

The Oregonian

Portland administrator Dean Marriott plans to sue city, claims paid suspension politically motivated

*By Brad Schmidt
December 03, 2014*

Portland's longest-tenured administrator, Dean Marriott, plans to sue the city and claims his current paid suspension is a politically motivated attempt by Commissioner Nick Fish to force him out after an accomplished 20-year career.

Fish placed Marriott, the director of the Bureau of Environmental Services, on paid leave Oct. 22 in response to a damning audit detailing how costs for a sewer office building tripled to more than \$11.5 million.

Marriott now claims that government leaders have seen countless projects blow beyond budget but only he has been singled out. Marriott, 65, is accusing the city of age discrimination, defamation and a lack of due process – and he says both Fish and Auditor LaVonne Griffin-Valade are colluding against him.

The "suspension did not arise from conduct ascribable to Mr. Marriott, but was instead a politically calculated maneuver by Commissioner Nick Fish," Marriott's attorney wrote in a Nov. 19 tort claim, obtained by The Oregonian on Wednesday through the state's public records law.

Fish and Marriott declined to comment Wednesday, citing the threat of litigation and a pending investigation. Griffin-Valade did not immediately respond to a request for comment.

Marriott's fight is just the latest involving a high-ranking city employee who complained about ulterior motives and threatened to sue while being forced out.

In the past two years, Portland's former chief financial officer complained of retaliation for stepping forward as a whistle-blower while the city's former chief administrative officer and former financial controller have received settlements totaling \$85,000 to drop legal threats against the city.

In the latest case, Marriott claims that Fish began plotting to remove him from his position May 23, three days after voters overwhelmingly rejected a ballot measure to strip water and sewer oversight from the Portland City Council.

According to Marriott's calendar, he was scheduled to meet with Fish on May 23. But Fish's calendar shows no meetings and states that he took the day off.

Update: Fish met with Marriott on May 23. Fish's public calendar said he was off that day. But his scheduler said Wednesday that the calendar was not updated to reflect that Fish worked half the day and did meet with Marriott.

Fish and Mayor Charlie Hales had campaigned against the ballot measure by promising they would not make the same self-inflicted, questionable spending decisions that prompted a lawsuit and drew ratepayers' scorn.

But as the May 20 election neared, KOIN and Willamette Week reported that Portland's Columbia Building office project was far over budget and had been decorated with lavish furnishings.

"Commissioner Fish never criticized the construction of the Columbia building until it was attacked by the press," Marriott's legal claim states. "He even blamed Mr. Marriott for causing him to make misstatements to the press."

In response to media inquires, Fish and Hales asked Griffin-Valade to review the Columbia Building project. Her Oct. 22 audit found that costs soared because of insufficient design oversight, elaborate design choices and an expanded project scope.

Fish also had the city attorney hire an outside law firm, at a cost of up to \$60,000, to participate in a personnel investigation to review whether laws, rules or ethical guidelines had been violated. The results are expected back before year's end.

Marriott claims that the outside investigation has a predetermined outcome: to justify his termination. His attorney has asked that Marriott receive a public hearing to clear his name before any termination decision or announcement is made.

Marriott also accuses Fish and Griffin-Valade of colluding to discredit him while advancing their own political goals.

Hired in 1994, Marriott is the only remaining bureau director with civil service protections, which make it difficult to fire him.

Voters in 2000 eliminated those protections, and all other bureau directors serve at the will of either the elected official or bureaucrat in charge. Former Mayor Tom Potter unsuccessfully tried to force out Marriott in 2005, citing a "need for change."

Marriott claims that Fish and Griffin-Valade, who in 2011 pushed to remove civil-service protections for top posts in her office, want to replace Marriott with an at-will employee who could be fired for political reasons.

Marriott, according to his legal claim, has also filed an appeal notice with the city's Civil Service Board. The Oregonian on Dec. 1 requested that appeal and the city's documentation placing Marriott on leave, but the city has not provided either.

Marriott earns \$199,160 a year, the top salary for city leaders. Although he continues to be paid while on leave, his attorney argues that his reputation has been damaged after two decades of exemplary service.

Over that span, the Bureau of Environmental Services has completed more than 1,000 projects with a value of \$2.43 billion, including the city's massive \$1.4 billion Big Pipe project to limit sewage overflows into the Willamette River, his claim states.

"No other Bureau Director, City Commissioner (current or former), or other City leader has had such accomplishments," his attorney wrote. "However, many have been responsible for projects that have gone over budget without a hint of discipline."

Portland Street Fund: Final vote tentatively pushed to Dec. 17, but more changes coming

*By Andrew Theen
December 03, 2014*

A final vote on the proposed \$46 million Portland Street Fund, an income tax and business fee for paving and safety projects, is now tentatively set for Dec. 17, although city leaders acknowledge some details remain unclear.

As expected, Commissioner Steve Novick and Mayor Charlie Hales introduced several amendments Wednesday to their proposal to find more revenue for street projects.

But changes to the plan aren't limited to adding a sunset provision to make sure the plan would have to get new City Council approval in 2021, or a promise that the city won't spend less than its current paving budget (\$11.3 million) on roads in future years.

"I think we'll be cooking up another amendment over the next week," Novick said.

The amendments don't include referring the whole package to voters.

Novick, who oversees the city Transportation Bureau, said he wants to examine whether Portland can legally tax the income of employees who work in the Rose City but live elsewhere.

But he's most interested in looking at how the business portion of the fee, which charges a business based on its gross revenue, number of employees and square footage, affects home-based businesses and other micro-entrepreneurs.

Novick credited Jane and Thom Staugas for bringing the issue to his attention.

Jane Staugas started Bridgetown Bow Ties, an Etsy-based business, out of her Southeast Portland home in October. In an email to The Oregonian, Staugas said her business was being treated "as if it was a mini Nordstrom's."

Staugas sells handmade bow ties. "A business like mine at best will gross a few thousands dollars in a year," she said. But the current fee structure would require her to pay \$180 a year -- in addition to a residential income tax. Novick said he wanted to postpone the vote to address the situation.

Wednesday's meeting, billed as a second reading after last month's five-hour public hearing, turned into another opportunity for critics to voice their displeasure.

Robert McCullough, president of Eastmoreland Neighborhood Association and a member of a coalition of Southeast Portland neighborhoods, complained about the Transportation Bureau's response to public records requests.

McCullough, representing the group Southeast Uplift, said the city's calculations used to charge businesses are based on faulty data. He said many large users of the transportation system are misclassified and aren't paying their fair share.

Hales said if that's the case, the city could examine individual businesses after approving the street fund.

Ann Sanderson, a hair salon owner who participated in work groups on the street fee last summer, urged the City Council to table the plan altogether. "Both taxes, two of them, aren't ready for prime time," she added.

She also borrowed an analogy used by Novick to describe streets as "teeth" because of their need for preventive work. "It's like pulling teeth to get you to make any changes," Sanderson said.

Commissioner Amanda Fritz said that while some may view revisions to the plan as a moving target, the city is being responsive to the public's concerns. "To me this is an excellent public process that's very transparent," she added.

Fritz also said she asked the Transportation Bureau to look at rejiggering the income tax part of the plan to make that more equitable. Her proposal, which would charge residents a percentage based on their precise income, would result in higher taxes for wealthy residents. Transportation Bureau spokesman Dylan Rivera said that proposal may require a change to city code.

Commissioner Nick Fish, who said previously that he thinks voters should get to approve a final plan, expressed frustration.

"At a certain point we have to be more respectful of people's time," he said, asking when a final vote would be expected.

Novick said he expects a final vote Dec. 17th.

The City Council doesn't meet on Christmas Eve Day, but will meet Dec. 31. Under the current plan, the city wouldn't collect any revenue until April 2016.

Portland commissioners grill police command staff about 48-hour delay in interviews of officers in shootings

*By Maxine Bernstein
December 03, 2014*

Portland Commissioners Dan Saltzman and Nick Fish Wednesday questioned police command staff about the origin and need for the Police Bureau's 48-hour rule that allows an officer involved in a shooting to wait two days before he's interviewed.

Their questions came shortly after outside consultant Michael Gennaco told the council that the city should scrap the practice. It was at least the second time the Los Angeles-based consultants suggested in the last two years that the city eliminate the rule.

"In our view, the 48-hour rule ought to be done away with," Gennaco said. "The officer ought to be asked the night of the incident, 'tell me what happened.' "

Saltzman asked three members of the Police Bureau's command staff who were present at Wednesday's hearing if the bureau had a position on the 48-hour rule.

Capt. Dave Famous, who oversees internal affairs, said it came about through collective bargaining between the city and the police union.

"My question is should it?" Saltzman asked. "I heard the consultants say we're an outlier."

Assistant Chief Donna Henderson, who supervises the bureau's investigations branch, said detectives conducting a criminal investigation can't order an officer to talk or that interview could not be used to pursue a criminal prosecution, if that turned out to be necessary.

"If we ordered an officer to give us the information, we couldn't use it in a criminal case, so we don't order officers to talk. They have their Fifth Amendment rights just like everybody else," Henderson told the council. "And yes, we would love to talk to that officer as quickly as we possibly can. We're talking to them within three or four days."

Commissioner Nick Fish interjected, noting that the Fifth Amendment privilege could be sought by an officer within 48 hours or beyond.

"What is therefore the purpose of the 48-hour rule?" Fish questioned.

Detective Cmdr. George Burke said it's part of the current contract with the Portland Police Association that labor negotiators from the city's Bureau of Human Resources participated in helping to draft.

Usually, several members of the bureau's command staff sit beside the city labor negotiators during contract talks.

"It's not something BHR was going to take to arbitration," Burke added.

Fish stayed on the subject, but then altered his line of questioning. He asked what the potential value could be to the bureau to allow the delay in interviews.

Burke said some officers "who have been absolutely traumatized" might not be able to provide a coherent interview right after a shooting.

Detectives are obtaining a lot of information within four to six hours of a shooting, gaining details from other witnesses and forensic evidence from the scene. By the time detectives days later interview the officer who fired shots, the interview is "more thought out," Burke said.

Deputy City Attorney Dave Woboril joined the police commanders to try to answer the commissioners questions. If police compelled an officer to speak immediately after a shooting, for example, it would be difficult to seal that information from the criminal investigation. "It requires a firewall," Woboril said.

"Is it more likely you can set up that firewall if you have 48 hours to set it up?" Fish asked. "Is that the logic?"

Woboril said the immediate aftermath of a shooting draws a "hubbub" of activity.

"It's a tough setting to establish and maintain that firewall," Woboril said. "If we have interviews in a calmer setting later on, there's less chance of error."

After the police attempted to answer the commissioners questions, the consultants hired by the city auditor returned before the council.

"We've seen other agencies successfully thread this needle," Gennaco said, referring to concerns about a compelled interview contaminating a criminal inquiry.

Deputies in the Los Angeles County Sheriff's Department who are involved in shootings and use deadly force routinely provide voluntary statements the night of a shooting, he said. It's just common practice.

The Los Angeles Police Department, where officers also decline to speak to criminal division detectives, are then compelled to speak immediately by internal affairs investigators, Gennaco said. Crime scenes can be chaotic, but the involved officers are escorted away and chaperoned and questioned in another area by an internal affairs investigator, he said.

"It allows the LAPD to learn that night about what that officer did," Gennaco said. "There are large agencies that are able to balance these concerns...And the most important concern is getting the information from the officers that night."

Officer Daryl Turner, president of the Portland Police Association, has told The Oregonian that the current practice isn't designed to delay the investigation, but to allow officers who have participated in a traumatic encounter to calm down.

"Psychologists all say it takes about 48 hours to recover emotionally, physically and psychologically from a traumatic incident," Turner said on Tuesday. "It's not done to put off any kind of statement, but a way for an officer to come down from that critical incident and give an account of what happened with clear and concise information."

Yet Gennaco, carrying Turner's reasoning further, asked Wednesday whether police really are going to allow a bank teller who was just held up at gunpoint by a robber to take two days before he or she gives them a statement because the teller is too traumatized.

"Since virtually no charges are ever prosecuted against police," resulting from officer-involved shootings because of the high bar involved in prosecuting such a case, the immediate information is more important for the internal police investigation, Gennaco said.

"You get a pure statement," he said, not influenced by what an officer may see days later in the media or elsewhere.

In the OIR Group's report, the consultants said the 48-hour delay is "inconsistent with best practices," negatively impacts investigations and undermines public confidence.

The council accepted the OIR Group's report, and Saltzman asked that the city review the 48-hour rule when the union contract comes up for negotiation.

The Portland Tribune

Planners, neighbors spar over mixed-use zones in comp plan

*By Jim Redden
December 4, 2014*

Portland planners have released concepts of four new mixed-use zones where most growth is expected to occur during the next 20 years.

The concepts are intended to replace the zoning that governs development in various centers and along transportation corridors in the city.

The concepts range from small-scale commercial mixed-use zones with three-story limits to large-scale commercial mixed-use zones with six-story limits. Height limits in some of the zones can be exceeded to achieve goals approved by the City Council, including more affordable housing.

The Planning and Sustainability Commission is scheduled to recommend a version of the Comprehensive Plan update to the council in May 2015. The plan is intended to guide development in Portland during the next 20 years. The commission then will recommend a version of the mixed-use zones to the council to implement the update.

In June, the council is expected to approve the comp plan update before adopting the mixed-use zones.

Some community activists say both the commission and council should finalize the mixed-use zones before approving the comp plan update, however. They say the concepts are not detailed enough for them to understand how the update will affect their neighborhoods.

For example, the Multnomah Neighborhood Association has written the PSC to request that the update votes be postponed until the new zones are finalized. So has Southwest Neighborhoods Inc., the neighborhood coalition office that represents 17 neighborhood associations, including the association, in Southwest Portland outside downtown.

"The Multnomah neighborhood has 250 properties that could be zoned mixed use. No one can determine what the impacts will be on the neighborhood until after the new mixed-use zones have been adopted," says James Peterson, MNA land-use chairman.

The association's concern about the future of Multnomah Village illustrates the issue. The village is a small retail center primarily of older one- and two-story buildings. It is zoned with a mix of storefront commercial and general commercial zoning, with building heights limited to 45 feet. The draft comp plan update could result in the village being rezoned as CM2, one of the four new mixed-use zones under consideration. That would limit building height to 35 feet — 10 feet less than the current zoning. However, the concept allows an additional 20 feet of height to achieve such goals as affordable housing, affordable commercial space, historic preservation, high-performance green features, and such community benefits as grocery stores, day care, publicly accessible outdoor space, and artistic and cultural facilities.

“The mixed-use concepts are far from having complete adopted details for citizens and neighborhoods to determine their total impact,” Peterson says.

The Planning and Sustainability Commission, so far, has resisted postponing the votes. Officials with the Bureau of Planning and Sustainability, who drafted the comp plan update and new mixed-use zones, say state land-use planning policies require the city to approve the update before adopting the zoning to implement it.

The concepts were released in mid-November. They are intended to allow different levels of density depending on the size and locations of various designated centers and transportation corridors within the city. Smaller centers and corridors would have the least density. Large centers and major corridors would have the most density.

One new zone, called mixed-use dispersed or commercial mixed use 1, is intended for low-density neighborhoods. Generally, it would limit building heights to three stories. From there, the heights would increase in the new zones called mixed-use neighborhood (CM2), mixed-use civic corridor (CM3), and mixed-use urban center (CM4).

Buildings in all four zones would have setbacks and “step down” requirements to transition them into less-dense adjacent neighborhoods, such as blocks of single-family houses.

The four new zones are intended to replace seven existing zones that have been approved during the past 20 years.

City ready to OK short-term rentals in apartments, condos

*By Steve Law
December 4, 2014*

The Portland City Council is poised to “roll the dice” on an expansion of Airbnb-style rentals into apartments and condos, hoping it doesn’t do much to worsen the city’s affordable housing shortage.

Portland Mayor Charlie Hales said at a recent council work session that his colleagues are close to agreement on his proposal to legalize short-term rentals in multifamily properties. That would allow tenants in apartments, and condo owners or tenants, to rent rooms on a nightly basis to tourists and other visitors, if they have their landlord’s or homeowners’ association permission.

Hales doesn’t deny that short-term rentals will reduce the stock of affordable housing, but argues that Airbnb-style operations already are occurring here, even if illegal, and the impact isn’t likely to be significant.

At a recent City Council work session, Hales said there are about 80,000 multifamily units in Portland, and about 500 of those are now used by Airbnb hosts to rent out rooms. Developers have added about 5,000 multifamily units in Portland this year alone, Hales said, estimating that about 2,000 of those are affordable housing.

Justin Buri, executive director of the Community Alliance of Tenants, said his group isn’t “banging on pots and pans and screaming at the top of our lungs” to thwart the policy, “but I can see it getting to that point.”

Buri and John Miller, executive director of the affordable housing coalition Oregon Opportunity Network, told city commissioners the city needs to tightly enforce its new short-term rental policies to keep the impact on affordable housing to a minimum.

“Our hope is this isn’t going to have a huge impact if the rules are being enforced,” Miller said.

But so far, the city is relying on neighbors to file complaints to the Bureau of Development Services about problems from short-term rentals in neighborhoods. “To me,” Miller said, “that’s not a very robust compliance mechanism.”

As of Nov. 20, only 81 Portlanders had applied for permits under the July ordinance legalizing short-term rentals in single-family properties. That’s well less than 10 percent of those doing short-term rentals, who were supposed to apply by Aug. 30. Now, Hales wants to expand the program into multifamily properties.

Jessica Kimmet testified that she's been renting out a room in her apartment for the past year — with her landlady's permission. But she worries the landlady might try to raise her rent, knowing she's getting some extra income via Airbnb.

Buri observed that Airbnb is more popular in closer-in "amenity-rich neighborhoods," and it's likely to bring more gentrification to those areas. He cited neighborhoods in Northwest Portland, the Pearl District and areas along North Williams Avenue, Northeast Alberta Street and Southeast Division Street. Some people say it's too late to do anything in such places about gentrification, Buri said, adding, "I disagree with that."

Others worry landlords will convert apartments or condo units to short-term rentals, because they often can make more money than renting to long-term tenants. Steve Unger, proprietor of the Lion and the Rose Victorian Bed & Breakfast in Irvington, estimates a landlord could make as much off a short-term rental in three months as in a full year with a long-term tenant.

The city ordinance would require the apartment or condo tenant/owner to live on-site at least nine months of the year, but it's unclear how well that will be enforced.

Commissioner Amanda Fritz, who oversees the Bureau of Development Services, said if she has extra money to hire more enforcement staff, they would be deployed to inspecting distressed properties and properties in East Portland.

Buri, the tenants' advocate, agrees those are higher priorities.

Commissioner Nick Fish, who seems the most concerned among city councilors about the impact to affordable housing, lobbied Hales to put a 10 percent cap in the mayor's proposal, so that no more than one-tenth of the units in any apartment building or condo project could be used for short-term rentals.

However, Fritz proposed raising that cap to 25 percent, meaning one-fourth of a building's units could be used for Airbnb or similar operations. That means during the summer or other peak tourism periods, one-fourth of a multifamily building could be filled with short-term renters.

"It strikes me at some point it's beginning to change the character of the building," Fish protested.

Miller and Buri also opposed raising the cap, but Fritz seems likely to prevail, since she runs the agency that will enforce the ordinance.

Fritz also mentioned she reached an agreement with Airbnb about lifting the cap to 25 percent, in exchange for the San Francisco-based company's promise to help do a survey among its hosts about why they're not seeking permits from the city under the new ordinance.

"We're rolling the dice here," Fish said, hoping the new policy doesn't do too much harm to the city's affordable housing stock.

Fritz said she's content to assess the impact of short-term rentals on the housing market when the city completes a report on the program in September 2016, a report she insisted on when the city legalized Airbnb in single-family homes.

Commissioner Steve Novick said he is concerned that landlords might raise rents across the board because of the new revenue-raising potential via short-term rentals. However, Novick added, "in my mind at least, these are dice that can be unrolled," if a city study finds the impact is significant.

Buri said he's not content with simply waiting for a study nearly two years down the road. At that point, he said, undoing the damage won't be as simple as unrolling the dice, as Novick suggested, but more like "getting toothpaste back in the tube."

Suspended bureau head threatens to sue Portland, claims politics

*By Jim Redden
December 3, 2014*

Bureau of Environmental Services Director Dean Marriott is threatening to sue the city for what he says is an eight-month campaign of unjustified harassment against him, leading up to the Oct. 22 suspension by Commissioner Nick Fish during an investigation into cost overruns on a BES office building.

Marriott has retained the Janet Hoffman and Associates law firm, which delivered a tort claim notice to the city attorney's office on Nov. 19. In it, the lawyers claim the city and its agents have engaged in "a continuous pattern of tortious and disparate treatment, malice, and reckless disregard for Mr. Marriott's constitutional rights, including violations of Mr. Marriott's due process rights under the Fourteenth Amendment." The letter also claims the city has also violated his statutory rights pursuant to state and federal age discrimination laws and his common law rights.

Marriott is the city's longest-serving bureau head. In the letter, his lawyers claim Fish, who oversees BES, began plotting against Marriott in May because of an awkward TV interview that was not Marriott's fault. The letter names Fish as a defendant in the potential suit along with City Auditor LaVonne Griffin-Valade. Fish suspended him just before she released an audit on the BES office building at the Columbia River Wastewater Treatment Plant — a facility that cost three times more than the original budget.

Fish declined to comment, based on advice from the city attorney's office. LaVonne Griffin-Valade did not respond to a request for comment.

Among other things, the letter says that the suspension is inconsistent with the way other city managers have been treated when their projects go over budget.

"Although the City justified Mr. Marriott's suspension by citing the findings of the audit report, the plan to suspend Mr. Marriott actually began in May 2014, long before the audit was complete. In fact, the suspension did not arise from conduct ascribable to Mr. Marriott, but was instead a politically calculated maneuver by Commissioner Nick Fish, who unjustifiably blamed Mr. Marriott for a difficult news interview. Suspension for the asserted reasons of an alleged over-budget project is inconsistent with the City's reaction to other over-budget projects. The City is fully aware of numerous City projects over the years that have improved the City yet been well over budget where Bureau Directors were in no way disciplined. The difference in this instance, however, is that Commissioner Fish disparaged and discredited Mr. Marriott to serve his own political agenda," the letter says.

Marriott is the last city bureau head protected by civil service rules. The letter says they protect him for "this politically motivated suspension."

The letter described Marriott as a well-respected administrator and cites a number of projects he has overseen that came in on time and within budget, including the \$1.4 billion Big Pipe project to reduce combined sewage overflows into the Willamette River.

The letter demands the city preserve all records related to Marriott's employment, including emails, text message and cell phone records.

The letter does not state a dollar amount for damages, but says, "As a result of the unlawful acts of the City, its Commissioners, and its agents, Mr. Marriott has suffered damages. He intends to seek all damages entitled to him by law, including but not limited to non-economic damages for humiliation, loss of self-esteem, loss of public esteem, loss of reputation, loss of good will, and significant emotional distress under publicly humiliating circumstances. In addition, Mr. Marriott intends to pursue punitive damages against City agents in their individual capacity, including against Commissioner Nick Fish and City Auditor LaVonne Griffin-Valade. It has been necessary for Mr. Marriott to retain legal counsel, and the City should be ordered to pay his reasonable attorney fees. The City should further be enjoined from future violations. Finally, if Mr. Marriott is successful in this action, he will be entitled to expert witness fees and costs."

Final street fee vote delayed until Dec. 17

*By Jim Redden
December 3, 2014*

The final vote on the proposed street fee is being delayed again, from Dec. 10 to 17.

Commissioner Steve Novick announced the delay at the start of Wednesday's hearing before the City Council on amendments to the proposal. Under council rules, consideration of the amendments had already required a one-week delay in the vote, pushing it from Dec. 3 to 10.

Commissioner Nick Fish expressed some frustration with the changing schedule, and pressed Novick on when the final vote will take place. Novick assured him and the rest of the council it will now occur on Nov. 17.

One amendment considered Wednesday is a sunset clause that would end the fee in six years unless it is renewed by the council. The other would ensure any new maintenance revenue would be in addition to the amount the city is currently spending, \$11.3 million in the 2014-2015 budget.

Novick said a number of new amendments are being prepared. One would prevent the owners of very small businesses from being taxed twice, once as residents and again as business owners. Another would direct the Revenue Bureau to study whether the city can tax non-residents who work in Portland.

"People in Washington state who earn income in Oregon pay Oregon income taxes," Novick noted.

Commissioner Nick Fish said he is also interested in exempting small businesses from the fee in the first year.

"Some will say it's a moving target, but what we are doing is responding to public comments in a very transparent manner," said Commissioner Amanda Fritz.

Some of those who testified expressive amazement the proposal was continuing to change, however.

"I had to throw out my prepared remarks because they're out of date," said Eric Fruits, a local economist and street fee critic.

The fee was first proposed by Novick and Mayor Charlie Hales in May. It has been heavily revised since then and is now divided into two ordinances. One creating a progressive income tax for city residents the other creating a sliding scale for businesses, government agencies and nonprofit organizations.

Hales and Novick are opposed to placing the proposal on the ballot for vote approval. Opponents have promised to launch a petition drive to refer the ordinances to the ballot if the council does not do so.

Opponents would have 30 days since the ordinances are approved to collect signatures from 20,897 registered Portland voters for each one of them — a total of 41,794 valid signatures. If enough valid signatures are collected and submitted to city elections officials, the proposal will not take effect unless it is approved by the voters.

The Mercury

Sometimes, the Cure Is Worse

In Charlie Hales' Police Bureau, Riot Cops Lob Flash-Bangs and Threaten Mass Arrests

*By Denis C. Theriault
December 3, 2014*

BACK IN 2012, amid the lingering haze of Occupy Portland, then-mayoral candidate Charlie Hales told the Mercury something remarkable about how he'd approach crowd control and protest policing if elected.

Relying on his penchant for giving good quotes, he answered our questions about de-escalation by suggesting he'd paint the cops' riot gear pink.

He was partly joking, sure. But the sentiment was unmistakable... and sensible.

Protests and marches that are tipping toward aggression almost always seem to tumble once the riot cops show up, backed by their mates holding gas launchers and less-lethal shotguns. It's the opposite of de-escalation.

Hales' japey about friendlier-seeming pink gear, uttered in front of several rivals during an endorsement interview, was a nod to that idea.

And it's not just anecdotal. It's also academic. The University of California released a study this summer confirming that the presence of riot cops in military formations, during protests where jaywalking and traffic-blocking are the biggest affronts, often makes things worse instead of better.

So how has Hales responded to days and days of marches over the death of Michael Brown in Ferguson, Missouri—the biggest and most persistent protests Portland's seen since the Occupy movement held three city parks in 2011?

He hasn't painted the riot gear pink. He hasn't held the riot cops at bay. In fact, it seems the police bureau's added a few new tricks under Hales' administration: flash-bang grenades and the threat of mass arrests.

Then, on Monday, December 1—after at least 20 complaints hit the city's Independent Police Review division—it was announced that Hales' police bureau has the distinct honor of facing an official investigation over its actions.

Most of those complaints came after the cops cracked down hard on a protest on Saturday, November 29.

Riot cops tossed flash-bang grenades at marchers for the first time in the three years I've been covering protests in this city. I was several feet away from one of the three blasts—and, for a while, Portland sounded like cities beset by actual violence and looting, not mere traffic infractions. Protesters, on social media, have since claimed injuries including burns.

Later that night, a police bureau tired of following and flanking marchers for close to four hours did something else I'd not yet seen in my time reporting in Portland.

Around 11 pm, with no warning, riot cops surrounded protesters at a "die-in" at the deserted corner of SW 2nd and Main. It was an indiscriminate, protest-busting "kettle"—a controversial tactic in which cops surround a large group and refuse to let anyone go.

"Everybody is under arrest," the cops' PA van announced—before instructing everyone to get in the middle of the street, where we were all pushed into the northeast corner of the intersection.

There was no escape. The kettle didn't care that most of the people inside had been lying down on a cold road outside Central Precinct. The kettle, penning us in shoulder to shoulder, didn't care that many of us were legally on the sidewalk when the "arrest" threat was issued. The kettle didn't care that some of the people inside were journalists, like me and others, who'd been covering the march since the rally outside the main jail where Reverend Jesse Jackson was the keynote speaker.

I was eventually released when a sergeant, Richard Stainbrook, recognized me and let me out. That was after several long minutes, and after the bureau had changed its instructions from telling us we were "under arrest"—something most people took literally—to offering us the mercy of a one-by-one release.

Dozens were let go. But 10 people, including a minor, were arrested on charges of disorderly conduct and interfering with a police officer when it was all finished. The bureau hasn't explained, despite many questions, why certain protesters were targeted for arrest while others were not.

The bureau also hasn't explained why two of those 10 arrestees, despite facing the same charges, were given citations that spared them from being booked and processed.

But there are other questions as well.

Based on police reports and other information, the Multnomah County District Attorney's Office has so far declined to arraign any of the arrested protesters. That's significant for a few reasons.

It could be the DA's office doesn't want the hassle of cases that could go to jury trials. It could be prosecutors don't think they can win the cases without more evidence (which they're still open to reviewing). It could be that the cops don't actually want to pursue charges, suggesting the arrests were less about actual bad behavior and more about frustration, and sending a message to activists they aren't playing around anymore.

One of the booked protesters, activist and blogger Hart Noecker, was among the citizen journalists chronicling the march. Noecker has been a strident police critic—writing first about three cops who posted Facebook profile pictures showing a Portland badge ringed by an "I Am Darren Wilson" bracelet.

After his court appearance on Tuesday, December 2, Noecker told the Mercury's Dirk VanderHart that police took the extra step of confiscating his money, phone, and keys as evidence—meaning he wasn't able to access them when he was released on Sunday. Other protesters had essential possessions temporarily stored at the jail and returned to them, he says.

The bureau's muscular approach November 29 followed days of increasing reliance on its riot squads. Monday, November 24, a tiny march seized a few streets around the jail, though it saw a nearly invisible touch by cops. A similarly small Ferguson march late in the summer on NE MLK played out in much the same way.

But a giant march on Tuesday, November 25, crossed several red lines for the cops. Protesters managed to seize two bridges and briefly tangle up Interstate 5, despite batons, police horses, and pepper spray. (Used, in one instance, by Sergeant Kyle Nice—on someone repeatedly swatting a police horse's nose with a sign. Nice is one of the cops involved in the fatal 2006 beating of James Chasse Jr.)

The next day, a decently large march avoided the streets, sticking to sidewalks and following traffic signals—but the riot cops were out all the same, taking no chances, closing bridges and on-ramps just in case protesters decided not to be so polite.

All of which set the tone for Saturday.

The night started around 6 pm with a long rally featuring Reverend Jackson and several other grassroots African American activists. The crowd, almost 1,000 strong, took over the steps of the main jail on SW 3rd and spilled into the street below.

Teressa Raiford, an organizer with Don't Shoot Portland, joined others in explaining again and again why protesters were taking the streets in solidarity with Ferguson. She repeated calls for demonstrators to remain peaceful and nonviolent. And she laid out specific local goals for police reform, biggest among them an independent civilian panel directly in charge of police discipline.

The march finally got going a little before 8 pm. Young black activists were in front, leading chants that changed and shifted on their way to the back of a crowd that stretched, at times, nearly three blocks long.

It was mostly peaceful. And passionate. Except for a few times when it wasn't. And except when the riot cops showed up.

Standoffs nearly erupted at the Broadway and Burnside Bridges, after armored officers pre-emptively shut down traffic and fanned across all lanes. Both times, the cops were like catnip for black bloc marchers, who grabbed barricades and tried to push against the riot lines. But both times, the bulk of the march managed to pull itself away after some internal tug of war.

Then came a weird standoff outside Macy's and the Nines hotel, at SW 6th and Morrison. The march had pulled to a stop at the intersection, tangling MAX traffic and buses along with regular car commuters (many of whom were filming and snapping photos at the curiosity of a march surrounding their vehicles).

One marcher wearing a gray scarf around his face decided to sit down on a police SUV. And then stand on the hood of the SUV. But despite three cops standing right next to him, looking at him, only one tried to grab him. And right when the march was contemplating another move, a crowd surged instead to watch his unchecked antics.

The cops outside the SUV got in and started backing up while the guy was trying to surf on top. The onlookers went from amused to angry, worried the guy might be hurt. Finally he jumped off and ran east to apparent safety—which is about when a riot line moved in and added gas to a smoldering fire.

The crowd surged against the line, shouting things. A police statement says bottles were thrown at the cops, but I didn't see that. The riot line slowly began backing up, except the crowd kept following. That's when the flash-bangs went out, followed by a bum's rush of riot cops with long batons that sent people scampering up Morrison back onto SW 6th.

Finally the march moved on, meandering for another hour or so until the remaining participants were kettled—a tactic no one could remember being used for several years.

In a statement on Monday, December 1, Hales said he supports First Amendment gatherings—but he also said his police bureau won't tolerate major disruptions to public transit or freeways. That suggests this might all play out again and again. (For what it's worth, his communications director was outside handing out pens to protesters who descended upon city hall to file complaints.)

There's some happenstance, however, in the timing of last week's events.

Portland's Citizen Review Committee (CRC), which handles appeals in police misconduct cases and helps study police bureau policy, is due to take up a long-discussed draft report on improving crowd-control tactics during its regular meeting on Wednesday, December 3.

That effort was launched in the wake of the bureau's handling of Occupy Portland. Its recommendations are tepid, in that they don't call for explicit limits on weapons like pepper spray or tear gas for peaceful protests.

But at least one of the CRC's findings might have helped Saturday: Reinforcing bureau policy to keep riot gear out of sight as much as possible—for fear of inciting conflict that otherwise wouldn't occur. Just as the University of California study stated.

It's not as fun as painting this sort of military gear pink. But keeping it away altogether is probably better.

From Off the Streets of Portland

Why Street Roots' Plan to Go Weekly Will Be Good for Local Journalism

By Denis C. Theriault
December 3, 2014

FIFTEEN YEARS AGO, Street Roots was a humble street paper like so many others around the country, coming out just once a month, assembled by a small handful of volunteers, and sold by an even smaller coterie of homeless vendors.

Then the paper helped start Dignity Village. It grew its donations and its journalism, hiring its current director, Israel Bayer, and longtime Managing Editor Joanne Zuhl. In 2003, Street Roots made the move to publishing twice a month—a launch pad for awards, national respect, and devoted public service that includes printing the essential Rose City Resource guide.

Zuhl's shop has since broken stories on nationally important subjects like the Social Security Administration's broken benefits system, before and in spite of the bigger outlets in town. Bayer is a voice on homelessness issues at city hall, a voice that doesn't always tell city hall precisely what it wants to hear. And, over the years, hundreds of vendors have had their lives enriched by selling papers, one by one, for just a buck at a time.

Street Roots is marking its next big milestone next month, when it plans to go weekly after years of planning and months of fundraising. The Mercury caught up with Zuhl and Bayer to see what might change for a paper that's described as "scrappy" and an "underdog," and what might not.

MERCURY: What does it take to even consider doubling your workload—and then keeping it up?

ISRAEL BAYER: We've been planning this for the last three years, trying to be fiscally responsible in a way where we knew we were going to do this, but where we also knew we were going to need some legs to keep it going. We could have said any time, just willy-nilly, that we were going to do this.

JOANNE ZUHL: There's a sense of re-crafting us into a weekly newspaper. But, then, okay. We're not just going to be that. We have this opportunity to look at what we need to build on, what we need to do better, what we need to change.

Was the change driven by concern for vendors? Were they the ones asking?

BAYER: It's everything. The vendor program is at the heart of Street Roots—being able to provide people with income and stability. The vendors have wanted a weekly paper since we went [twice a month].

ZUHL: I don't think we've had a meeting for the past year and a half where they haven't asked when.

BAYER: Seventy percent of sales happen in the first week. It wasn't just the vendors telling us. We could look at the numbers during that second week and see there was a cliff. When you're working with people experiencing poverty, selling Street Roots was stabilizing people's lives in that first week, and that second week, people were scrambling. When you talk about the cycle of a monthly disability check, of a veterans check, that last week of the month can be life changing. You'll see the vendor program grow. It's not only going to support the current vendors, but it's also going to help retention. There'll be more vendors on the streets.

How many vendors are housed vs. homeless?

BAYER: Fifty percent of our vendors are actually experiencing homelessness and caught in a culture of survival. We work with those vendors to connect them to services. We've become, in many ways, experts on the system, based on publishing the Rose City Resource guide. The other half are primarily people living in low-income housing and looking to improve their quality of life.

How will your journalism change?

ZUHL: We're investing in our journalism. We run a pretty lean ship. But we've hired a full-time reporter. We still have a talented group of freelancers. There's a point where people see the journalism and pay attention to the newspaper and they want to get involved. We think it'll be fine to do it every week.

BAYER: We're 16 pages pretty packed full of content. We're not an ad-heavy newspaper. We can concentrate on the things we do well and get rid of the fluff.

Readers look to you now for stories no one else thought to cover, like the Social Security Administration's bungling of disability checks. But you also don't—because of your schedule—get into the blow by blow of following a story. How do you balance that?

ZUHL: We benefit from that vendor pool on the other side of the door. They're living it. They're breathing it. They know what's happening. They're living through Social Security and disability nightmares. That should never be dismissed.

Plus we have good relationships. We're tied in and we talk to people inside city hall, and outside government. We have a good reputation with our journalism. It's not a gotcha situation. We're here to stay.

BAYER: We've become a platform for social justice causes. With our commentary, we're building relationships across issues, with immigrants and refugees, or labor and the environment, or poverty and homelessness. We've built a good reputation of being able to take very sensitive subjects and present them in a way that's professional, so that people trust us.

The vast majority of readers give to Street Roots because of their vendors. But we have a growing group of major donors who give to us simply because of our journalism.

How has your role changed in light of other media outlets' struggles and changes? Is your star bigger?

ZUHL: I don't think we're elevated because other people are declining. We're on solid ground because of what we do. In the early days, the other papers weren't covering these issues. They weren't talking about them in the way we were talking about them.

Now you're reporting on them. The Oregonian has dedicated reporters to some of these issues. We're talking about it, and other people are talking about it, too. We think it's great. Let's have more people talking about it.

BAYER: We pay attention to what the other papers are doing. We never want to be the third wheel. We want people to open up Street Roots and read original content. When we notice you and Aaron [Mesh of Willamette Week] going play by play on homeless stuff or [the O's Brad [Schmidt]'s really digging in on affordable housing, we're not just going to follow that.

You're going to zig, we're going to zag. We're all collectively able to cover more ground. By being weekly, I don't think it's our goal to be a breaking news organization. But I do think there's going to be opportunities where we cover issues differently. We'll be able to drive something from start to finish. Often what happens is we get ahead of something, pop out something in-depth, and then everybody else covers it.

Beyond your journalism, you've become an advocate in Portland because of your commentary. You're invited to city hall to meet and weigh in, and officials seem to court that imprimatur.

BAYER: We're smart enough to understand that politicians use us when it's to their benefit and ignore us when it's not. We're not silly. We're not naïve. It's important to acknowledge that in public, and for them to hear it. They may feel like running one over on us. And we can see the light of day as clear as can be.

You'll see us continue to have healthy relationships with everybody in the community, but we'll probably be a little sharper around driving specific issues. We might be able to take something and hound on it, to the benefit of the community.

City hall also knows you'll call them out if they're being cagey.

BAYER: It's a matter of building genuine relationships. We're never going to put anything in our paper that we wouldn't say face to face. We can be working with the mayor on one thing and criticizing him on another. The world is a complex place.

What will you talk more about?

BAYER: We'll explore more of the human experience, the endurance and resilience of people. We also want to talk about women and family homelessness. We have this institutional knowledge where we might be able to drive a conversation that tweaks something 10 degrees to the left or right that actually creates some change.

What other lessons loom?

BAYER: Everybody's bought in to the moment. It's about the vendors. But it's as much about the readers. We believe in the idea we're a family.

We put together this campaign to go weekly 14 months ago. People have responded overwhelmingly to get us there. But we don't want there to be a collective sense that we're crossing a finish line. Really, we're pushing off from the dock and we're setting sail. And in many ways, we need community support more today than ever before.

Novick: If Street Fund Doesn't Pass Now, Progressive Tax in 2016 Has to Be "Viable Option"

By Denis C. Theriault

December 3, 2014

A final vote on Commissioner Steve Novick and Mayor Charlie Hales' \$46 million "Portland Street Fund" plan has been moved back to December 17, in light of a handful of amendments put forward this morning with several more potentially due before next week.

The new date was announced before the Portland City Council unanimously agreed to make two substantial changes to the plan—an income tax and business fee meant to fund paving, maintenance, and safety fixes. The council agreed to consider a "sunset" clause long-sought by some opponents and potential supporter Commissioner Amanda Fritz. It also agreed to weigh firm assurances that the city won't use the new money as an excuse to cut its current paving spending.

And a few more changes could be in the offing, due for a hearing next Wednesday, December 10:

- Novick is working with Commissioner Nick Fish on an amendment giving relief to "micro-businesses."
- Novick's working with Fritz to tweak the income tax—it's based on brackets that levy a flat amount for everyone in a given income range, and Fritz has suggested shifting to percentages for each range. That would alleviate a criticism that people at the top of a range, paying a flat amount, would pay a smaller percentage of their incomes than people at the bottom of a range. That also could lead to fewer brackets overall.
- Novick also says there's some discussion about making sure it's clear and written in stone that both sides of the street fund must not only survive a council vote this month, but also a likely ballot challenge by oil lobbyist Paul Romain and the Portland Business Alliance.
- That's not a light threat, in light of polling (which you could quibble with) showing voters strongly supportive of a vote, but also with deep reservations about the substance of the plan. And Novick tells the Mercury he's got some other thoughts about how to proceed if that ballot challenge should come to pass and then prove successful.

Given that groups advocating on transportation and poverty issues have already called for a more progressive option—along the lines of a tax on wealthy Portlanders that received 60 percent support in a city-funded poll earlier this year—Novick says he'd have to take that "logical" option "extremely seriously."

And if he did, he said, it would land on the November 2016 ballot, in the heat of a presidential campaign that would draw the most progressive electorate possible.

"We will keep hammering and hammering at this," Novick said of himself and Hales, calling them both "committed" to solving Portland's transportation funding shortfall. (The city would need to spend \$91 million a year on paving every year for a decade to catch up on its maintenance backlog—not including making other improvements.)

"If we're not going to get there in any other way," Novick says of raising street money, cautioning that he was now just speaking for himself, not Hales, "then going with a progressive option that polled at 60 percent support has to be a viable option."

"I've told the PBA I don't want to re-fight Measure 66[, a 2010 measure that raised state income taxes on the wealthy]," Novick says. "But if we have to, we have to."

The Daily Journal of Commerce

City has openings for inspectors, engineers, planners

*By Inka Bajandas
December 3, 2014*

The Portland Bureau of Development Services is seeking candidates to fill 22 new positions.

The bureau this week started accepting applications for some of the positions, which include building and electrical inspectors, geotechnical and mechanical engineers, and planners, agency spokesman Ross Caron said. Online applications for more openings will be accepted later this month and next month.

The hiring process is expected to take about 14 weeks, and BDS officials hope to have the new employees on board in time to respond to next summer's building season, Caron said. In addition to the 22 new positions, seven temporary positions were converted to permanent ones to help keep pace with the increasing number of permit requests associated with a building boom in Portland, he said.

For each of the positions that will open this month and next month, city officials will host lunchtime and evening information sessions to provide more details and help potential applicants navigate the online application process, Caron said. People can learn more about each position, how to apply and details about the information sessions at www.portlandoregon.gov/jobs.

The Portland Business Journal

White House applauds Portland for climate change mettle

*By Andy Giegerich
December 3, 2014*

Portland's climate change efforts have earned a heady set of fans.

The city was named as a White House "Climate Action Champion" for its 2015 Climate Action Plan, which aims to reduce greenhouse gases and mitigate effects from climate change. The honor is part of a White House competition seeking municipally driven ideas that address climate problems.

"Climate change is a world-wide threat, but as President Obama has said, international leadership begins at home,"

said Portland Mayor Charlie Hales in a release. "We are honored by this, but it just means the pressure is on to work harder, and to think smarter, to demand more of ourselves."

Portland's 2015 Climate Action Plan seeks to reduce greenhouse gas emissions by 80 percent, compared to 1990 levels, next year.

Portland also collected an international city climate leadership award earlier this year.

Seattle and San Francisco were also named Climate Action Champions.

Their prize: "facilitated peer-to-peer learning and mentorship and targeted support from a range of federal programs," according to the White House.

Portland looks to expand businesses' 'Street Seats' program

*By Andy Giegerich
December 3, 2014*

Portland's looking to add more of those hangout-inducing "street seats."

The city is seeking proposals from business owners looking to add more of the spots, which essentially add fenced-in bar and restaurant tables to parking spaces outside of those establishments, in 2015. This is the fourth year the city has offered the Street Seats program.

Portland's Bureau of Transportation is taking proposals from business owners for Street Seats through Jan. 15. An open house tomorrow at the Portland Building (it runs between 12:30 p.m. and 2 p.m.) will feature insights from city staffers and design firms about the program.

Twelve businesses currently offer Street Seats, including eateries on Northeast Alberta Street, North Mississippi Avenue and Southeast Hawthorne Boulevard. The program is available to all parts of the city except for downtown's core.

GoLocalPDX

Police Take Heat for Rules Shielding Cops from Shooting Investigations

*By Taya Alami
December 4, 2014*

Representatives from the Portland Police Bureau were unable to explain the reasoning behind a procedure Wednesday, that prevents officers involved in shootings from answering questions from investigators during the 48 hours immediately following the incident.

An audit of Portland's police procedures was recently released by OIR Group, and discussed at a Dec. 3 Portland City Council meeting. In its audit, the California-based firm recommended that the Portland Police Bureau consider changes to 21 of its current procedures. Out of the 21 changes recommended to police, the Portland Police Bureau disagreed, at least in some part, with four suggestions.

One of the disagreements between the auditors and police leaders was the suggestion to Portland Police Bureau changing an internal rule that shields officers involved in shootings from providing statements that could be used against them in a criminal investigation.

The Portland Police Bureau does allow its officers to give a voluntary statement to detectives before they're cleared to leave the scene. Statements during the first 48 hours can only be used to aid "administrative investigations," which can determine whether an officer was appropriate in his or her use of force.

The protection clause is guaranteed in officer's contracts. When City Council members asked Portland police Assistant Chief Donna Henderson what prompted both the city and the union representing the police agree to the measure, Henderson said that she didn't know, because the bargaining was handled by the Portland Police Association.

A number of citizens also voiced their displeasure to members of the City Council during its Dec. 3 afternoon session.

"We really want to see this go away," Portland Copwatch Organizer Dan Hendlemen said.

Over the last 23 years, Hendleman said there have been approximately 123 police officer-involved fatalities which led to a total of one indictment.

Hendleman suggested that Portland police stop worrying about potential indictments against officers and instead focus on conducting an effective investigation.

Police representatives defended their procedure, calling it "a human issue."

The extra time provided to officers allow them to think clearly the details of a shooting, Portland Police Commander George Burke said.

“There are some officers who have been involved in shooting who are fully capable of giving a statement fairly early in the incident,” Burke said. “We’ve had other officers who have been absolutely traumatized to the point where being able to provide useful information for us at that point would not have netted us any value.”

A number of citizens also voiced their displeasure to members of the City Council during its Dec. 3 afternoon session.

“If you think we’re a pain in the neck,” Joe Walsh from Individuals for Justice, said, “the next wave is going to be really bad — and you’re seeing it now.”