

## The Oregonian

### Portland's compromise with Uber recognizes inevitable competition: Editorial Agenda 2014

*By The Oregonian Editorial Board  
December 22, 2014*

Uber's decision to break into the Portland market certainly cost the controversial ride-sharing company PR points that it didn't have to spare.

But challenging the city for failing to adapt its taxi regulations to allow for new competitors like Uber has quickly paid off. In the two weeks that Uber drivers started picking up Portlanders using Uber's mobile-phone app, the city fumed, plotted, sued, fined ... and then reached a compromise with Uber, moving through the stages of grief with impressive efficiency.

Mayor Charlie Hales has set up a task force to study and develop changes that would allow Uber and similar app-based ride-sharing companies to legally operate in Portland. He and City Commissioner Steve Novick even pledged to issue a temporary license if the city can't meet an April 9 deadline for approving changes, as The Oregonian's Joseph Rose reported.

Uber, reviled just a couple weeks ago for its arrogance and greed, now has a path to legitimacy.

This could and should have happened months ago. Uber's interest in Portland has been clear for more than a year – and was amplified in November when the service rolled out in the suburbs around Portland. But the city's response, even in November, has been a noncommittal "we'll look into it" with Novick saying he would appoint a task force, but never setting a timeline for review.

Uber aside, there are plenty of reasons to look at the taxi system. The city itself acknowledges its "private for-hire" regulations are "antiquated." Data showed a persistent demand for taxis that was going unmet. And the current system isn't helping taxi drivers much -- a 2012 study conducted by the city showed drivers were making only \$6.22 an hour on average.

That's partially because the 460 taxi licenses in the city are held by six taxi ownership groups – not by the drivers who must pay a weekly amount to the companies for the opportunity to drive a licensed taxi.

In this case, by waiting to take action, the city's pride took a hit. But that's a small price to pay. The city would have to acknowledge the changing reality at some point. It's preferable that happen before the city incurs significant legal fees in a lawsuit whose outcome is uncertain.

And Hales and Novick did win a concession from Uber to withdraw from Portland for three months. The retreat, while helping the city save face, is a smart move for Uber as well – it may smooth over relations with those Portlanders who were put off by the San Francisco-based startup's "my way or the highway" arrogance.

Most important, the compromise gives clear definition to the city's to-do list – and when it needs to be done. The priority in the next few months is to look at what kinds of safety requirements the city should insist upon, said Josh Alpert, Hales' director of strategic initiatives. That could include requiring vehicle inspections, a minimum level of driver's insurance coverage and thorough background checks.

With Uber in so many cities, Portland task-force members can evaluate how other cities are managing Uber, Lyft and other such companies. Task force members will also be examining how to ensure that vulnerable populations, including those with disabilities or residents of underserved areas, don't get left behind.

The path to get to a peaceful co-existence between taxis and Uber-like competitors won't be easy. Expect a free-for-all of sorts in which the city will ease restrictions on its taxis in order to get a very real market-based view of problems and solutions, Alpert said.

But considering that the regulatory framework is "so antiquated now, I'm not sure it can get worse," he said.

It probably can. But in any event, it may be a necessary headache in order to figure out how to update a regulatory framework that has ignored competition and technology for too long.

## The Portland Tribune

### Airbnb resists city efforts to restrict hosts without permits

By Steve Law  
December 23, 2014

Airbnb argued Thursday that it should be able to keep the names and addresses of its Portland hosts out of the hands of the city Bureau of Development Services, which hopes to use the information to prod Airbnb hosts to get city permits required before they can rent out rooms in their homes for stays of less than 30 days.

So far, only 110 local Airbnb hosts have sought permits under the city's short-term rental ordinance adopted in July, or an estimated 7 to 8 percent of those subject to the ordinance. That doesn't include several hundred Portland hosts who rent out rooms in apartments and condos, which won't become legal until a pending city ordinance is passed in January. Nor does it include hosts advertising through other companies, such as Craigslist.

Revenue Bureau Director Thomas Lannom proposed an ordinance requiring Airbnb and other booking agents to collect lodging taxes from their local hosts, and provide the names and addresses of the hosts to the bureau to assure compliance. The ordinance, debated Thursday by the Portland City Council, also would require Airbnb and other booking agents to require hosts to post their permit numbers on ads promoting the local rooms for rent.

Mike Liefeld, an enforcement program manager for the Bureau of Development Services, said it would be easy for the bureau to send out mass mailings to the 92 percent of hosts who never sought BDS inspections or applied for licenses.

But David Owen, a government affairs specialist for San Francisco-based Airbnb, said his company has been the first to collect taxes from its hosts, and objects to the Revenue Bureau sharing the names and addresses of its hosts with another bureau. Owen likened it to the National Security Agency mining personal data on Americans from phones and the Internet. The city shouldn't get "unfettered access" to its hosts' personal information without getting a court subpoena, Owen testified.

"We want to make sure that someone who occupies a room in a building that you advertise is safe," responded City Commissioner Nick Fish. "Shame on us if they're not and something bad happens. We're complicit, and that's why we have these rules."

Commissioner Steve Novick said Airbnb was suggesting that the city's two bureaus would have to duplicate each others' efforts if the names and addresses of hosts aren't shared. "You're in effect asking us to be a very inefficient government," Novick told Owen.

Airbnb isn't the only short-term rental booking agent resisting city regulations. A new group called the Short Term Rental Advocacy Center, which represents Airbnb and two competitors, HomeAway and FlipKey, sent a letter to city officials last week protesting the city's proposed crackdown on laggard hosts who haven't gotten permits or paid lodging taxes. Though Airbnb has voluntarily agreed to collect lodging taxes, the group opposes making that mandatory.

"Regulations that require short-term rental companies to track and report rental information are an unnecessary regulatory burden on all parties involved, including the city," the letter reads. "Implementing a system that seeks to deputize short-term rental platforms as a policing mechanism is clearly just an abdication of responsibility by the city of Portland, not to mention a violation of the privacy of the platforms' end users."

Commissioner Amanda Fritz defended Airbnb as the one company that has offered to cooperate with the city in collecting taxes. The city should spend its time now going after the other online brokers of short-term rentals whose local hosts aren't paying any lodging taxes or seeking permits, Fritz said.

Fish repeatedly asked Owen if Airbnb planned to comply with the ordinance once it's passed, but Owen was noncommittal. Fish said he'd be reluctant to expand short-term rentals into multifamily properties if the enforcement mechanism is likely to be tied up in court for years.

The city already is involved in litigation against Uber, another San Francisco-based company in the "sharing economy," which allows anyone to become a taxi driver with their own car, and connects them with riders using smartphones.

# City follows up on police reform demands

*By Jim Redden  
December 23, 2014*

The last time Portland police killed an unarmed African-American, the city asked the U.S. Department of Justice to investigate whether its officers have a history of using excessive force against minorities.

The Jan. 29, 2010, shooting death of Aaron Campbell resulted in an 18-month investigation by the department's Civil Rights Division. It found the police have a pattern of using excessive force against people with actual or perceived mental illnesses. Portland and the DOJ agreed to a settlement agreement that included 187 specific changes.

The agreement was accepted by a U.S. District Court judge in August. Changes include the hiring of a compliance officer/community liaison. The City Council selected a team led by Dennis Rosenbaum of the University of Chicago on Nov. 8 of this year. It includes retired Oregon Chief Justice Paul DeMuniz. Mayor Charlie Hales introduced the team to the public at a City Hall news conference last Thursday.

"Not everyone understands that this is real, it's adopted, and we're getting it done," Hales said during an interview in his office last week, thumbing through a highlighted copy of the 77-page report he keeps on his desk in a white, three-ring binder.

Hales can be forgiven if he sometimes seems a little frustrated by the ongoing criticisms of the police, especially since much of it is sparked by events in other cities that have not invited or accepted such reviews and reforms. Recent local protests over grand jury decisions in Ferguson, Mo., and New York have included many references to minorities killed by Portland police four, eight and even 13 years ago.

Dr. T. Allen Bethel of the Albina Ministerial Alliance acknowledges the city has agreed to the DOJ settlement. But he says additional work is required to improve relations between Portland police and minority communities, including increasing the authority of the Independent Police Review Division of the city auditor's office, which investigates citizen complaints against the police.

"There is more to be done," Bethel said.

The tension seems to surface whenever the City Council discusses the Portland Police Bureau's use-of-force policies. A recent example occurred on Nov. 24 during a presentation by consultants hired by the City Auditor's Office as part of its ongoing review of police shootings and in-custody deaths. The Los Angeles-based Office of Independent Review Group examined nine incidents between 2006 and 2011. Its report criticized the police for not conducting complete and timely reviews of the cases, and for not disciplining officers who made mistakes.

After the public testimony that followed the presentation, Hales insisted that the bureau has taken steps to reduce such problems in the past few years. He cited the DOJ settlement agreement as proof that he is committed to reforming the police bureau, a promise he made when he ran for mayor. Other changes include the opening of the bureau's first training center, the institution of more walking beats, and Hales' appointment of Larry O'Dea to be his new police chief in January.

"The new chief and his commanders are totally committed to carrying out the DOJ settlement agreement," said Hales, who also praised outgoing Chief Mike Reese for implementing the settlement agreement so far.

## **Making changes**

Portland may be the only city in the country to ask the U.S. Department of Justice to investigate whether its police have historically abused the civil rights of its residents. And the council is only seeking clarification on one of the agreement's numerous requirements. The city currently is in mediation over two questions related to the reviews that the federal judge will make of its progress — how often the reviews will occur and how much evidence must be presented each time. The answers are expected soon.

"The council has agreed to the reviews, we just need to clarify small parts of them," Hales said.

The city breaks the other requirements in the agreement into five broad categories:

- **Accountability:** Requirements include further implementation of new discipline guidelines, standardizing use-of-force investigations to include more documentation, shortening such investigations to within 180 days, and increasing public review of new policies and directive.

- Analysis: Requirements include hiring four new analysts for the Strategic Services Division to increase data analysis in cooperation with the compliance liaison and a new 20-member Community Oversight Advisory Board that will evaluate the progress of the compliance with the settlement agreement.
- Behavioral Unit: Requirements include more Crisis Intervention Team training to improve responses to people with mental health issues, including the creation of a Service Coordination Team for chronic offenders and the opening of a crisis center in cooperation with such funding partners as Multnomah County.
- Community Engagement: Requirements include developing and implementing a new community engagement plan in partnership with the compliance liaison and oversight board to improve communications, collaboration and relationships. Other responsibilities include updating the 2009 Plan to Address Racial Profiling.
- Training Division: Requirements include revising existing use-of-force policies, further assessing training needs, increasing scenario training, and tracking officer performance over time.

Hales said some reforms have taken place that are not required by the agreement. Among other things, under a policy enacted by former Multnomah County District Attorney Mike Schunk, all police deadly-force incidents are automatically presented to a grand jury, and the resulting documents are released if the officer or officers are not indicted.

The council also is considering equipping officers with body cameras to reduce disputes over what happens in controversial encounters. The city already has identified around \$800,000 that can be used to purchase the cameras. Hales says they will not be deployed until privacy and other issues raised by civil libertarians are resolved by the 2015 Oregon Legislature, however.

No justice, no peace

Despite that, the Albina Ministerial Alliance for Justice and Police Reform planned a rally and march last Saturday, in part to honor Campbell and other Portlanders killed over the years by police.

Their names keep coming up for a variety of reasons, including the fact that none of the officers involved in their deaths were charged with any crime, like the officers in Ferguson and New York. To the protesters and others in the community, that means justice was not done in those cases.

Hales notes that Ron Frashour, the officer who shot Campbell in the back following a lengthy police standoff was, in fact, fired. But he was reinstated by a state-approved arbitrator after an appeal.

That does not mean the city cannot discipline officers who use excessive force or break the rules, Hales said. He noted the city has either fired or negotiated the termination of 11 officers during the past five years. One firing has stuck — Dane Reister, who mistakenly fired live shotgun rounds instead of beanbags at a mentally ill man in June 2011.

In addition, protesters have demands that go beyond the items covered by the settlement agreement. One is the rule allowing Portland officers who use deadly force to wait up to 48 hours before being interviewed by investigators. When the rule was adopted, it actually reduced the amount of time officers could wait before being interviewed. But now some perceive it as undermining public confidence in the investigations.

“It is past time for that restriction to be eliminated so the bureau can timely learn what its officers observed and did when they decided to use deadly force,” the OIR group report said.

Hales said shortening the time will not necessarily result in the earlier release of information, however, especially in cases that go to the grand jury.

And, some demands go beyond the ability of the city to meet them. For example, the AMA has long called for a special prosecutor to be appointed for police excessive and deadly force cases. That demand has been taken up by protesters across the country after the grand juries declined to indict the officers in the Ferguson and New York cases. They believe district attorneys are too close to the police to be fair when they injure or kill someone.

At least some of the attention will move from Portland to Salem next year. The AMA is going to pursue an agenda at the 2015 Legislature that includes changing state laws that govern the use of force by police.

## City misses public records deadline

*By Jim Redden  
December 23, 2014*

The Portland Bureau of Transportation missed a Monday deadline to turn requested documents over to a neighborhood coalition group questioning the nonresidential portion of the proposed street fee.

Southeast Uplift has filed a public records lawsuit in Multnomah County Circuit Court seeking internal spreadsheets on how much different types of businesses will pay. Judge Nan Waller has directed the city to provide the coalition with the documents.

Deputy City Attorney Wade Tucker appeared before a different judge Monday to request the case be heard again. But that judge, John Wittmayer, angrily denied the request after realizing the city had not actually filed such a motion with the court.

Wittmayer then ordered Tucker to find out who had sent him to court without the motion being filed, and to respond to the attorneys representing the coalition by 5 p.m. But the deadline passed without the city providing the requested documents to the coalition, according to its president, Robert McCullough.

The coalition has already paid half the cost requested by the city to obtain the spreadsheets, McCullough says.

"They've cashed our check for \$1,360," says McCullough.

McCullough believes the spreadsheets will show PBOT misclassified a number of businesses when determining how much they will pay under the nonresidential portion of the proposed fee. He is convinced this mistake is minimizing the amount to be paid by large transportation companies that do a disproportionate amount of damage to the streets.

"It's probably just a mistake and they should own up to it, fix it, and move on," says McCullough.

The fee proposed by Mayor Charlie Hales and Commissioner Steve Novick is intended to raise around \$40 million a year for maintenance and safety projects. It has undergone numerous changes since being unveiled in May and is expected to be changed again before the final vote.

A new version could be filed on Dec. 31, with an evening public hearing scheduled for Jan. 7. The final vote could then be held on Jan. 14.

## Street fee may get more tweaks

*By Jim Redden  
December 23, 2014*

Mayor Charlie Hales and Commissioner Steve Novick are considering removing the \$900-a-year cap from the progressive income tax portion of their street fee.

Hales and Novick made the announcement when the City Council considered the fee last Wednesday.

At the time, Novick said the wealthiest people in Portland might have to pay more because critics — including the Portland Business Alliance — have not accepted what he called the “compromise” tax. They are still promising to refer it to the ballot if the council does not seek voter approval.

“The Portland Business Alliance and its allies would rather burn the city to the ground than adopt anything remotely resembling an income tax,” said Novick, who is in charge of the Portland Bureau of Transportation and opposes referring the proposal to the voters.

Sandra McDonough, president and CEO of the PBA, says her organization is still trying to work with Hales and Novick to find mutually agreeable funding sources to fix Portland streets, however. She says such rhetoric is not helpful in finding a solution.

Hales and Novick also said the residential portion could go back to the original version they proposed in May, which was a monthly fee on households. That would require them to find a way to exempt low-income households to make it progressive, however, something that Novick insists on.

The most recent twist in the lengthy street fee saga came just two days after a group opposed to tax increases sent out a mailer to Portlanders demanding that the proposal be placed on the ballot for voter approval.

The Taxpayers Association of Oregon mailed out the two-sided piece last Monday. Director Jason Williams would not specify how many were mailed, except to say, "A lot."

"Can We Trust the City of Portland with ANOTHER TAX," the mailer reads on a portion of one side. "WHY DON'T THEY WANT US TO VOTE?" reads part of the other.

"This could put businesses out of business and hurt taxpayers," Williams says.

The association's contributors include Andrew Miller, CEO of the Stimson Lumber Co., who has helped fund the opposition to light rail in Clackamas County. McDonough says the PBA did not contribute to the mailing and calls it "unhelpful."

Last Wednesday's unexpected move pushes the final vote to Jan. 14, at the earliest — a week after the soonest the replacement residential portion could be introduced. The latest version of the fee — now dubbed the Portland Street Fund — was intended to raise \$46 million a year for maintenance and safety projects, including expenses.

Hales said the nonresidential portion will not change. It is a sliding scale on businesses, governments and nonprofits.

Some of the business assessments are being questioned by Southeast Uplift, the neighborhood coalition office representing several of neighborhood associations in Southeast Portland, however. They have filed a public documents lawsuit in Multnomah County Circuit Court seeking PBOT working papers they claim show major roads uses would not be charged their fair share.

## **Demolition, infill foes gather steam**

*By Jim Redden  
December 23, 2014*

The City Council got a lesson in effective community organizing last Thursday.

That was when a grassroots group, which came together this past summer, presented a powerful case that Portlanders across the city are angry about the increasing number of residential demolitions and infill projects.

The hearing is tentatively set to continue on Jan. 20, when it could become the second big controversy of 2015 after the street fee.

The group calls itself United Neighborhoods for Reform. It includes activists, members of dozens of official neighborhood organizations, and members of preservation organizations. They want the council to appoint a task force to study such controversies as the replacement of small, older homes with one or more larger ones.

"This whole issue was off the radar just a couple of years ago," said UNR co-founder Alan Ellis, a former president of the Beaumont-Wilshire Neighborhood Association. "Then all of a sudden, we started getting phone calls and emails, and people started coming to our meetings saying we need to do something about this."

The discussions resulted in three demolition summits held over the summer where the UNR was formed and its members agreed to ask the council to appoint the task force. The request was made in a way that could serve as a model for groups wanting to get the council's attention in the future, even during the hectic holiday season.

Planning ahead, the UNR maximized its use of the standard council procedure that allows three people to come up to a table and testify on an issue for no more than three minutes each. This frequently produces conflicting and completely random back-to-back remarks. But the UNR testimony was organized into panels that spoke on specific problems within the larger issue. Some focused on hazardous materials in the homes being demolished, while others talked about the loss of affordable housing, the need to identify

and preserve historic structures, and the environmental benefits of encouraging the deconstruction of houses instead of demolition.

The witnesses didn't just talk. One panel pooled its time to present a video slide show titled "Demolishing Portland: A Gallery of Lost History." It featured before and after pictures of mostly small, old homes and the much larger new ones that replace them. The contrast was frequently jarring, even though some of the new homes seemed well designed and built. It was accompanied by an acoustic protest song written by Bill Deene when 23 people were arrested trying to stop the replacement of older houses on Northwest Overton and Pettygrove streets with row houses.

The presentation all but hijacked the original purpose of the hearing, consideration of a series of recommendations to provide more public notice and delay on pending demolitions. It was prepared by the Development Review Advisory Committee, an appointed body that consults with the Bureau of Development Services, which issues demolition, remodeling and construction permits. Commissioner Amanda Fritz, who oversees BDS, had asked DRAC to study the issue and recommend any changes by the end of the year.

The UNR members welcomed some of the recommendations, including a mandatory 35-day delay on all demolitions. But it objected to others, including the elimination of a 120-day delay that neighborhood associations can request. But mostly the UNR testimony revealed its members don't think the DRAC recommendations go far enough. For example, the recommendations do not address the larger size and different character of many replacement houses because that is outside BDS's jurisdiction.

Mayor Charlie Hales and Commissioner Nick Fish seemed especially interested in the UNR testimony. At one point, Fish seemed concerned that there are no requirements for a developer to maintain a vacant house that eventually will be demolished. Some UNR members speculated that is because a developer has bought a small, older house next to where Fish lives in Northeast Portland and plans to remodel it into a much larger one.

No member of the council agreed to appoint the citywide task force requested by UNR at the hearing, but that still could happen. There were around 20 people wanting to testify when the council lost its quorum a little after 6 p.m. after more than two and a half hours of testimony. They will be the first to speak when the council takes up the issue again next year.

## **Willamette Week**

### **City Commissioner Nick Fish Berates Airbnb Lobbyist**

"You want to have your cake and eat it too," Fish says. "This has shades of Uber all over it."

*By Aaron Mesh  
December 22, 2014*

Uber isn't Portland's only fight with a sharing-economy startup. The love affair between City Hall and Airbnb is publicly fraying.

City Commissioner Nick Fish has been pushing a crackdown on Airbnb hosts who don't get safety inspections. Airbnb sent a lobbyist to a City Council hearing Dec. 18 to object to new rules compelling the company to provide the addresses and city permit numbers of its hosts.

Fish upbraided him for more than 10 minutes.

"You want to have your cake and eat it too," Fish told him. "We have an obligation to go after folks who are not following the law. The only way we can do that is [if] we know where they live, and you're claiming that's confidential and somehow an erosion of your privacy rights."

Airbnb's director of public policy, David Owen, said his company objects to providing "unfettered access to private user data without formal legal process, which is a fundamental tenant of Internet commerce."

Fish was agog.

"This has shades of Uber all over it," Fish said. "We invoke the Internet, and we claim an exemption from all the other laws and rules of society, because we're somehow 'on the Internet.'"

"We welcomed you to Portland," he continued. "We're pleased that you've harnessed the Internet. But sir, we have to make sure that the guests in one of your hosts' places—and you do not inspect your hosts' places—we have to make sure that guest is safe."

Mayor Charlie Hales led a push to legitimize and regulate Airbnb's short-term rentals this summer, making Portland the first city in the nation where Airbnb collects lodging taxes. But few of the hosts using the online rental marketplace have followed the new safety rules.

WW reported last week that only 6.5 percent of Airbnb rentals have bothered to apply for city permits (and undergo safety inspections) since the city required them in August.

City Council is scheduled to vote in January on an ordinance that would fine online rental marketplaces \$500 each time a host advertises a rental without posting a city permit number.

The battle resembles Airbnb's fights in New York—where the company gave the state attorney general information on 107 hosts believed to be breaking the law.