

The Oregonian

Portland administrator Dean Marriott placed on paid leave as audit finds insufficient oversight on \$11.5 million office project

*By Brad Schmidt
October 22, 2014*

Portland's longest-tenured administrator, Dean Marriott, has been placed on paid administrative leave in response to a new city audit dissecting why costs for a fancy new office building tripled to more than \$11.5 million.

Insufficient design oversight, elaborate design choices and an expanded project scope dramatically increased costs for the Bureau of Environmental Services' office project, according to a report released Wednesday by Auditor LaVonne Griffin-Valade. The audit also highlighted concerns about various conflicts of interest tied to the project.

In response, Commissioner Nick Fish, who oversees the bureau and who requested the audit in April when cost overruns became public, placed Marriott on paid leave pending an investigation by outside attorneys.

Fish called the audit "alarming" and said Marriott's leave is in the "best interest of the bureau." Fish declined to elaborate, citing city personnel policies.

"I want an outside investigator to connect the dots for me and then come back to me with recommendations," said Fish, in charge of the Bureau of Environmental Services since June 2013. "I'm interested in whether laws, rules, ethical guidelines have been violated."

Marriott defended the project and said he expects to return to work at the conclusion of the investigation, slated to wrap up before year's end. The investigation will be released publicly, Fish said.

"I welcome the facts coming out," Marriott said. "I look forward to the investigation."

His forced leave is without recent precedent in Portland government and underscores the unique political complexities that accompany Marriott, who was hired to direct the bureau in 1994.

Marriott received civil-service protections when he joined the city, making it difficult to fire him. In 2000, voters eliminated those safeguards for newly hired bureau directors, leaving Marriott, who earns \$199,160 annually, as the last administrator with the protections while other top political appointees serve at-will.

Marriott, 65, is perceived as a hands-off manager, capable of protecting his bureau from budget cuts while sometimes rankling City Hall officials for being dismissive. In 2011, he delivered the city's largest public works project – the \$1.4 billion Big Pipe project – on time and within budget.

He has been pressured to resign before, most notably in 2005 when Mayor Tom Potter publicly called for Marriott's ouster citing a "need for change."

While the audit's findings are critical, no other bureau director in recent memory has been placed on paid administrative leave pending an investigation, despite a variety of high-profile scandals – including a delayed and over-budget citywide software system that saw costs triple to \$47 million.

"Here's a smaller example of the same kind of thing," Griffin-Valade said, later adding, "This has got to stop."

A showcase facility

The Columbia Building was expected to cost a modest \$3.2 million when the City Council originally approved it in 2009, a price tag that enabled a sustainable design but included minimal improvements to adjacent property, according to the audit.

Early drawings showed a rectangular office building with a rectangular ecoroof.

Instead, the bureau built a "showcase" facility, with Skylab Architecture proposing "usual and costly design features," auditors found.

Among the elaborate features: a radial-shaped building with a complex glass wall overlooking a courtyard, a steep roof with at least 13 planes, and an etched-in-tile photo of the city that greets visitors entering the facility.

"Essentially, what could have been a relatively straightforward and simple building became more complex and elaborate," auditors wrote.

Auditors found that the Bureau of Environmental Services identified 28 project objectives but failed to clarify or prioritize them. In response to those concerns, bureau officials countered that all of the objectives were a high priority.

"Managers said they met project objectives while adhering to the overall BES budget by reducing funds for other projects," auditors wrote.

Complicating matters, auditors reported "inadequate and conflicting" design information in the city's initial bid documents. The city selected Skylab, an emerging small business, to design the building even though the audit found that Skylab's marquee project listed to demonstrate its experience was never actually completed.

In all, city officials approved 85 change orders related to "design problems."

"The firm's inexperience may have been a factor in items missed during the design stage and in the design changes required," auditors concluded.

The audit found that project costs grew by \$3.3 million because of building and site features added by the bureau. Included in that cost is \$1.5 million for property improvements, such as a new fence and security gate, parking lot paving and landscaping. Beefing up the building's seismic standards to withstand a severe earthquake also increased costs by an additional \$500,000.

Auditors noted that bureau officials used the 11,500-square foot office project, designed for about three-dozen white-collar employees, to address needs at the adjacent wastewater treatment facility along Northeast Columbia Boulevard.

Bureau officials had nine formal opportunities to update the City Council about the Columbia Building but their reports lacked enough transparency.

"Generally, they did not convey the extent of increasing project scope or contract costs compared to the original contract," auditors wrote.

Conflicts questioned

The Columbia Building project bypassed the bureau's usual system of checks and balances and raised various concerns about potential conflicts of interest, auditors found.

In an unusual move, overall supervision of the project was assigned to the capital improvements program instead of the design services division.

Auditors said that "appeared to pose a conflict" because the same manager responsible for overseeing spending, Susan Aldrich, was ultimately responsible for the project work.

That reduced level of oversight was one reason why the bureau's leadership team – the five group managers, plus Marriott – participated in decisions such as approving the costly design concepts.

Additionally, the city hired a temporary employee, James Bowen, to serve as the design project manager. But Skylab went on to hire Bowen to work for the company, violating a condition of its contract, according to the audit.

Bureau officials allowed Bowen to continue as the design project manager for eight months while he worked for Skylab, auditors found. Bureau officials told auditors that they informally approved the arrangement after Bowen agreed not to work on the Columbia Building project for Skylab. The bureau also removed Bowen's authority to authorize project changes.

After consulting with city attorneys, auditors determined that the overlapping employment "raised legal concerns" and questions about whether "ethical or contractual violations" occurred.

"Whether or not the bureau wants to admit this, it's a conflict," Griffin-Valade said. "It's a conflict of roles, if not a conflict of interest."

In a written response to the audit, Marriott defended the project.

Marriott said the price grew largely because of site improvements not in the original scope. He also argued that starting with an adjusted budget of \$8.9 million – in place by December 2010 – would provide a "better comparison" to the final \$11.5 million cost, which does not include interest or overhead expenses.

The law firm Barran Liebman will conduct the city's investigation. Fish has named James Hagerman, the bureau's business services manager – and a member of the bureau's leadership team – as the agency's interim director.

The City Council will hold a work session on the Columbia Building project at 9 a.m. Tuesday. Marriott is not expected to attend.

Mayor Charlie Hales in New York City for Urban Land Institute forum: Portland City Hall Roundup

*By Andrew Theen
October 21, 2014*

Portland Mayor Charlie Hales is in New York City on Tuesday for an Urban Land Institute forum to discuss development.

The trip continues what's been a busy year of participation for Portland with the independent nonprofit group.

Portland is one of four cities participating in the Urban Land Institute's Rose Fellowship this year. Participants from each of the cities sent a group of city planners, businesses owners and developers on quick trips earlier this year to study a specific development quandary in each town. Hales selected the Central Eastside Industrial District as Portland's planning testing ground.

Hales will also appear at an event for the J.M. Kaplan Fund, a long-standing New York grant-giving foundation. The mayor will return for City Council on Wednesday afternoon, according to his schedule.

On Friday, Hales and another 40 city employees had a full day follow up retreat for the White Men as Full Diversity Partners program. In July, Hales and a select group of white city managers and leaders attended a three-day diversity conference at a Mt. Hood resort.

Friday's retreat, was included in the original \$56,000 contract, and this meeting was in Old Town, according to Hales' deputy spokeswoman Sara Hottman.

Police Chief Mike Reese and his successor Larry O'Dea attended the follow-up conference, Hottman said.

Friday's event was a bit different than the Welches resort retreat in that each white male manager had a woman or person of color whom they work closely with (called "allies" by the diversity company) accompany them to the retreat.

Hottman explained the purpose:

There wasn't an agenda, but I'm told they discussed inclusive leadership. From 8 to 10 a.m. the original conference-goers met and discussed progress in the plans they drew up this summer, and from 10 a.m. to 4 p.m. allies were there with them.

As I mentioned before, the feedback from attendees from our office was that it was an interesting, valuable experience.

Portland Mayor Charlie Hales talks Swiss chard, urban growth boundary, millennials with Washington Post

*By Andrew Theen
October 20, 2014*

The joys and quirks of Portland's food scene and urban planning history, long a beloved topic for the New York Times, cropped up Monday in a Washington Post story.

Mayor Charlie Hales exalted the virtues of Portland's farm-to-table industry, the City Hall's vegetable garden and the Rose City's destination well-staked role as a destination for young people in an interview with the paper.

"It's not just that somebody painted a 'keep Portland weird' sign, or started a doughnut store, or founded a naked bike ride. There are some really deep cultural roots to the character of Portland," Hales told the Post's Emily Badger.

Just last month, New York Times Magazine published a story titled, "Will Portland always be a retirement community for the young?" leading to a point-by-point rebuttal by economist Joe Cortright.

Badger's piece, "Why Portland is growing its own Swiss chard and stealing your college grads," notes that 25-34 year olds are migrating in waves to Portland sans job, but finding jobs eventually:

All of this is decidedly different from Washington, D.C., the region where Hales grew up. If Portland is a place where people move for the lifestyle, then find work, Washington's allure is the reverse: People move to D.C. for jobs in very specific industries, then adapt to the lifestyle (sometimes begrudgingly). I tell Hales about a theory I've been working on, that you can tell a lot about a place by the first question anyone living there asks of new acquaintances, in a bar, at a party, anywhere.

In D.C., it is, of course, "so what do you do?"

"Oh, that wouldn't be it in Portland," Hales says. "Here, the first question would be 'what neighborhood do you live in?'"

This story, as have others, does a quick drive-by reference to "pockets of poverty" in Portland (More than 40 percent of tax filers earn less than \$30,000, \$25,000 for single filers, in adjusted gross income and therefore wouldn't pay a dime under a proposed street fee income tax).

Did PBOT mislead Portland neighbors about plans for 'disappearing traffic lane' on East Burnside?

*By Joseph Rose
October 21, 2014*

Did the city of Portland do enough to let neighbors and commuters know that it planned to erase a traffic lane for 25 blocks on busy East Burnside Street?

Not according to several people who contacted me after reading my most recent commuting column on how the changes have snarled the morning commute for drivers using westbound Burnside to get downtown.

The topic of what some called "the disappearing traffic lane" was bound to elicit a great deal of reader response.

Portland's campaign to put streets on "road diets," converting auto lanes to buffered bike lanes and center turn lanes, has plenty of critics. There are a lot of conspiracies out there. Many seem to feel it's a concerted effort by the city to force people out of their cars by creating congestion, rather than -- as the city contends -- an effort to improve safety on thoroughfares cutting through neighborhoods.

But reaction to this project, which transformed a stretch of one of the city's busiest four-lane streets into three lanes, brought up a new complaint about how the city's transportation decision makers operate.

Michael Connolly, a Laurelhurst neighborhood resident who lives off East Burnside, accused the Portland Bureau of Transportation of misleading people about the scope of the project.

PBOT recently eliminated a westbound traffic lane on East Burnside from 14th Avenue to Laurelhurst Place, just west of 39th Avenue/Cesar Chavez Boulevard.

However, Connolly and many of his neighbors told me that city mailers sent to residents stated that the scope of the proposed reconfiguration would be much smaller – from 14th Avenue to 32nd Avenue.

If true, the city, by proposing 18 blocks while actually targeting 25, increased the scope of the lane-elimination project by 39 percent without notifying the public about the proposal.

"The extra bit to Cesar Chevez was never brought to residents' attention until vehicles started cutting through the neighborhood to get around this mess," Connolly said.

Meanwhile, in an email with the subject line "Gullible Joe," Jacob Lewin said the PBOT officials quoted in my column were lying about the extensive efforts to reach out to neighbors along Burnside. The only communication he said he could recall was a single vague mailing about the project.

Here's part of Lewin's email:

"Whatever the city says they did, it was ineffective. Again, had the one mailing I got made clear that taking a traffic lane away was an option, I would have spoken out. When I called the city afterwards, the receptionist at Steve Novick's office didn't even offer to take my name and when I e-mailed Novick, he did not respond. I'm still confused about whether I can make a left from Burnside onto Southeast 24th and from where. There is diagonal yellow striping in the left turn lane."

Yes, you can still turn left at 24th using the opening beyond the diagonal striping, which was painted to designate a pedestrian-only zone until a crossing island is built in 2015.

But let's get back to the original question: Did the city do enough to clearly inform residents of the pending changes to a section of Burnside that carries 9,200 vehicles a day?

I asked PBOT to send me documented history of its public outreach efforts on the project.

The agency sent me a "public outreach summary," showing that there were several opportunities dating back to February 2013 for the public to comment. On three occasions, PBOT and the Laurelhurst Neighborhood Association sent project-information fliers and meeting notices to thousands of residents. There was also an article about the proposal published in area neighborhood and school newsletters.

Here's a PDF of the Public Outreach Summary.

Still, it's easy to see why some neighbors saw the public outreach efforts along one of the city's 10 high crash corridors as vague, confusing and even cunning. Lets' look at what it included:

February 2013: The city mailed out a flier to invite 11 neighborhood associations and several businesses to a community open house at the Buckman School cafeteria to discuss improving safety along Burnside. PBOT staff members say this is where Kerns and Buckman neighbors approached them about making some changes from 14th to 32nd.

September 2013: A public meeting flier was sent out to 4,000 addresses, inviting residents to a public meeting to discuss an "East Burnside Transportation Safety Project" from 14th Avenue to 32nd Avenue. There is no mention of a possible elimination of a traffic lane.

June 2014: The Laurelhurst Neighborhood Association contacted PBOT to ask that the restriping of westbound Burnside to one lane start as close as possible to Cesar Chavez Boulevard, which would expand the project another seven blocks.

Volunteers reportedly hand-delivered a letter to every household in the Laurelhurst neighborhood, inviting them to an emergency meeting to discuss "creating a safer Burnside." The letter clearly states that the discussion would include the possibility of turning a westbound lane east of 32nd into a dedicated center two-way turn lane.

On June 27, the neighborhood association lets PBOT know that it voted in favor of expanding the road diet to Cesar Chavez.

At the same time, however, residents were receiving a flier inviting them to an open house about "Burnside roadway changes coming soon!" Less than three months before the changes are scheduled to be implemented, it's the first public notice from the city to mention the plan to "convert one westbound lane to a center two-way turn lane."

The flier, which was apparently sent out to 4,200 addresses before the Laurelhurst neighborhood association asked for an expansion of the project, still said the lane would be removed from 14th Avenue to 32nd Avenue.

And that's where the requests for public feedback stopped.

It appears the last official meeting notice from the city – and the only time the lane elimination was mentioned – had outdated information about the project.

Gabe Graff, operations and safety manager for the city's active transportation division, said PBOT was counting on the neighborhood association to do additional public outreach about the changes on its own.

"In a process like this," Graff said, "we lean heavily on the institutions we have in place. The neighborhood association was acting on behalf of its residents."

Meanwhile, Portland Commissioner Steve Novick, who oversees PBOT, said the situation is a "head-scratcher" and the agency is reviewing how it involves the public in safety projects.

"If we had refused the request of the neighborhood association, then we would have been rejecting public input," Novick said. "And theoretically part of the point of outreach is to solicit additional ideas from the public. I'm not saying there's nothing we could have done better; I've got a couple more questions to ask my people. But I think every once in a while it's inevitable in a public involvement process that some people will be surprised and annoyed to find that the project they originally heard about has been changed as a result of somebody else's public involvement."

Ultimately, with the right adjustments to signal timing along the reconfigured corridor, Graff is confident that a single through lane provides enough capacity for Burnside's daily westbound commuters.

With winter approaching fast, another round of public involvement to discuss the expansion would have been tough, Graff said.

Striping work is seasonal. Crews needed good weather to grind down the old striping on Burnside and reconfigure the road.

What's more, he said, if the city had punted on the Laurelhurst Neighborhood Association's request and then decided at a later date to mobilize its crews again for their requested changes, the costs would have been higher.

However, Connolly isn't convinced that the city is concerned about its road striping budget. "The work up to 39th was a bonus, mostly for the city workers who had just put down paint for two lanes two months prior -- a nice use of city funds," he said.

That said, it's easy to understand why many neighbors and businesses considered the work long overdue. This is, after all, a high crash corridor.

Between 2002 and 2012, the city recorded 383 crashes and one pedestrian fatality along that stretch of Burnside. Many of the collisions involved motorists getting T-boned and rear-ended while attempting to make hurried turns from a through lane, said Clay Veka, PBOT's high-crash corridor coordinator.

The restriping project, which also includes improved pedestrian crossings and 15 new on-street parking spaces designated by a solid white line, is expected to reduce collisions by 30 percent, PBOT says. What's more, the city has asked ODOT for permission to reduce the speed limit from 35 to 30 mph.

Overspending and under-accounting at the Columbia treatment plant: Editorial Agenda 2014

*By The Oregonian Editorial Board
October 22, 2014*

The running joke about water rates in Portland for the last few years reliably bore mention of The Water House, a residential dwelling built at ratepayer expense to showcase frugality in water use and related efficiencies in the name of sustainable living. The house was a shrine to Portland's green-living sensibility but increasingly derided by those who reasonably asked why utility rates are were so high – some of whom mounted an unsuccessful drive this year to yank the city's Bureau of Environmental Services and Water Bureau out from under City Hall and create a water district run by yet more elected

commissioners. The Water House joke soured, however, when City Commissioner Nick Fish did the right thing by unloading it from the city's holdings – but at a sale price below what ratepayers had paid to build and maintain it. Oh well. In the larger scheme of ratepayer ire, The Water House, with a tab of about \$940,000, was small potatoes.

Now city auditors have released their report on a construction project under the oversight of BES. And while few things can be said to be the Taj Mahal of unrestrained public spending, the Columbia Boulevard Treatment Plant headquarters comes close: An office building to house BES employees who'd suffered in moldy on-site trailers went from an original project budget of \$3.2 million in 2010, when a simple structure was planned, to \$11.5 million today, placing the city in possession of a radial-shaped building with a stepped glass wall and a complex eco-roof with 13 different planes, one of them pitched to a grade of 18 degrees.

That's not to mention comparatively little things like the need for \$40,000 to accommodate an untested system for printing an aerial photograph on glazed tiles. And the discovery that window shades sized for the building would not fit newly designed windows under the steep roof, which, separately, would require expensive anchoring of the turf upon it. Bottom line: Serial design changes of the building, and costly complications posed by them, occurred without proper oversight or disclosure to the City Council, which foots the bill.

Auditors typically speak in neutral, balance-sheet prose. But in their review of the Columbia Building, they're all about judgment: "... the City and BES turned the project into an educational 'showcase' of values. This resulted in a more elaborate, architecturally unique and complex project than originally conceived ... and agree to by Council." And they point fingers: "... we found that BES expanded the scope, made discretionary design choices, and provided ineffective oversight of the design phase of this project."

The Water House did have one thing going for it: Everybody knew it was former Commissioner Randy Leonard's bid to advance the Portland ethic of more sustainable living – and the City Council supported him in seeding a few pet projects. The Columbia Building, by contrast, is far more troublesome and at a far larger scale: Runaway spending by a managing oversight bureau, which left the City Council in the dark along the way.

The Columbia Building, a mega-shrine, is hardly small potatoes. BES created a monument to its behavior as an autocracy funded by public dollars.

Fish, since being assigned by Mayor Charlie Hales to oversee the utility bureaus, has been in a hurry to fix things and to assure stability for Portland homeowners and businesses. In addition to stripping his bureaus of off-mission projects, he established, under the oversight of former Oregon U.S. Attorney Dwight Holton, a commission to examine the operations of his bureaus and map a path to full accountability; the commission last week posted a draft of how things are taking shape. Meanwhile, Fish forged an alliance with the Citizens Utility Board for similar reasons. And he and Hales had requested the city's audit of the Columbia Building in the first place.

But the Columbia Building, a mega-shrine, is hardly small potatoes. BES created a monument to its behavior as an autocracy funded by public dollars. Fish was right this week to place BES Director Dean Marriotton paid administrative leave and to hire non-city attorneys to review documentation supporting the audit. The attorneys will explore, among other things, conflicts of interest among the many managers overseeing the Columbia Building's design and construction.

Yet Fish, his predecessors and the City Council are complicit: No amount of 'they never told us' about it can cover for the fact that it is the job of any bureau's supervising commissioner, and then the full council of which he or she is a part, to ensure the public's interests are protected. In the case of the Columbia Building, the public's interests were trampled. The council failed along with BES.

Lawyers reviewing the audit documentation will likely be done by the end of the year. But well before then, and before Marriotton's fate is decided, Fish and Hales must publicly explain how spending for one office building got so out of line.

Trust is no longer presumed in public life. When it comes to Portland's utility bureaus, the best chance for restoring it will come with immediate, detailed accountability.

Portland City Council should swallow ego, accept federal judge's oversight of DOJ settlement: Editorial Agenda 2014

*By The Oregonian Editorial Board
October 21, 2014*

It's hard to know whether exuberant lawyering or a civic ego trip is behind Mayor Charlie Hales' challenge to a federal judge's authority over Portland's police-reform settlement.

Because if Hales is committed to restoring trust in Portland Police, he should welcome the periodic hearings ordered by U.S. District Judge Michael Simon. The hearings would offer a way for the public to track the city's progress in meeting the terms of its settlement with the U.S. Department of Justice.

Instead, Hales is balking at that loosely structured provision of the order, which also calls for the parties to discuss obstacles and to present evidence as needed.

As reported last Friday by The Oregonian's Maxine Bernstein, Hales and City Commissioner Amanda Fritz plan to ask City Council on Wednesday to appeal that condition and seek "clarification" from the 9th Circuit Court of Appeals with regard to the frequency, scope and evidentiary burden Simon can impose. Despite DOJ's stance that the judge has the power to convene such hearings, the city's leadership appears determined to let Simon know that he is not the boss of them.

Before voting, city commissioners would do well to remember how we got here in the first place.

It wasn't just James Chasse Jr.'s death in 2006. Police officers, who suspected the schizophrenic man of urinating in public, chased, Tased and knocked him to the ground. He sustained a punctured lung, 26 fractures to his ribs and died of blunt force trauma to the chest.

It wasn't just Aaron Campbell's death in 2010. A Portland Police officer fatally shot the distraught and unarmed man after other officers talked him into walking out of his girlfriend's apartment.

It wasn't just the pepper spraying and Tasing of Aaron Emanuel Ferguson, who was spotted spitting on cars, or the repeated Tasing of Anthony Charles Caviness, who was naked, unarmed and suffering a diabetic emergency in his apartment; or police officers' half-dozen closed-fist punches and Tasing of Samuel Michael Serrill, whom mental health workers had wanted detained for an evaluation.

It was all of them – and more. After conducting a 14-month-long investigation, the DOJ in 2012 found Portland Police had engaged in a pattern or practice of using excessive force against people with mental illness or those perceived to have mental illness. In addition, the investigation found several cases in which officers' use of Taser stun guns was unjustified and excessive.

The justice department sued the city, and the parties negotiated a settlement that calls for widespread training, policy and supervision reforms -- some of which will take years before they are fully in place.

That's where Simon's periodic updates come in. Community members who attended a hearing about the proposed settlement in February said they feared there was insufficient monitoring. They shared their distrust of the city, whose responses to excessive force complaints have been spotty or ineffective. And Simon in May said he wanted to be kept apprised of the city's progress. If there were problems, he said at the time, he wanted to find out sooner rather than later.

Keep in mind that the judge is not doing anything that hasn't been done in other cities similarly sued by the federal government for excessive force by police. But unlike Seattle, New Orleans, Los Angeles, and other places, Portland negotiated a settlement with the DOJ that excluded a court-appointed monitor and subbed in the DOJ as the monitor of Portland's compliance. The two sides agreed that Simon should retain jurisdiction to resolve disputes brought forward by the DOJ.

The city glosses over that fact, however. It casts Simon's role as mere window-dressing, referring to his continuing authority as "a customary condition."

And keep in mind that the city doesn't object to the one hearing that Simon set for next September for an update. But they are concerned about what other information the judge might seek next on this issue of high public interest.

The city's attorneys have been working themselves up into a lather about the hypothetical orders that Simon might possibly one day decide to impose. Could the judge require the mayor's spokeswoman to appear before him? It's unclear, said spokeswoman Sara Hottman.

"We all want to move forward, get out of court and get to work," explains Hales breezily in a press release.

Everyone seems to be in agreement about that. A time-consuming appeal, however, seems to be the worst way to go about it.

The Portland Tribune

Sewer director on leave during cost overrun investigation

*By Jim Redden
October 22, 2014*

Dean Marriott, director of Portland's Bureau of Environmental Services, was placed on leave this week after a city audit pointed to large cost overruns for the new employee building at the Columbia Wastewater Treatment Plant.

City Commissioner Nick Fish, who is in charge of the bureau, told KOIN News 6 that he was unhappy after reading the audit's findings about the cost increases.

"The fact it was three times over budget bothers me as commissioner in charge, that bothers me as a resident, that bothers me as a ratepayer," Fish told KOIN News 6.

Fish has also asked a local law firm to conduct an independent investigation of the project spending. And he has named bureau veteran Jim Hagerman as its acting bureau director.

City Auditor LaVonne Griffin-Valade released the audit Wednesday morning and will brief the City Council on it Tuesday morning.

According to the audit, the building's cost increased from an original estimate of \$3.2 million to \$11.5 million by the time the building was completed last year. The increase became an issue in the campaign on a ballot measure to transfer control of BES and the Portland Water Bureau from the City Council to an independently elected board. Mayor Charlie Hales and Commissioner Nick Fish, who is in charge of BES, asked Griffin-Valade to do an audit of the cost increases before the measure was defeated at the May primary election.

Longtime utility critic Kent Craford, who helped lead the unsuccessful ballot measure campaign, called on Fish to fire Marriott.

"Nick Fish is posturing, he wants to look tough on spending ahead of his imminent vote to stick Portlanders with yet another new tax. If ever there were an example of why ratepayers and taxpayers shouldn't trust City Hall with another dime, it's this extravagant building, just one of many. Dean Marriott needs to be fired, not given a paid vacation. And Portlanders need to rise up and refer the street tax to the ballot," says Craford.

The audit points out that the building was necessary to replace temporary trailers that had begun to deteriorate. But the audit also cites several design and use decisions made by BES that increased the cost of the project after it had been approved by the council. For example, the audit points out that BES decided the building should be able to function as an emergency operations center after the council approved the project, requiring an additional \$500,000 to be able to survive a severe earthquake. Expanding the work site also increased the cost by \$1.5 million.

The audit also found that a philosophy of striving to be a model of sustainability at the city turned the project into "an educational 'showcase' of values," which resulted in a more elaborate, architecturally unique and complex project than approved by the council. And, according to the audit, weaknesses in oversight during the design stage resulted in additional costs.

And, although BES discussed the changes with the council on numerous occasions, according to the audit agency officials did not provide enough information about them for the council to understand their significance.

"Essentially, what could have been a relatively straightforward and simple building became more complex and elaborate, as design choices and scope additions expanded the project area as well as the building's complexity. During the design process, lapses in project oversight also contributed to the increase in project

cost," according to the audit, "B.E.S. Columbia Building: Scope addition and ineffective design oversight led to substantially higher project costs."

The audit makes several recommendations for preventing such unapproved cost increases in the future. They include clarifying competing priorities, considering related needs before submitting the first budget request, better defining what the project contracts are intended to accomplish, and obtaining formal council approval for significant changes and cost increases.

Fish was assigned BES as the project was nearing completion. In a letter accompanying the audit, he accepts its findings and recommendations.

"This audit raises serious and troubling issues," wrote Fish, who noted that he has already directed both BES and the water bureau to place contract changes greater than \$500,000 on the council's the council's regular agenda for full discussions. "Good stewardship of ratepayer dollars is critical to maintaining public confidence in our utilities."

Marriott faulted the audit for using the \$3.2 million figure as the starting point. In a letter accompanying the audit, Marriott wrote that the budget was adjusted to \$8.9 million to include site improvements not in the original plan by December 2010. He described them as "important improvements" that are long-lasting investments in the facility.

"Starting with this adjusted budget would provide the reader with a better comparison to the final \$11.5 million cost," Marriott wrote.

The audit can be found at <http://www.portlandonline.com/auditor/index.cfm?c=64479&a=506785>.

City focuses on safety with proposed street fee funds

*By Jim Redden
October 21, 2014*

Ever since Mayor Charlie Hales and Commissioner Steve Novick proposed their street fee in May, public attention has focused on the monthly charges they want to impose on residents and businesses.

But collecting the money is only half of their plan. The other half is how Hales and Novick want to spend it. That may be key to whether the City Council passes the plan in November — and whether it survives if referred to the voters.

The Portland Bureau of Transportation presented the council with a list of likely projects during last week's work session on the fee. Most of the press coverage of the session concerned the big changes Hales and Novick are proposing to the charges in their "Portlandized" version of the fee. They are leaning toward substituting a progressive personal income tax for the \$144 per year household fee they originally proposed. And they seem poised to offer a sliding scale for businesses instead of one based on estimated vehicle trips.

But roughly half the discussion revolved around the project list. Hales and Novick seemed intent on convincing the rest of the council that the project are critical to the city and cannot be funded any other way.

"TriMet says they will offer frequent service on 122nd Avenue if we fund in safety improvements for their stops," Novick said, offering one example of how the fee revenue could be used.

That argument has already helped representatives of more than a dozen advocacy organizations to consider asking their members to support the revised proposal. They are especially pleased many of the projects are in the poorest parts of town.

"We live in a city with massive disparities in the allocation of safe infrastructure for getting around. Pedestrians in the region's poor neighborhoods are three times more likely to be killed in traffic compared to pedestrians in wealthy neighborhoods. We support and are pleased to see a mix of safety projects in diverse, low income communities where the needs are greatest," says part of a letter to the council signed by representatives of 1000 Friends of Oregon, AARP, the Bicycle Transportation Alliance, the Coalition for a Livable Future, the Community Alliance of Tenants, the Community Cycling Center, Elders in Action, OPAL Environmental Justice Oregon, the Oregon Environmental Council, Oregon Food Bank, the Oregon

Opportunity Network, Oregon Walks, the Safe Routes to Schools National Partnership, and Upstream Public Health.

Safety projects

The revised fee proposal is intended to raise \$40 million a year for six years. Although the exact split has yet to be proposed, maintenance projects accounted for 53 percent of those presented by PBOT. They included both minor and major rehabilitation projects in all parts of town totaling \$92 million.

But it was the other projects totaling \$81 million that drew the most interest from the council. They are also the one that has caught the attention of most of the advocacy organizations.

Although Hales and Novick have so far referred to them as “safety projects,” they are broken into seven categories, each with its own supporters in the community:

- High Crash Corridors Infrastructure improvements to reduce pedestrian, bike and vehicle crashes by 29 percent along the 10 busiest streets in the city. Cost: \$16.3 million.
- Crossing Improvements —Improving pedestrian crossings across streets and intersections to reduce pedestrian crashes by 46 percent and motor vehicle crashes by 39 percent. Cost: \$11.8 million.
- Sidewalks — Build sidewalks to separate pedestrians from travel lanes and reduce crashes by 88 percent. Cost: \$18.7 million.
- Protected Bike Lanes/Routes Physically separate bikes from motor vehicles to improve safety. Cost: \$6.9 million.
- Neighborhood Greenways — Identify and fund a network of residential streets with 20 mile per hour limits, painted bike markings, traffic calming feature and safer crossings. Cost: \$5.2 million.
- Alternative Street Designs — Make simple fixes like safer shoulders on streets where sidewalks cannot be added to reduce pedestrian crashes 71 percent. Cost: \$5.2 million.
- Safe Routes to School Increase safety on designated routes to increase the percentage of students walking and biking to school. Cost: \$8.6 million.

Many of the projects in these categories are drawn from previously approved plans with existing backers. They include the Portland Bike Plan for 2030, the East Portland Action Plan, and the existing Safe Routes to School plan that has mapped numerous routes in need of improvement throughout the city. During the council session, Hales and Novick repeatedly said that not much money is available for the projects in these plans unless the council adopts their street fee.

Hales and Novick plan to unveil a new version of their street fee proposal in a matter of days. The list of projects and additional information can be found at www.portlandoregon.gov/transportation/65945.

Impact of utility fees

Advocacy organizations all support a progressive personal income tax for the residential portion of the street fee. That is because they do not want to impose a new financial burden on low-income Portlanders, and there is no easy way to avoid that if a flat residential fee is assessed against all households.

This is true of the city’s method of collecting water, sewer and stormwater charges through the combined utility bills. Single-family households can receive discounts through an existing program, but not multifamily households, where apartments and condominium buildings are served though a single water meter.

After Hales and Novick announced their original proposal, an advisory group began researching how to provide utility discounts to low-income households in multifamily buildings. The Non-profit/Low-Income Workgroup completed its work on the street fee without coming up with a proposal for multifamily utility bills, however.

Instead, Chairwoman Ruth Atkins wrote a letter to Commissioner Nick Fish asking him to appoint a new advisory group to continue working on the issue.

“Our group remains in agreement that expanding existing water/sewer discounts to multifamily residents, as well as helping the (Water) Bureau reach more low-income households with the existing program, is a priority,” wrote Adkins, who works for the Oregon Opportunity Network, a low-income advocacy organization.

Fish says he has long been concerned about the impact of increasing utility costs on low-income Portlanders, including those on fixed incomes, and plans to take the issue up next year.

Willamette Week

Portland Environmental Services Director Dean Marriott Placed on Leave After City Audit of Sewer Office Building

*By Aaron Mesh
October 22, 2014*

A longtime Portland bureaucrat has been put on paid administrative leave as the result of a city audit into a Bureau of Environmental Services building project that went out of control.

BES director Dean Marriott was sent home Tuesday because of the \$11.5 million services building that opened this spring at the Columbia Boulevard Wastewater Treatment Plant.

The audit was triggered by stories in WW and on KOIN-TV that revealed the building tripled in cost without any debate by the Portland City Council.

The audit found BES failed to verify the credentials of the building's design contractor, Skylab Architecture, and kept the City Council in the dark about the project's growing scope.

"Projects funded by taxpayers or ratepayers require a higher level of vigilance, transparency, and stewardship," City Auditor LaVonne Griffin-Valade writes. "City managers were remiss on all three counts."

When Commissioner Dan Saltzman rejected further increases to Skylab's fee in 2013, BES went around him and paid the contractor another \$95,581 anyway.

Commissioner Nick Fish, who now oversees BES, has asked the Barran Liebman law firm to conduct an outside investigation.

"They sort of jump off the page," Fish says of the audit's findings. "The findings on this project trouble me greatly. If the bureau is not transparent with the Council, then the Council cannot do its job."

Marriott, BES director since 1994, makes \$199,160 a year. He tells WW he expects the investigation will clear him and the bureau.

"I do welcome all the facts coming out," Marriott tells WW. "There's a lot in the audit that I think is incorrect. I hope that when the facts come out, people will see that the record is clear."

KOIN-TV first reported the building's increased price tag in March. Records obtained by WW in April showed how the city turned what was supposed to be a utilitarian office building, originally estimated at \$3.2 million, into a "poster-child facility" for wastewater engineers in North Portland.

Fish responded in May to WW's report by mandating that any BES and Water Bureau spending over \$500,000 be discussed by City Council. He also asked Griffin-Valade to audit the project.

Among the findings released today in the audit: Skylab Architecture won the contract to design the building by highlighting experience with another office building that was never finished.

The audit says BES managers approved a design so ornate and inadequate that it required 85 change orders during construction, mostly to fix design problems like the ecoroof covered in wetland grasses. "The warranty on the steep roof required adding soil barriers to prevent wet soil from sliding off," the audit says. "A less-steep roof design may not have needed these additions. Adding the barriers during construction cost the city \$30,000."

The audit also highlights Skylab Architecture hiring a BES design project manager while still under city contract. The hiring was first reported in May by KOIN.

"The contractor [Skylab] was prohibited from hiring any city employee who participated in awarding the contract," the audit says. "For eight months, BES allowed the employee to continue as design project manager while working for the design contractor at the same time."

In his written response to the audit, Marriott says the project grew more expensive because of additional security and roads, an earthquake-resistant emergency operations center, and a public meeting space. "These are [a] long-lasting investment to this critical public facility," Marriott writes.

Fish is making the announcement of the steps he's taking in a letter going out to BES employees today.

"Given the gravity of the issues raised in the audit, I have placed Dean Marriott on paid administrative leave pending the conclusion of the outside investigation," Fish writes. "Jim Hagerman will serve as acting bureau director."

Marriott was hired by then-City Commissioner Mike Lindberg to head BES in 1994. He oversaw the Big Pipe project, a \$1.4 billion series of huge sewer pipes that mostly prevent raw sewage from spilling into the Willamette River.

But Marriott also took criticism for the cost of construction projects. In 1996, then-Commissioner Charlie Hales told WW that Marriott's department had become the "Bureau of Excessive Spending."

In 2005, then-Mayor Tom Potter asked Marriott to resign, while forcing out three other bureau chiefs. Marriott refused to resign, and Potter couldn't make him leave because he had civil-service protection that meant he could be fired only for cause.

The Mercury

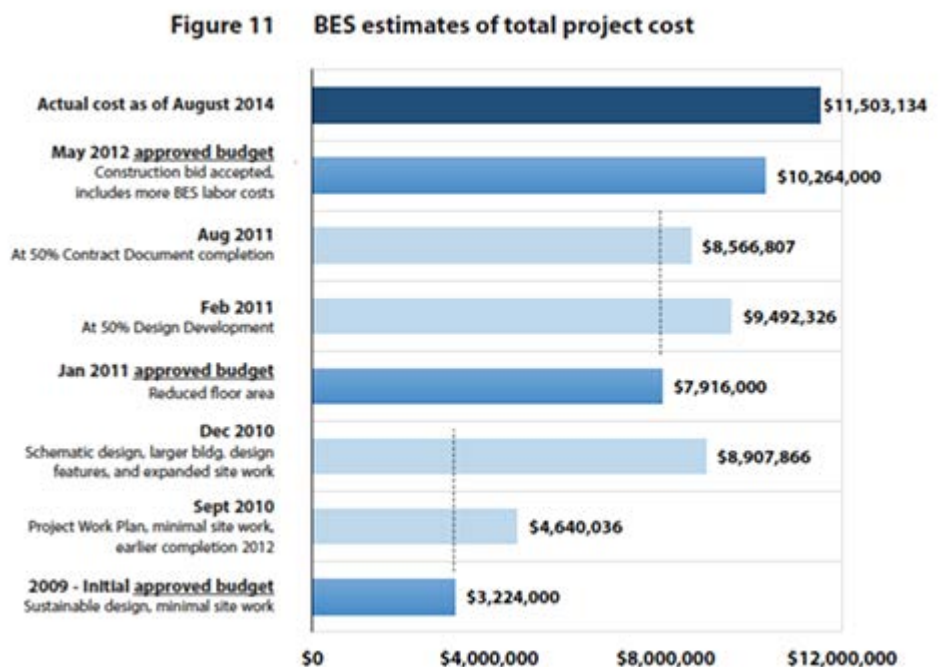
After Damning Audit of Budget-Busting Building, Fish Puts Sewer Bureau Chief on Leave

By Denis C. Theriault
October 22, 2014

IT'S TEMPTING to feel a bit of pity for Commissioner Nick Fish, who can hardly catch a break—having to deal with messes that unfolded under the watch of his predecessors—after taking over the city's beleaguered water and sewer utility bureaus back in 2013.

Earlier this year, he was the lightning rod for a craven attempt by industrialists to take over the city's utility bureaus, tapping into anger over increasing rates. As commissioner in charge during the election, Fish had to step in for retired Commissioner Randy Leonard and answer for the small, symbolic sins of the Portland Water Bureau (money for a "water demonstration house" and fixes for the Rose Festival's headquarters, among others).

That wasn't pleasant—akin to stepping in dog crap someone left on the sidewalk and tracking it around until you finally got a chance to scrape it off your shoe.



Source: Audit Services Division and documents provided by Bureau of Environmental Services

But it still pales before the hazmat crisis that's just surged up around his ankles—this time courtesy of his other predecessor, Commissioner Dan Saltzman, former boss of the Bureau of Environmental Services (BES).

This morning, Fish has the honor of telling the world he's placing BES' longtime director, Dean Marriott, on paid administrative leave while two outside attorneys examine how and why the cost of new offices for the city's Columbia Boulevard Wastewater Treatment Plant bloomed to three times their original budget.

That's a jaw-dropping announcement—the near-sacking of a bureau director—in the largely genteel world of Portland government. But Fish had no choice. A city audit (pdf) that Fish requested alongside Mayor Charlie Hales (pdf), also released this morning, turned up far too many “red flags” for anyone in charge to ignore—red flags that somehow weren't sufficiently raised years before when Saltzman was in charge of the bureau.

Some are baffling. Repeatedly, the city council was presented with incomplete and shifting cost estimates that Fish says were described as “optimal”—surprising for a bureau that delivered the city's billion-dollar Big Pipe under budget and on time. Some seem vainglorious. The remote building—meant to be a functional home for engineers—wound up a needless showpiece with extravagant furnishings and architectural details. Some are ethically dubious. The project's contractor hired BES' design manager in the middle of the work—with BES letting that manager work for both entities for eight months. The most dramatic expansion in the project's costs came during its design phase.

“I'm disappointed. I'm alarmed,” Fish says. “That's why I'm taking some tough actions.”

Beyond the investigation, Fish has already changed how adjustments to construction projects come to council. His also office looked at 100 other BES projects done at the same time as the wastewater facility and found, to some relief, that they only exceeded their planned budgets by 2 percent. Some of those changes came after KOIN first reported, and then explained in great detail, just how badly over budget the building had grown. (Willamette Week also followed KOIN's reporting this spring.)

But here's what's still going to be muddy: how a boondoggle like this could erupt under a commissioner's nose—Saltzman's—without anyone noticing the stench was this bad. Was it because Saltzman's penchant for delegation turned into disengagement (at a time when he was complaining he had little to do after then-Mayor Sam Adams stripped the police bureau from him)? Was his office just another victim of a lack of transparency?

Saltzman's named just once in the audit—on the list of which officials would be receiving a copy. (His office declined to comment when I called.)

Fish confirmed the investigation will focus solely on the bureau. He's too busy shoveling his way clear to look back and cast blame among his colleagues, he says.

“I have to look forward.”

And that's why you shouldn't pity Fish. If he cleans this up, he might find some nice things in his political future to look forward to.

The Daily Journal of Commerce

Appealing for more public input

*By Inka Bajandas
October 21, 2014*

A new nonprofit is pushing back against plans to expand the Portland Japanese Garden further into Washington Park, claiming a lack of public involvement.

Portland architect Hilary Mackenzie last week submitted a notice of intent to appeal to the Oregon Land Use Board of Appeals on behalf of the Alliance for Portland Public Lands, a nonprofit that she started. The appeal claims city of Portland conditional use approval for the garden expansion violated state requirements for public feedback because park property is involved.

“These are public resources, and if you jigger with it there needs to be public discussion,” Mackenzie said. “If there was more public notice, more people would have had a chance to comment.”

The Japanese Garden Society of Oregon, a private nonprofit, operates the 5.5-acre garden on 9.1 acres leased from the city. An expansion to accommodate a growing number of garden visitors would increase that acreage to 12.5. Plans filed with the city call for construction of 11,340 square feet of new buildings, including a ticketing pavilion, administrative offices, a garden house and a café.

Mackenzie, who lives near the Portland Japanese Garden, claims that garden officials were vague about the plans and misrepresented the sizes of the new buildings. She also believes that more people than neighbors should have received notice about the project and the chance to offer feedback because Washington Park attracts visitors from throughout the city and region.

“The number one thing is taking 3.5 acres of public land and handing it over to a private entity,” Mackenzie said.

Architects Tokyo-based Kengo Kuma and Associates and Portland-based THA Architecture, along with Portland-based landscape architects Sadafumi Uchiyama and Walker Macy, are in the early stages of project design, making it hard to share details, Portland Japanese Garden spokeswoman Lisa Christy said.

An important part of that process has been public involvement, she said. The design team and garden officials are consulting with neighbors and representatives of various city bureaus, such as Portland Parks & Recreation and the Portland Bureau of Transportation, on the most appropriate way to expand the garden, Christy said.

“We’re doing all we can to be a good neighbor, but also protect the park as is,” she said. “It’s all so preliminary because we’re still talking and working with the right people to make sure it’s done as thoroughly and considerately as possible.”

Kathleen Stokes of the Portland Bureau of Development Services oversaw the application for conditional use approval, which was granted in July. She said she did not know enough about the LUBA appeal to comment on it.

One of the issues with the city’s approval that irked Mackenzie and members of the Arlington Heights Neighborhood Association is that the expansion would block access to a popular footpath that connects to Washington Park’s popular Wildwood Trail. The path often is used by pedestrians traveling between Arlington Heights, the park and downtown Portland, Mackenzie said.

“People can actually commute on this trail,” she said. “It’s a direct pedestrian link. It’s about as straight a line you can get.”

The Portland Japanese Garden is planning for a connector path replacement, but it won’t be as convenient, Mackenzie said.

“It’s a half-mile out of the way and it’s very steep,” she said. “When you’re walking, a half-mile matters and it’s not a straight shot anymore.”

In August, Mackenzie and the neighborhood association separately appealed city approval of the project to the Portland City Council. The neighborhood association later dropped its appeal before the council hearing in late August after garden officials agreed to address other neighborhood concerns with the project.

After city councilors denied Mackenzie’s appeal and last month officially granted approval for the project, she announced her intent to bring the matter before LUBA.

Susan Siegel, board president of the Arlington Heights Neighborhood Association, said the group has not taken an official stance on Mackenzie’s LUBA appeal and at this point is satisfied with a commitment from garden officials to address a number of concerns besides the path closure. These include construction of a 6-foot-wide sidewalk around the garden, installation of a bus pullout, consultations with neighbors on the design of a fence along an access road, and stipulations involving construction hours and a staging area on park tennis courts.

“It’s a good faith agreement and the concessions we felt were significant,” Siegel said.

As for the path, “we agreed to disagree on that point,” she said.

Mackenzie said she and other neighborhood residents didn’t realize the extent of the project or its impact on the connector path until this past spring when they saw plans that garden officials submitted to the city.

“I got a copy of the application and I thought, whoa ho, I have something to say about this,” she said. “That’s how it started and the neighborhood has been playing catch-up ever since.”

City approval of the path-blocking plan demonstrates a disconnect with addressing the concerns and interests of the community in a project involving public land, Mackenzie said.

"It's symptomatic of a larger issue," she said. "This would have all come up if they had a real public process."

Siegel agreed that residents of the neighborhoods surrounding the Portland Japanese Garden aren't the only ones who should have a say in the expansion project that affects Washington Park.

"As an individual, I think they did not give proper public notice," she said. "This park isn't just a neighborhood issue. We are hopeful there is access for everybody."

Concerns about the garden expansion inspired Mackenzie to found the Alliance for Portland Public Lands. She believes the project is among recent instances where Oregon's emphasis on community involvement in public land use decisions has been overlooked.

"That's the core of our land use planning," Mackenzie said. "This is how I formed the Portland Alliance for Public Lands, because that's gotten eroded."

Portland Japanese Garden expansion

Location: 611 S.W. Kingston Ave.

Owner: Portland Japanese Garden Society of Oregon

Architects: Kengo Kuma and Associates and THA Architecture

Landscape architects: Sadafumi Uchiyama and Walker Macy

Engineers: PAE, KPFF Consulting Engineers and Geotechnical Resources Inc.

General contractor: Hoffman Construction

The Portland Business Journal

Auditor: Portland officials were 'remiss' as wastewater treatment facility costs escalated

*By Andy Giegerich
October 22, 2014*

Portland's city auditor has issued a scathing report blasting the construction of a building for employees working at Portland's Columbia Boulevard Wastewater Treatment plant.

The report from LaVonne Griffin-Valade's team stemmed from "concern about appropriate levels of oversight" related to the Bureau of Environmental Services project's expanded scope and higher-than-anticipated costs.

"Projects funded by taxpayers or ratepayers require a higher level of vigilance, transparency, and stewardship," the auditors wrote. "In the case of the Columbia Building, as this project is now known, City managers were remiss on all three counts."

The building cost \$11.5 million, or three times its originally intended pricetag.

The Oregonian reported this morning that Dean Marriott, the bureau's administrator, has been placed on leave.

The auditor's office blamed "design choices and additions to the scope made after City Council gave the go-ahead" that cost more than the city had planned. However, it also cited "a philosophy of striving to be a model of sustainability" that turned the structure "into an educational 'showcase' of values.

As a result, the structure became "a more elaborate, architecturally unique and complex project than originally conceived in the capital budgeting process."

Portland Mayor Charlie Hales and City Commissioner