

## The Oregonian

### City of Portland to pay \$80,000 to settle excessive force claim by mentally distressed man

*By Maxine Bernstein  
December 24, 2014*

The city of Portland has agreed to pay \$80,000 to settle a lawsuit filed in federal court by a mentally distressed man who claimed a Portland police officer knelt on his throat and used excessive force when he was called to escort him from an outpatient clinic to a nearby ER.

The suit, initially filed by Robert Seeger in state court and transferred to federal court, alleged the Police Bureau failed to properly train Officer Charles Duane on how to deal with people in mental health crisis, and cited the 2012 federal investigation into the Police Bureau.

"Officer Duane rapidly made physical contact with Mr. Seeger without any attempt to explain why he was there or what he was going to do," the suit says.

U.S. Magistrate Judge Paul Papak this week approved the settlement reached between the city, and Seeger and his lawyer, Benjamin Haile.

The city's settlement offer - \$80,000 plus attorney fees - should not be "construed as an admission of liability nor an admission that plaintiff suffered any damages," senior deputy city attorney William M. Manlove wrote in court documents. As part of the offer, the suit dismisses with prejudice Officer Duane from the legal action.

According to the suit, Seeger had shown up at the Providence Mental Health Outpatient Clinic at Northeast Hoyt Street and 52nd Avenue in mental distress on Jan. 2, 2013. The clinic's program manager called Portland police, telling them that Seeger was at risk of hurting himself and needed a police escort to the hospital's emergency room, which was about a block away, the suit states.

When Duane showed up, the suit contends that the officer asked a counselor at the clinic, "Don't you have security to deal with this?"

The suit says that Duane didn't explain why he was there or what he was going to do when he approached Seeger, who was sitting down in a chair in a conference room shaking and breathing heavily with his arms wrapped around him. He was wearing sunglasses and a hoodie was pulled over his head, according to the suit.

The suit states that Duane asked Seeger if he was ready to go, and when the officer got no response, Duane waved his hand in front of Seeger's face and spoke louder. Duane and fellow officer Joseph Welp lifted Seeger from the chair and when Duane tried to push Seeger over a table to handcuff him, Seeger began to struggle, according to the suit.

"Mr. Seeger was scared and confused about why he was being physically restrained," the suit states. "Mr. Seeger did not understand what was happening to him and struggled against being handcuffed."

The two police officers and two hospital security guards took Seeger to the ground, the suit says.

The suit claims that while Seeger was on his back and handcuffed, Duane knelt on Seeger's throat.

"Seeger said clearly enough for everyone in the room to hear, 'I can't breathe,'" the suit says. "Officer Duane responded with either, 'Good, I hope you can't,' or 'I hope you pass out.'"

Welp asked to roll Seeger on to his belly twice but Duane refused to do so until Welp made a third request. Seeger was taken by ambulance and transported to the Providence Portland Medical Center, where a doctor determined he was not a danger to himself or others, did not require psychiatric hospitalization and released Seeger.

Seeger suffered a swollen and bruised face, a swollen knee, an injured finger and ongoing back pain, according to the suit.

The suit also states that Seeger gets more anxious around police now than he had before the incident. He also was afraid to access mental-health services for about one year following the incident.

The suit referred to a 2012 investigation by the U.S. Department of Justice that found Portland police engaged in a "pattern or practice" of excessive force when encountering mentally ill people or people that officers thought had a mental illness. A federal judge in late August adopted a negotiated settlement

between the city and federal Justice officials that calls for a package of reforms to police policies, training and oversight.

## **Portland city auditor LaVonne Griffin-Valade answered to the public: Editorial**

*By The Oregonian Editorial Board  
December 25, 2014*

Chances are, the title of LaVonne Griffin-Valade's next opus will sound a bit more inviting than past works she has released as "Building permits: Extension practices inconsistent; documentation lacking."

But as dry as it may sound, the audit – and the 64 others prepared by Griffin-Valade and her team over the past six years as Portland's city auditor – provided gripping reading for those who care about city governance and transparency. Often, the reports unraveled mysteries about spending or management that would have otherwise gone unchecked and unknown – even by those in charge of the spending and management.

Next week, however, Griffin-Valade's term as chief watchdog comes to an end. The 61-year-old opted not to run for re-election and is instead pursuing a master's in fine arts in the creative writing program at Portland State University.

It's yet another act for a woman and mother of four who was an elementary school teacher, a social-service program manager, and the auditor for Multnomah County before taking on the city position in 2009. Griffin-Valade now hands the baton to Mary Hull Caballero, a former Metro auditor who ran unopposed for the position.

Griffin-Valade represented a shift in style for an office that seemed fairly subdued under the decade-long stewardship of her predecessor, Gary Blackmer.

In her first year in the position, she teamed with former City Commissioner Randy Leonard to significantly boost the oversight authority of her office's Independent Police Review division over the Portland Police Bureau.

The changes vested IPR with oversight of all internal affairs inquiries and the power to initiate investigations of its own. The council also gave the IPR subpoena power to call non-police officer witnesses and made the IPR director a voting member of a new police review board, which would recommend findings and discipline in use of force or misconduct cases. The auditor was given sole power to make appointments to the police review board, a powerful shift that reinforced the idea that police – like any public servants – remain accountable to the people.

"I just remember being impressed with her willingness to do whatever was required to tighten some of the oversight of police and for not backing down," Leonard recalled recently.

The reforms also reflected how Griffin-Valade, who is independent of council and does not have a vote, was able to elevate her position "to be more of a decision maker," said Leonard, who retired from the Council in 2012.

Griffin-Valade's office looked at failures across city bureaus from technology services to transportation. Her office detailed lagging development in East Portland neighborhoods, found a failure to prioritize projects and maintain transportation infrastructure, critiqued lax accounting practices at the housing bureau and laid out in embarrassing detail the tripling of construction costs by the Bureau of Environmental Services on an office building.

Audits can ruffle feathers, making the auditor position a lonely one at times. But the city can only improve its efficiency and operations if it knows what it's doing wrong. As uncomfortable as it may be for managers to see their departments skewered for deficiencies, these independent assessments – and how the city responds to them – can actually build the public's faith in government.

Griffin-Valade's popularity was strongest outside of City Hall. In fact, her work and fundamental belief that a government should be accountable to the public even generated a small write-in campaign on her behalf during the 2012 mayoral race.

A reader of a then-active blog written by Lewis & Clark law professor Jack Bogdanski made the suggestion of writing in Griffin-Valade instead of voting for the two candidates at the time – Jefferson Smith and eventual Mayor Charlie Hales. Bogdanski highlighted the idea, urging others to write her in.

"Griffin-Valade has quickly learned a lot about what's wrong at City Hall, and she hasn't been shy about speaking up to the Bully and his court jester," Bogdanski wrote in the 2012 posting.

It's unknown how many people may have followed his recommendation because state law calls for write-in votes to be tallied only when the number exceeds the number of votes cast for the leading candidate or when no one is listed on the ballot for an office. But the message, at any rate, was clear: Accountability wins the popular vote.

## **The Portland Tribune**

### **Tracking energy use may be required**

*By Jules Rogers  
December 25, 2014*

Portland's commercial buildings today have no requirements to track their energy performance, but are responsible for almost 25 percent of Portland's carbon emissions.

The largest carbon pollution source in the city, commercial building tenants spend more than \$335 million on energy annually.

Last Thursday, the Portland Bureau of Planning and Sustainability officially launched a new energy performance reporting proposal for commercial buildings, hoping to create awareness and transparency in energy-efficiency improvements reducing carbon emissions.

"We want to move forward with sustainability; we want to do the right thing for Portland," says Alisa Kane, Green Building and Development Manager with BPS. "We hope to shine a light on high performers."

If approved by the Portland City Council in April, the new policy will begin affecting commercial buildings more than 50,000 square feet in 2016, and buildings between 20,000 to 50,000 square feet in 2017. The policy covers offices, retail spaces, hotels, health care, higher education and grocery store buildings.

Imitating successful similar policies in the states of California and Washington and cities including Boston and Chicago, the proposed energy performance report will require buildings to complete a three-step process.

First, building owners will track their energy performances using Energy Star Portfolio Manager, the industry standard with free online software. Energy Star will help them calculate their official energy use per square foot and their carbon emissions, scoring them. Lastly, they'll report the score to the city to be uploaded to a public database annually.

"This tool will allow participation in this to be something that benefits the rest of our society," says Renee Loveland, a sustainability manager at Gerding Edlen real estate, whose company already has an Energy Star score of 99. "This is a great step in the right direction."

Currently only 80 buildings already calculate their energy use out of about 5,000 commercial buildings in the city. The proposed investment will not only promote the city's sustainability, but will also lower building owners' energy costs by an average of 2.4 percent per year.

Not only will this new policy provide incentive for energy use tracking, but the program will recognize efficient buildings, bringing awareness to the market's energy use.

### **Sources Say: Fritz might run for City Council re-election after all**

*By Jim Redden  
December 25, 2014*

Some City Hall observers think Commissioner Amanda Fritz has changed her mind and will run for re-election in 2016 after all.

Although Fritz did not respond to repeated inquiries, she said this would be her last term during and after her successful 2012 re-election campaign. However, that was when she planning to spend more time with her husband, Steven, who was killed in a car crash on Interstate 5 on Sept. 24.

She also may need the salary. Fritz contributed \$123,757 to her 2012 campaign and wrote it off when she closed the committee at the end of 2013. She was first elected to the City Council using Portland's public campaign funding program in 2008, but voters repealed it before she ran for re-election.

### **Union fears may be crux of HQ hotel flap**

A lawsuit in Los Angeles is shedding light on the fight to prevent Metro from subsidizing the construction of a headquarters hotel next to the Oregon Convention Center, which it owns and operates.

According to a Dec. 17 story in The Wall Street Journal, two national hotel groups are suing to repeal the \$15.37 minimum wage for large hotel workers approved by the L.A. City Council. The wage is waived at hotels with collective bargaining agreements with its employees.

One of the groups supporting the suit is the Asian American Hotel Owners Association. It also is fighting the construction of the headquarters hotel, which would be operated by Hyatt. Metro has required Hyatt to accommodate a union for its workers as part of the deal.

### **Senators soon may hold little sway**

U.S. Sens. Ron Wyden and Jeff Merkley may be having a little trouble adjusting to the fact that they soon will be in the minority. Republicans will be in charge of the U.S. Senate when the new Congress convenes next year, costing Wyden and Merkley a lot of their clout.

Despite that, Wyden sent a letter to the U.S. Department of Energy on Dec. 16 demanding that it clean up leaking storage tanks at the Hanford Nuclear Reservation. The letter sent to Energy Secretary Ernest Moniz asked the department to implement the recommendations of a recent General Accounting Office report he had requested. As a member of the Energy Subcommittee of the Senate Committee on Energy and Natural Resources, Wyden is correct to expect Moniz to listen to him. However, Wyden could lose that position in just a few weeks.

Merkley recently announced a plan to greatly expand federal gay rights protections, but he was unable to convince the Senate to pass a narrower job discrimination bill when the Democrats held the majority. In fact, his Employment Non-Discrimination Act never even reached the floor for a vote.

Then again, Wyden and Merkley are likely to have a lot more free time on their hands to pursue their proposals next year.

## **Compromise on street fee in works**

*By Jim Redden  
December 25, 2014*

A potential compromise residential street fee is being discussed within City Hall.

It would replace the controversial progressive personal income tax with tiered payments based on estimated gasoline consumption.

The payments still would be related to personal income, however. The possible proposal is based on the assumption that wealthy people use more gasoline than poor people, who are less likely to own cars and are more dependent on public transit.

Many details of the proposal are still being worked out, including how many tiers to use to determine the payments. Among the options are five tiers, each representing 20 percent of Portlanders, based on their incomes. Those in the lowest 20 percent would pay the least, while those in the highest 20 percent would pay the most, based on the assumption that those in the top tier own the most and the least fuel-efficient vehicles.

The concept was first broached to Mayor Charlie Hales and Commissioner Steve Novick by Robert McCullough, a local economic consultant.

"I'm a successful small businessman, and I drive a large SUV. Hello?" says McCullough, a managing partner of McCullough Research.

Ironically, McCullough also is president of Southeast Uplift, the neighborhood coalition office that sued the Portland Bureau of Transportation to obtain internal work papers it believes will show some companies would not pay their fair share under the nonresidential portion of the proposed street fee. McCullough says the current version misclassifies large transportation companies that cause a disproportionate amount of street damage.

It is not clear whether the gasoline- and income-based compromise will attract the necessary three votes to be approved by the City Council. It is not as progressive as the most recent income tax proposal, which appeals to Novick and Commissioner Amanda Fritz. But that proposal is strongly opposed by the Portland Business Alliance, which has promised to help fund a petition drive to refer the entire fee to the ballot.

The other two members of the council, commissioners Nick Fish and Dan Saltzman, both want the council to ask voters to approve the fee. That has led to discussions about requiring that it be referred to voters after a set number of years, which is what occurred when the council approved the public campaign financing program called Voter Owned Elections. The program had been plagued by controversies, including alleged misspending by a number of candidates who qualified for public funds, and was repealed by voters.

Hales and Novick first proposed the fee in May to fund maintenance and safety projects. The current version is intended to raise around \$40 million a year. It has grown increasingly complex as new amendments were introduced to address problems raised by critics.

"It doesn't have to be rocket science. In fact, complicated solutions hardly ever work," McCullough says.

The compromise could be introduced on Dec. 31.

The council is tentatively scheduled to consider final amendments on Jan. 7 and hold a final vote on Jan. 14.

## **Street fee public records fight continues**

*By Jim Redden  
December 24, 2014*

The fight over the internal documents used by the Portland Bureau of Transportation to calculate the nonresidential portion of the proposed street fee isn't over yet.

Southeast Uplight, the neighborhood coalition office representing dozens of neighborhood associations in Southeast Portland, filed a public records lawsuit to obtain the documents earlier this month. After a series of appearance before different judges, PBOT turned what it said were the documents to SEUL last Tuesday.

But after looking over documents, SEUL president Robert McCullough decided they are not the ones the coalition is seeking. McCullough, a Portland-based economic consultant, believes PBOT used faulty spreadsheets to calculate the values in the Portland Commercial Fee Table that is part of the proposed fee.

Although the city gave SEUL three spreadsheets, McCullough says they are not the right ones.

"After a careful review, the three small spreadsheets provided by PBOT in answer to our public documents request are not responsive," says McCullough, a Portland-based local economic consultant. "Although some of the materials may be relevant to such a request, it is impossible to use these materials to calculate the values in the Portland Commercial Fee Table."

The city says it gave SUEL the documents it chose from a range of options, however. According to PBOT spokesman Dylan Rivera, if SEUL thinks the city is withholding documents, it can file an appeal with the Multnomah County District Attorney's Office.

If that doesn't happen, the next step in the public records suit is for a judge to hear a motion filed by the city to dismiss it. That motion was assigned to Multnomah County Circuit Court judge Ed Jones on Thursday morning.

McCullough believes the correct 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.

Rivera says the current calculations are supported by the Portland Business Alliance and Venture Portland, the nonprofit representing neighborhood business districts, however.

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.

McCullough and other SEUL representatives are expected to question the commercial fee calculations at the Jan. 7 hearing, whether or not they receive additional documents from PBOT before then.

## **The Portland Business Journal**

### **Portland mulls new plan for city street fees**

*By Erik Siemers  
December 26, 2014*

The debate over how much Portland residents should pay for street maintenance might soon find some answers.

The Portland Tribune on Thursday said a possible compromise to the street fee issue is under discussion at City Hall.

Instead of the controversial progressive income tax plan that's tiered based on gas consumption estimates, the new proposal -- brought to Mayor Charlie Hales and Commissioner Steve Novick by economic consultant Roger McCullough -- would set up payment tiers based on personal income. The idea, the paper reports, is based on an assumption that the wealthy use more gasoline than the poor, who are less likely to own cars.

"I'm a successful small businessman, and I drive a large SUV. Hello?" McCullough, a managing partner of McCullough Research, told the Tribune.

The Tribune also reports that McCullough is president of Southeast Uplift, the neighborhood coalition that sued the Portland Bureau of Transportation to get documents it contends will highlight how home some companies wouldn't pay their fair share under a nonresidential component of the street fee proposal.

The Tribune's Jim Redden writes that it's not yet clear whether the compromise proposal will attract the three votes needed for City Council approval.