the PPA member through IAD consistent with Article 61.2.1, along with an interview consistent with Article 61.2.2. It's unacceptable for IPR to have "off-the-cuff" email requests and other direct communications with PPA members.

If you have been, or are contacted by IPR outside of the parameters of the process outlined by Articles 61 and 62 of the CBA and by City Code 3.21.220 contact the PPA immediately.

Turns Out People Are Okay With an Income Tax Increase to Pay For Streets, City Now Says

*By Dirk VanderHart
July 17, 2014*

First Commissioner Steve Novick told us an income tax increase wasn't workable for raising the millions in extra revenue he says Portland's streets need. A poll released in April, Novick told reporters, showed the public didn't have the stomach for such a raise. Portlanders much preferred a street maintenance fee option, wherein residents would be charged a flat monthly fee and businesses are assessed charges on a sliding scale.

At the time, the Mercury questioned whether or not that result (a bare majority of voters approved of a fee) might not have been dictated by the form of the survey, which was highly focused on a maintenance fee, and only threw tax increases in at the very end. We even talked to experts to see if they thought the findings were valid.

Since then, it's become clear the public is at least somewhat hostile to a street fee. There's even a new effort to force a recall election for Novick and Mayor Charlie Hales because they've tried to get it through council without holding a public vote.

And now we hear that the public likes an income tax, after all. Novick's office just released the results of a new poll that suggests one income tax raising option, on people with incomes of \$125,000 and above, is more popular than the street maintenance fee ever was—with 60 percent support.

So what changed? Was the initial poll truly biased in favor of the maintenance fee? Or has public opinion changed during this lengthy and fraught discussion? And will Novick, who's long said he's holding his nose at the thought of the regressive Transportation User Fee he's proposed, now start pitching an income tax increase? We hope to talk to the commissioner later today. One of his staffers, Bryan Hockaday, tells the Mercury: "Our kind of broad perspective on it is conversation and sentiment has changed in that time since our first poll."

We'll update after we talk to Novick.

Update, 2:23 pm:

Turns out Novick paid for the new poll himself, out of funds his office had leftover at the end of the fiscal year. It cost \$16,500.

The big question here is: Why haven't we been talking about an income tax all along? And did that \$28,000 poll released in April help us or hurt us by not offering a true picture of public opinion (that, of course, assumes this latest poll offers a true picture of public opinion, which: who knows).

"I wish we had asked the questions this way a couple months ago," Novick concedes. "I was surprised at the results we got earlier. It was partly the questions and the way we asked them."

In fact, when we quizzed the vice president at polling firm DHM Research about that a couple months back, he said it was unlikely any funding mechanism beyond a maintenance fee would clear 50 percent support. That's clearly not the case.

As far as the new findings, Novick reiterated he's happy with the prospect of a progressive mechanism, but that he's not taking sides. There are three separate working groups hashing over how best to float a new proposal before Portland City Council in November.

"I don't want to get out ahead of the working groups, which we really want to rely on here," Novick says.

He notes, though, that Portlanders have recently supported tax hikes on the well-off. In 2010, Multnomah County residents passed Measure 66—a statewide measure that raised income tax on individuals making \$125,000 or more and households making above \$250,000—by a wide margin.

"There will be some who see it as polarizing," Novick says, "but it's not true that everyone who makes \$100,000 will see it that way."

Also of interest, Novick says, is the relatively modest amount of money that would be collected if Portlanders earning below \$100,000 saw a .25 percent increase in their sales tax, as proposed in one question. According to an analysis done by the state's Legislative Revenue Office, that increase would only raise \$10 million to \$15 million. An additional \$50 million in revenue would come from higher income brackets.

Hit the jump for the full release:

July 17, 2014— A new survey provides some additional information on Portlanders' attitudes about transportation funding options for the citizen working groups the City has convened to advise the City about funding mechanisms to address its significant transportation needs.

"Some business owners were concerned that the proposed non-residential fee, based on trip generation, didn't take into account the profitability of the business. So we tested people's attitudes toward increasing the tax on business profits," said City Commissioner Steve Novick. "The most common concern we heard about the residential fee was that it was regressive. So we tested new versions of the progressive income tax. We also tested a revised version of a sales tax, combined with a business profits tax," Novick said.

The survey, conducted by DHM Research on June 19 through 22, tested separate sets of 300 voters on each of 4 funding options. It found that:

- Portlanders were closely divided – 47% yes, 48% no - on the idea of raising the city tax on business profits to 4% from its current rate of 2.2%. (That option would raise the entire \$53 million annual goal set by the Mayor and Commissioner Novick.)*

- They supported, by 50% to 45%, the idea of an income tax of one-quarter of one percent on incomes below \$100,000; 1% on the amount of income between \$100,000 and \$250,000; 2% on the amount of income between \$250,000 and \$500,000; and 3% on income above \$500,000.*

- And, Portlanders supported, by a margin of 60% to 37%, the idea of an income tax of 1% on incomes above \$125,000, 2% on income above \$250,000, and 3% on income above \$500,000.*

- The survey also tested the concept of combining a smaller increase in the business profits tax (to 3.1%) with a sales tax of one-quarter of one percent that would exclude uncooked food and have a rebate for low-income people. Portlanders disapproved of that option by a margin of 59% to 36%.*

Mayor Hales and Commissioner Novick have set \$53 million as a target for a new transportation funding mechanism. When we asked the State Legislative Revenue Office (LRO) for a rough estimate of the revenue that could be generated by these income tax options, LRO indicated that the "\$125,000 and up" option would likely raise an amount in the \$50-\$55 million range and the option including an 0.25% rate on incomes under \$100,000 would likely raise an amount in the \$60-\$65 million range.

Mayor Hales and Commissioner Novick have called for a transportation funding mechanism that splits the responsibility for new revenue between businesses and residents. Therefore, if the working group recommends and the City moves forward with one of the income tax options, the rates outlined above will likely be halved to yield the goal amount from residential payers. In that case, the first option above would be

adjusted to become an income tax of 1/8 of 1% on incomes below \$100,000, 1/2 of 1% on income between \$100,000 and \$250,000, 1% on income between \$250,000 and \$500,000, and 1.5% on income above \$500,000. The second option would be adjusted to an income tax of 1/2 of 1% on income between \$125,000 and \$250,000, 1% on income between \$250,000 and \$500,000, and 1.5% on income above \$500,000.

LRO used Oregon taxable income (not gross income) as the basis for its rough estimates. LRO said that a couple making \$60,000 in gross income, with a typical amount of deductions, would likely pay about \$50 a year – or slightly over \$4 a month – under an income tax rate of 1/8 of 1%.

Novick said that he expected the working groups to take the information - as well as previous surveys - into account as they work to develop modifications or alternatives to the transportation user fee Mayor Hales and Novick had proposed. "One message I take from the survey is that a sales tax is unacceptable to such a large percentage of Portlanders that we can safely say that's off the table," Novick said.

The Portland Business Journal

'Do-not-buy' lists could shape future Portland city investments

*By Andy Giegerich
July 17, 2014*

Portland city leaders could soon tap the expertise of a vendor that crafts lists of socially responsible investments.

The city's Socially Responsible Investments Committee plans to recommend to the Portland City Council that Portland purchase research reports from an environmental, social and governance data research vendor. The "do-not-buy list" would apply to future investment purchases only.

A report on the recommendations did not offer any specifics into how much the list would cost. Committee members did, though, agree that "corporate investments" in general deliver high yields for the city, and merit further investment strategies.

The committee explored whether the city should change investment strategies "to incorporate social and ethical concerns." The areas in question include the environment, public health (including weapons production), abusive labor practices, corrupt corporate ethics and governance and extreme tax avoidance.

Portland could also reconsider investments in companies or entities that "exercise such a level of market dominance so as to disrupt normal competitive market forces."

The committee members are Marylhurst's Barry Bennett, SEIU 49's Felisa Hagins, One PacificCoast Foundation's Ashley Henry and PSU's Jenny Liu. The Portland Business Alliance's Bernie Bottomly also served on the committee before resigning earlier this year to take a job with TriMet.