

The Oregonian

Portland City Council votes to fight transparency: Editorial Agenda 2016

By The Oregonian Editorial Board

January 14, 2016

The Portland City Council articulated an interesting position on transparency Wednesday: There is, in fact, no public document too old to release to the public without a fight. Thank your lucky stars that these people don't write Oregon's public records laws.

Council voted 4-1 to support a resolution requested by the city attorney's office and plopped on the agenda at the eleventh hour. The single dissenter was Commissioner Steve Novick, who said, in effect, City Council might not like the transparency with which it must function, but the law's the law.

The Council's transparency crisis began with a September 2015 request for three legal opinions and a memorandum written by the city attorney to Portland's mayor and colleagues. The three opinions were penned in the 1980s, and the memorandum was written in 1990. In other words, a loooooong time ago.

Mark Bartlett, who requested the legal advice and the memo, read about the documents in a 2002 email in which a city Water Bureau employee discussed mixed public ownership on Mt. Tabor. Both the Water Bureau, supported by ratepayer funds, and the Parks Bureau, supported by property tax revenue, own property there, Brad Schmidt of The Oregonian/OregonLive reported. The 2002 email, citing the legal advice Bartlett has requested, cautioned that "Parks cannot use a Water Fund property for any purpose, and neither can Water Funds be used in support of a Park purpose, without 'market value' compensation to the Water Fund in some form."

The use – and potential misuse - of utility funds is a sore spot for city leaders, who surely don't relish the prospect of being poked there yet again. It matters little that the most recent of the requested documents was written back when The Cosby Show was all the rage.

Anyway, the city rejected Bartlett's request, citing attorney-client privilege. Bartlett then appealed to Multnomah County District Attorney Rod Underhill, who on Jan. 8 ordered the city to cough up the goods. State law, Underhill pointed out, maintains a 25-year limit on public records exemptions. There are a handful of categories in which secrecy may be maintained after a quarter century, but attorney-client privilege is not one of them.

On Tuesday a resolution to appeal the district attorney's determination was hustled onto the City Council agenda. And on Wednesday, Council voted overwhelmingly to spend public funds fighting the release of decades-old public documents that might shed some light on the city's use of public resources. Can't have that!

Why would City Council do such a thing? Commissioner Nick Fish made a valiant attempt to justify the decision, pointing out that there could be circumstances – the long-running Willamette River Superfund process, for instance – in which the law would require the release of sensitive documents in the midst of a complex and contested proceeding. Perhaps. But Mt. Tabor ain't Superfund, and using the rare exception as a pretext to shove a wide array of aging

records into a dark hole is hardly consistent with the principle of government transparency. Or the law, as both the district attorney and Novick understand it.

Even as they voted to appeal Underhill's order, Fish and some of his colleagues indicated a desire to change public records law. Amanda Fritz went so far as to declare that attorney-client privilege in government – where publicly funded attorneys are offering legal advice to public officials – should last forever, as it does elsewhere. Portland's commissioners can certainly urge lawmakers to make government less transparent. It's a free country. Of course, they could do that without continuing to fight Bartlett's request, which seems more like an act of petulance than one of principle.

Portland OKs \$88 million purchase of Pearl District post office

*By Brad Schmidt
January 14, 2016*

Portland's urban renewal agency approved terms of an \$88 million deal Wednesday to buy the sprawling U.S. post office campus in the Pearl District, marking a key first step in the city's most expensive redevelopment project to date.

But it's not a done deal just yet.

Members of the Portland Development Commission expressed heartburn over concerns that they may be asked to contribute more than \$3.4 million in non-refundable deposits to move forward on the complex deal, which involves building a new facility for the the U.S. Postal Service near the airport.

"There's a lot of money at risk," Commissioner Aneshka Colas-Dickson said before the board voted 5-0 to approve terms of the purchase.

If all goes as planned, the deal would mark a monumental coup for the development commission and Portland Mayor Charlie Hales. For decades, city officials have eyed the redevelopment potential but have been unable to cut a deal for the post office site – 13.4 acres at the base of the Broadway Bridge, in what would be a game-changing project fusing the upstart Pearl District to downtrodden Old Town Chinatown.

"We look forward to moving on this project," said Tom Kelly, the board's chairman. "It's historic."

The complicated deal would tap \$75 million from a city urban renewal district and \$13 million from the Portland Housing Bureau. Portland would give its \$88 million to the U.S. Postal Service, which in turn would use that – plus an additional \$69 million in federal funds – to build a new facility near the airport for \$157 million.

Postal leaders are working to strike a deal to buy 47.5 acres of the former Colwood golf course now owned by the Trammell Crow Company. The proposed purchase price wasn't publicly disclosed.

Portland officials hope to close on a deal by Aug. 1 and lease the facility back to the U.S. Postal Service for up to 2 ½ years at no cost. Portland also would be required to spend an estimated \$4 million to build a small new retail facility for the U.S. Postal Service within one mile of its current location.

After postal crews move to their new airport campus, city officials expect to launch a massive redevelopment effort encompassing the equivalent of 12 downtown blocks. Portland would spend an additional \$52 million demolishing the existing postal building and constructing roads and parks.

Officials would sell off the remaining parcels to private developers.

The post office site is worth just \$63.4 million today, according to Eric Jacobson, a senior project manager for the development commission. But city officials expect to increase height and density standards for the property to encourage development of 3.8 million gross square feet for housing and commercial space, including up to 700 units of affordable housing.

Officials expect to sell the property for "considerably more than we're buying it for," Jacobson said.

Wednesday's deal doesn't need to be referred to the Portland City Council for final sign off. But if terms of the agreement change substantially – such as the city contributing more money for a non-refundable deposit – the development commission's board will be asked for approval.

Portland's City Council to revise city code on council exclusions in wake of federal judge's ruling

*By Maxine Bernstein
January 13, 2016*

Portland's City Council Wednesday decided to explore ways to revise city code so it will adhere to a federal judge's ruling that banned city officials from excluding people from council meetings or city buildings for months at a time.

City commissioners, however, said they still support some type of prospective exclusions for people who are violent or make threats against them or city staff.

Local activist Joe Walsh, who had faced three such exclusions since September 2014, had taken the city to federal court and won. U.S. District Court Judge Michael H. Simon found the lengthy exclusions violated Walsh's First Amendment rights and issued a permanent injunction against future exclusion orders. The judge said the City Council could still order someone to leave a council session if they're being disruptive, but they couldn't exclude them from future meetings based on their past behavior.

Commissioner Dan Saltzman, backed by city attorneys Wednesday, had first recommended the city appeal Simon's ruling. Saltzman argued that the judge's ruling severely limited the council's ability to address violent, threatening or intimidating behaviors against council members or city staff.

He cited a late November council session in which a backpack containing a beeping smoke detector was left behind in council chambers.

"This is not about decorum or hurt feelings. We all know democracy is messy," Saltzman said. "We should have the right to control against violent, aggressive behavior."

Commissioners Amanda Fritz and Steve Novick signaled they were leaning against supporting an appeal.

Novick recommended the council accept Simon's ruling, saying Walsh's case wouldn't be a strong one to use to make the city's argument since the judge found Walsh wasn't violent in his prior dealings with council.

Walsh reiterated that point on Wednesday. "I'm not violent. Mouthy? Obnoxious? Pushy? I'll take those because that's what activists do," Walsh said. "I have a right to come here and yell at you. The Constitution says I have the right to."

Mathew dos Santos, legal director of the American Civil Liberties Union of Oregon, also urged the council not to pursue an appeal Wednesday.

He suggested the council revise the city code governing exclusion orders, and distinguish between disruptive behavior - not subject to lengthy exclusions - and actual threatening, violent behavior that would not be protected by the First Amendment.

"The ordinance is too broad," he said. "I think there's a quick fix."

Mayor Charlie Hales directed council staff to work with city attorneys and the ACLU to revise the code and return to council in two weeks.

"I don't know if we need to appeal or not," Hales said. "I do know we need to change our code."

Portland Fire Chief Erin Janssens announces she'll retire in April

By Maxine Bernstein

January 13, 2016

Portland Fire Chief Erin Janssens, who took the helm of the Fire & Rescue Bureau three and a half years ago, announced Wednesday she'll retire in April after nearly 28 years of city service.

Janssens, 51, became the first woman to serve as chief in June 2012 when former city councilor Randy Leonard appointed her to the job. At the time, she was the fire marshal.

Her tenure has been rocky.

The city found last spring that Janssens inappropriately placed her hands on a Fire Bureau supervisor in 2013 and exhibited "discourteous" behavior, but decided not to discipline her.

The chief also last year issued a letter of reprimand to Assistant Fire Marshal Doug Jones for tipping off the manager of a downtown swinger's club that no fire inspectors would be working the night of an unpermitted anniversary party there.

Some members of the bureau criticized her leadership and threatened a vote of no confidence, which never materialized.

The city's human resources director last fall offered to organize "mediated conversations" with the chief, her command staff and non-sworn employees.

"There has been talk - both publicly and privately - about the management of the Fire Bureau and, in general, how a more transparent and safe environment could be fostered," Human Resources Director Anna Kanwit wrote to some employees in a letter obtained by The Oregonian/OregonLive.

City Council member Dan Saltzman, who serves as fire commissioner, said the city hired a mediator who began to hold interviews with her executive staff, but the process never got to mediation. He said he felt communication among the chief and her executive staff could be improved, "with no fingerpointing at her."

"Her decision to retire sort of eclipsed those meetings happening," he said.

Janssens said in a prepared statement that she had planned to retire last year, but she wanted to complete some projects and give Saltzman time to select the next fire chief.

"It is bittersweet to officially identify my retirement date, as it has been an honor and privilege to serve as our city's fire chief," she wrote in a letter to friends. "What I've come to realize is that we will always be in the midst of one innovation or another, and every leader must at some point identify when they will pass the proverbial torch."

She said she was proud that in the face of difficult budgets, the department under her watch was able to keep every fire station open, with at least four-person crews on critical fire apparatus, and a minimum staffing of 165 firefighters on duty each day.

Saltzman called Janssens a "great chief and a great role model."

"She was a complete chief in terms of attributes, and I really appreciate her service to her city," he said.

Saltzman said he wants to conduct a national search for her replacement. "We'll welcome internal candidates as well, but we're definitely going to be looking for the best candidates," he said.

Janssens became the city's first female fire marshal in December 2009, and had been the highest-ranking woman in the bureau when she was named chief.

She started her fire service in 1985 as a volunteer firefighter in Boring while working on her degree in fire technology.

In July 1988, she began her career as a Portland firefighter and quickly rose through the ranks. Eight years later, in 1996, she was promoted to the rank of lieutenant and then to captain in July 2001.

In July 2006, she was promoted to the rank of battalion chief in emergency operations and then appointed deputy chief of special operations in April 2008.

Before she retires, Janssens said she hopes to launch a new campaign to prevent deadly fires from discarded cigarettes or other smoking materials, work more on bureau equity and diversity training and find cost savings with other emergency providers.

Once she retires, she said she plans to travel more, read, hike, bike and ski and then figure out "what the next chapter brings."

Alan Ferschweiler, president of the Portland Firefighters Association, said he learned of the retirement Wednesday. "When I let people know, most people found it unexpected," he said. He said the union would hope that city appoints someone from within the bureau to be the next chief.

"She's got a strong management style. She cares a lot about our members. I definitely wish her the best in her retirement," Ferschweiler said.

Ferschweiler said the bureau was deeply affected by the loss of 26 firefighting positions in 2013. The city has restored half of those. "We're still trying to regain as an organization," he said.

Portland City Council fights disclosure of 25-year-old legal advice

*By Brad Schmidt
January 13, 2016*

The Portland City Council took the highly unusual step Wednesday of fighting disclosure of legal advice given to city leaders in 1990 and earlier.

Elected officials voted 4-1 to challenge a ruling this month by Multnomah County District Attorney Rod Underhill ordering the city to disclose decades-old public records requested by a Portland resident.

Underhill determined that public records containing legal advice must be released after 25 years.

The records in question provide guidance on how the city should handle color-of-money issues for public property owned by taxpayers, and public property owned by ratepayer-funded utility bureaus – a politically charged issue, even today, which prompted a still-pending lawsuit over questionable utility spending.

Commissioner Nick Fish, who oversees Portland's utility bureaus, urged the City Council to fight release of the records on principle.

Disclosing past legal advice would "greatly disadvantage the council, the city and the taxpayers," Fish said, particularly on issues still being litigated, such as liability over cleaning contamination in the Willamette River.

But even if that's true, the law may require disclosure, city officials conceded.

Although state law allows for withholding public records because of attorney-client privilege, the district attorney determined that another law limits that exemption to 25 years.

Harry Auerbach, a chief deputy city attorney, said challenging the decision in Multnomah County Circuit Court won't be easy.

"It's not a slam dunk by any means," he told the City Council. "But we're trying to preserve our ability to give you the best legal advice we can."

Commissioner Steve Novick voted against the challenge, saying the law appeared to favor disclosure.

"I just don't see a way around this," he said. "I think the law should be changed."

Portland resident Mark Bartlett filed a public records request in September seeking three opinions from the City Attorney's Office from the 1980s, and a legal memo to Mayor Bud Clark in 1990, about differences between taxpayer-funded assets and ratepayer-funded assets.

The city refused to release the records, prompting Bartlett to file an appeal with the district attorney.

Bartlett learned about the legal memos after reading a 2002 email memo from a Water Bureau employee. The email referred to the legal guidance and then applied it to property issues at Mount Tabor, where both the ratepayer-funded Water Bureau and the property-tax supported Parks Bureau own property.

"What the above means in short is that Parks cannot use a Water Fund property for any purpose, and neither can Water Funds be used in support of a Parks purpose, without 'market value' compensation," according to the 2002 email, which summarizes the legal records now being requested by Bartlett.

Bartlett on Wednesday told The Oregonian/OregonLive he hopes release of the records will force the city to acknowledge it can't mingle assets, and perhaps to revisit past decisions. He said he's asked John DiLorenzo, the attorney who has successfully sued the city over questionable utility spending, to review the case.

"They can't just do whatever the hell they want," Bartlett said of the City Council.

Although city attorneys often fight initially to keep records private, they almost always comply when ordered to release documents by the district attorney. In the past five years, for instance, officials have never fought an order to release records.

At Wednesday's City Council meeting, Commissioner Amanda Fritz said elected officials need to maintain attorney-client privilege so they can receive the best legal advice possible. Officials would be reluctant to get it in writing if the records could be made public after a quarter century, she said.

Fish warned that, if the district attorney's decision stands, private companies that polluted the Willamette River may seek old public records hoping to pin more cleanup responsibility on the city and taxpayers.

But others thought city officials were simply trying to hide information from the public.

Joe Walsh, who frequently testifies in front of the City Council, reminded officials that the city received poor marks from a group advocating transparency. He called on the city to stop fighting.

"Why in God's name would this body, with your reputation for not giving out documents, do something like this?" he said.

The Portland Tribune

Parks to fix cracks in city's living room

By Jennifer Anderson

January 14, 2016

At 32 years old, Portland's living room will soon get a major facelift.

Planning is underway for a \$10 million renovation at Pioneer Courthouse Square, part of the \$68 million Portland Parks & Recreation bond replacement levy approved by voters last fall. At least 30 projects citywide are scheduled for completion in the next four years.

Built in 1984, Pioneer Courthouse Square's 40,000 square feet of gathering space has for years suffered from a leaky waterproof membrane, cracked brick plaza, deteriorating structural columns and restrooms needing safety and accessibility upgrades.

"We're definitely looking forward to stopping some of the leaks," says Susan Palmer, visitor center services manager at Travel Portland, whose office is based at the Square. "On a really bad, rainy day, there's one spot we need to be careful of for the visitors and put a caution sign and bucket out, because it does drip."

A 2006 city-funded report found that the membrane — rated at 20 years — was "at or approaching failure," and two reviews in 2013 found moisture coming from an unknown source and an "unexplained anomaly" at the center of the Square.

The new work will replace the membrane, retrofit the restrooms to meet current compliance codes, replace the aging HVAC and central control system, remove the skylights to stop the leaks, and add handrails and other features to adapt to code.

Attracting 10 million visitors each year, Pioneer Courthouse Square is the most high-visibility parks bond project and also the biggest ticket item on the list. (See project list with allocations.)

Construction at the Square is set to start in November and be completed by December 2017.

While this project is a fairly straightforward maintenance fix, other projects are demanding much more public process.

For instance, the Couch Park playground replacement at Northwest 19th Avenue and Glisan Street has a bond allocation of not more than \$1.6 million, plus another \$500,000 that will fund a new Portland Loo.

The nonprofit groups Friends of Couch Park and Harper's Playground are also trying to raise another \$500,000 in private funds by October to build a new playground for children of all abilities.

In the public meetings that have been held so far, parks officials have heard from a lot of passionate neighbors.

"The biggest issue is people have a longer list of stuff they'd like to do" (to improve the parks)," says Mary Anne Cassin, parks bureau's bond program manager. "They always have good points. But the bond dollars are limited and our first call is to finish the basics of what we promised."

Parks spokesman Mark Ross says voters must keep the big picture in mind: The bond is just one source of funding to address the much longer list of critical and urgent needs.

"We have a 10-year need of \$472 million," Ross says. "Our unfunded maintenance overall is \$248 million. It's great to have \$68 million and reopen Couch Park playground and make sure Grant Pool doesn't fall apart, but it's not the only endeavor needed."

In addition, parks staff estimate their growth needs at \$47.2 million per year, or \$472 million over 10 years.

System development charges (one-time fees assessed on new development) will go toward those needs in the meantime.

In the meantime, a five-member bond oversight committee has been meeting quarterly to review the projects and will report to the council this fall with an update.

At the committee's next meeting later this month, they'll focus on how the bond will deliver its promise of equity.

"We're defining it broadly," Cassin says. First, in their hiring practices — they're looking for certified minority-owned, women-owned and emerging small business firms, which garner higher scores in the hiring process. "We're paying a lot of attention to that goal," she says.

There's also the outreach process, which will involve engaging community members where they are, Cassin says — in their neighborhoods, at places of worship, at markets and other local gathering places.

The parks bureau has hired five project managers, a public involvement specialist and a procurement specialist to conduct the bond work.

Three-quarters of the funds — \$48 million — have been committed so far, with urgent needs identified during the bond campaign.

The second list, with \$20 million available, will launch this year with public involvement, considering both critical needs and equity in geography.

Parks bond projects

- The bond includes fixing or replacing seven playgrounds, including: Creston, Couch, Kenton, Lents, Lynchview, North Park Blocks and Ventura Park.
- Three trail and bridge projects, including: Maple Trail, Forest Park (Macleay Park bridges) and Springwater Corridor Trail (replace bridges, stabilize trail).
- Three pools: Grant, Matt Dishman Community Center and Peninsula.
- Two work sites: Mt. Tabor Yard and the Urban Forestry Team at Delta Park.
- Other work is set for Pioneer Courthouse Square maintenance and accessibility improvements systemwide.

City voices support for park land acquisition

*By Patrick Malee
January 14, 2016*

When the city of West Linn acquired 14 acres of land at the White Oak Savanna in 2009, the idea was to eventually do the same for the remaining 5.65 acres and thus add nearly 20 acres of park space to the city.

That process has proven particularly rigorous for volunteers and City officials alike, but took a significant step Jan. 11 as the City Council unanimously voiced support for West Linn eventually taking title for the remaining 5.65 acres and continuing to search for funding.

"Parks in this community are so important and this is such a unique habitat opportunity with the White Oak Savanna as well," Mayor Russ Axelrod said.

According to organizer and advocate Roberta Schwarz, community members have donated or pledged about \$300,000 in an effort to match the \$500,000 grant that Metro awarded to the Trust for Public Land (TPL) back in 2013. The TPL has worked with Schwarz's Neighbors for a

Livable West Linn in an effort to negotiate the eventual sale of the remaining 5.65 acres, which are owned by the RKM Development Corp.

Appearing before the council Monday, Schwarz and TPL Project Manager Owen Wozniak said that Metro's grant funding was set to expire this month. Thus, they would need formal support from the council before negotiating an extension.

"We are approaching the end of that two-year window (for Metro's grant)," Wozniak said. "But we have learned that there is an opportunity to extend that window an additional six to eight months if we request that, but they've indicated they would like to know if West Linn is interested in proceeding and taking title of the property."

Now that the City has confirmed that interest, TPL, Neighbors for a Livable West Linn and the West Linn Parks and Recreation Department will work together to explore additional funding opportunities. Neighbors for a Livable West Linn suggested pursuing a Local Government Grant from the Oregon Parks and Recreation Department, but West Linn Parks and Recreation Director Ken Worcester said that would be difficult as state funds may also be needed for the Cedaroak Boat Ramp repair project.

"I would be challenged at best, then, to go to the state and say, 'Which grant do we really want?'" Worcester said. He also noted that the remaining 5.65 acres are currently zoned for commercial/residential use, which would technically prohibit the conversion to a park in the absence of a zoning change.

Under City code, parks are allowed in areas zoned "residential."

With Worcester's guidance, the council's direction Monday was for staff to work on a general funding plan without honing in on any particular grant at this time.

Meanwhile, Worcester said planning continues for the "nature playground" which will be installed at the 14 city-owned acres of the White Oak Savanna. On Feb. 27, the City will host a workshop for young students to share design ideas for the playground.

"The goal is to provide an experience that will enhance the benefits of why we bought the first 14 acres," Worcester said.

For more information, visit tpl.org/our-work/parks-for-people/white-oak-savanna.

Sources: Novick, Knight make nice

*By Jim Redden
January 14, 2016*

They say politics makes strange bedfellows. A case in point: Commissioner Steve Novick and Nike CEO Phil Knight.

On Thursday, Novick announced that Nike had committed \$10 million to finally start the long-stalled Portland bike share program. The five-year sponsorship commitment allows Nike to put its logo on the new rental bikes.

But just six years ago, Novick was a main spokesman for two ballot measures opposed by Knight. As a liberal political activist, Novick campaigned in favor of ballot measures 66 and 67, which were approved by the voters in January 2010 and raised taxes on corporations and the wealthy.

The biggest contributor against the measures? Knight, who donated \$150,000 to the losing campaign to defeat them.

Political courage or foolishness?

But Novick is not a conventional politician. The most recent proof is his willingness to run for re-election while championing a gas tax measure for Portland streets that also will appear on the May primary election ballot.

The thought of having such a measure appear on the ballot was enough to spook other council members in the past. For example, then-Commissioner Charlie Hales convinced the council to approve a \$1.85 monthly residential street fee in 2001, but then convinced them to repeal the charge after opponents collected enough signatures to force a public vote.

In 2008, then-Commissioner Sam Adams persuaded the City Council to approve a \$4.29 monthly street fee, but backtracked and had it repealed a week later after a referendum threat. Adams would have appeared on the same ballot as a candidate for mayor — an election he won.

Emmons to challenge Novick

Another candidate is expected to challenge Novick when architect Stuart Emmons announces against him on Jan. 19.

Emmons, who started the Emmons Design architecture and planning firm, also is known as co-founder of Friends of the Memorial Coliseum, which is seeking to preserve the iconic Portland spectator facility.

Novick has proposed replacing the coliseum with affordable housing, but Emmons says that is not the only reason he is running, citing a long record of community involvement, including volunteering with Portland schools.

His first joint appearance with Novick is expected to be the Jan. 26 Candidates Forum for Arts & Culture hosted by the Regional Arts & Culture Council at the Gerding Theater at the Armory, 128 N.W. 11th Ave.

Novick, who is serving his first term on the council, also is opposed by Michael Durrow, Shannon Eastbrook and Joseph Puckett. The election could be won in the primary if any candidate receives more than 50 percent of the vote.

Fire Chief Janssens plans to retire in April

By Pamplin Media Group

January 13, 2016

Portland Fire Chief Erin Janssens said Wednesday that she plans to retire in April.

Janssens has been a firefighter for more than 31 years, 28 of those with Portland Fire & Rescue. She said her plan to retire in 2015 was delayed by bureau projects that she needed to shepherd through the system.

By giving three months notice, Janssens said she hopes it will be enough time for the city to find a replacement chief.

"It has been an honor and privilege to serve as your fire chief," Janssens said. "I am extremely proud to have had the opportunity to lead Oregon's largest fire and rescue organization of 730 talented and highly trained people dedicated to protect lives, property, and the environment. I have loved coming to work each day, and am proud to call many of you friends."

Gardens, pools, fountains, summer programs on early parks chopping block

By Jennifer Anderson

January 13, 2016

A hoard of angry parks supporters showed up Tuesday evening to the first of two forums this week to weigh in on proposed Portland Parks & Recreation cuts.

In response to Mayor Charlie Hales' directive to bureaus to propose 5-percent budget cuts to fund a \$20 million commitment to the homeless crisis, Parks Commissioner Amanda Fritz has proposed 21 staff cuts and reductions to parks programs at a cost savings of \$3.3 million.

One of the proposals generating the most ire is to the doubling of plot fees to the city's community garden program, which are now \$25, \$50 and \$100, depending on plot size.

Those fees have seen a couple of increases in recent years, due to similar city pressures to reduce the program's reliance on the general fund.

The community gardens are 75 percent funded by the general fund, 25 percent by plot fees.

About 21 percent of community gardeners last year received scholarship assistance on a sliding scale, most qualifying for the biggest discount of 75 percent, says Laura Nieme, program coordinator.

The new proposal would increase the scholarship allowance to 85 percent, which would help more neighbors at the lowest income level.

The garden program "has historically provided scholarship assistance to everyone that has requested it and met the income guidelines," Ross says.

"We do not intend to limit the number of scholarships provided in the future if this proposed fee increase does actually come to fruition."

Still, many gardeners say the proposal simply doesn't make any sense, and will impact low-income people the hardest.

"I think it's a factor of the gardens being so expensive, why the North (Portland) gardens are so empty," says Helen Ost, manager of the Johns Community Garden in St.. Johns. "We have to do more outreach."

Twenty of her 82 plots are vacant, Ost says, in large part because her neighbors can barely afford the current fee.

"It used to be less expensive," she says. "We lost a lot of the low-income people."

While the parks bureau has a scholarship for community gardeners available, a lot choose not to apply for it, Ost says.

Putting the burden on low-income neighbors to submit their financial information and apply for the scholarship "is something kind of unpleasant, mean-spirited," she says.

She and other neighbors ask why the fees can't be instituted on a sliding scale, or why the city can't apply for grants to help support the gardens.

Niemi says the garden program does have shorter waiting lists in North Portland, especially St. Johns and Portsmouth. In other parts of the city there are long waiting lists, with little turnover.

All community gardeners are required to volunteer six hours per year to care for the site, and many put in much more, Niemi says.

Last year gardeners at all 52 sites logged 16,000 volunteers hours, the equivalent of eight full-time staff the parks bureau doesn't need to hire to maintain the sites.

Parks officials stress that this is only the start of the budget process for the next fiscal year, part of an overall effort to increase gross revenue by about \$111,000 and part of the \$2.9 million in bureau cuts mandated by the mayor.

"We received 827 online comments regarding this proposal, via the online survey which closed this morning, and 64 testimonials at last night's public meeting," Mark Ross, parks spokesman, said Wednesday.

"Of those, there were a range of opinions; many were against the idea ... and some people thought the proposal was completely reasonable."

Ross said there were also 40 emails opposing the proposal, which were sent to Parks Director Mike Abbaté and garden staff, and all were answered.

Other programs identified

The community gardens package is just one of 19 items on the initial list of parks reductions, including some sacred cows that recur year after year early in the budget process.

Some of the more dramatic proposals include:

- Cutting aquatic services including closing Buckman Pool permanently, closing Columbia Pool on Sundays, reducing play swims from seven days to four days per week, and implementing midday closures at three other sites to save \$260,000.
- Eliminating the Movies in the Park and Concerts in the Park programs, including the Washington Park Summer Festival, as well as the summer playground programs not affiliated with the summer lunch or East mobile recreation program, to save \$185,000.
- Cutting the SUN Community School program by two sites — Mt. Tabor and Beaumont — to save \$210,000.
- Shutting off access to 18 fountains, 11 of them interactive parts of summer recreation and cooling opportunities, to save \$570,000.
- Increasing daily parking fees at the Block J parking lot to generate \$100,000 in revenue.
- Eliminating the Dutch Elm Disease treatment program by shifting responsibility onto adjacent property owners, to save \$185,000.
- Reducing the general fund's share of parks maintenance from \$1.5 million to \$1 million annually, to save \$500,000.

- Eliminating or reducing the Teen Force program at Mt. Scott Community Center to save \$100,000.
- No longer planting or maintaining 300 container gardens in the downtown corridor, to save \$110,000.

To see the full list of proposed cuts: portlandoregon.gov/parks/article/559446.

The public is invited to send comments and testify at the open house set for 5:30-8 p.m. Thursday, Jan. 14 at a meeting of the Bureau Advisory Committee in the Portland Building, 1120 S.W. Fifth Ave., second floor Conference Room C.

The mayor will propose his budget later this spring, after which the City Council will adopt the final budget.

Willamette Week

Can Portland Voters Stomach Five Tax Measures In 2016?

*By Beth Slovic
January 13, 2016*

Don't spend your Powerball winnings just yet: 2016 is already shaping up to be the year of the money measure.

Last week, City Commissioner Steve Novick announced that the Portland City Council will vote Jan. 27 whether to send a 10-cents-a-gallon gas tax to the May ballot.

The gas tax is the latest episode in a city transportation-funding soap opera that's aired for nearly a decade, with plot twists including an ill-fated "street fee" pushed in 2014 by Novick and Mayor Charlie Hales.

Tax backers usually want to avoid May ballots—voters tend to be older and more conservative then, give or take a few thousand Bernie Sanders socialists. But getting the gas tax in front of voters early makes more sense in a year when as many as five tax measures could ask Oregon voters for about \$2.7 billion a year in additional cash, either directly via property tax increases or indirectly through payroll taxes or higher prices on consumer goods.

Portland voters are fairly easy to sell on new taxes: In the past decade, they've approved money measures to fund schools, the arts, libraries, fire safety, children's services and the Oregon Zoo.

The November ballot already looks so crowded—with Portland State University, Portland Public Schools, labor groups and housing advocates possibly hunting for dollars—that observers wonder whether tax fatigue will force somebody to wait until the next election cycle.

Mike Lindberg, who served on the Portland City Council from 1979 until 1996, says groups seeking additional public funding would do well to consider what else is on the ballot with them. "You need to be very conscious of who else is asking for money," he says. "In my own opinion it's hard to pass more than two at once."

Here's a look at all of the proposed measures jockeying to get inside your wallet.

1. What: Portland gas tax
Who's backing it: Commissioner Steve Novick is bringing his 10-cent-a-gallon proposal to

the Portland City Council on Jan. 27.

What it's for: Filling potholes, repaving streets, adding sidewalks and improving pedestrian crosswalks.

How much it would raise: About \$16 million a year—a tiny fraction of Portland's maintenance backlog of more than \$1 billion.

When: May 2016

2. What: A new Portland Public Schools construction bond that would cost at least \$1.10 per \$1,000 of assessed value (or \$220 per year for a home assessed at \$200,000).
Who's backing it: Oregon's largest school district.
What it's for: Rebuilding Benson, Madison and Lincoln high schools.
How much it would raise: Portland Public Schools hasn't settled on a figure, but it could be in the range of \$450 million to \$650 million total over the life of the bond. The new bond would be on top of the existing bond that voters approved in 2012. The new bond would at least double whatever homeowners currently pay for school construction.
When: November 2016
3. What: A new tax to fund affordable housing projects in Portland.
Who's backing it: A group calling itself the Welcome Home Coalition, backed by Street Roots, the Community Alliance of Tenants, housing nonprofit JOIN and others.
What it's for: Advocates want to find a dedicated funding stream to build additional units of affordable housing.
How much it would raise: Backers haven't decided on a specific method or dollar amount but say they need at least \$50 million a year to address the problem adequately.
When: November 2016
4. What: A business payroll tax of one-tenth to two-tenths of 1 percent for Portland State University.
Who's backing it: PSU President Wim Wiewel and the university's board of trustees.
What it's for: College scholarships.
How much it would raise: \$30 million to \$70 million a year.
When: November 2016
5. What: A higher corporate minimum tax on businesses whose Oregon sales exceed \$25 million a year.
Who's backing it: Our Oregon, an advocacy group backed by labor unions.
What's it for: To supplement Oregon's general fund budget, which pays for schools and other human services.
How much it would raise: \$2.5 billion a year.
When: November 2016

Fire Chief Erin Janssens Will Retire in April

Janssens was appointed chief of the notoriously clannish fire bureau in 2012 by then-City Commissioner Randy Leonard.

*By Nigel Jaquiss
January 13, 2016*

Portland Fire & Rescue Chief Erin Janssens has announced her retirement after three years in the top job.

"After over 31 years in the Fire Service, nearly 28 of those with Portland Fire & Rescue, I'm pleased to announce my decision to retire this coming April," Janssens wrote in an email to firefighters. "This gives me time to finalize a few projects and provides Commissioner [Dan] Saltzman time to identify Portland's next Fire Chief."

Janssens was appointed chief of the notoriously clannish fire bureau in 2012 by then-City Commissioner Randy Leonard.

Her three years at the helm of Portland Fire & Rescue have been rocky, marred by an assistant fire marshal telling a downtown sex club how it could ignore potential fire-code violations, and Janssens' own grabbing of a subordinate in a threatening manner during a meeting.

Janssens, the bureau's first female chief, sent out the message below to her staff today:

After over 31 years in the Fire Service and nearly 28 of those with Portland Fire & Rescue, I'm pleased to announce my decision to retire this coming April. Retiring in the spring gives me time to finalize a few projects and provides Commissioner Saltzman time to identify Portland's next Fire Chief.

It is bittersweet to officially identify my retirement date, as it has been an honor and privilege to serve as our city's Fire Chief. I am extremely proud to have had the opportunity to lead Oregon's largest fire & rescue organization of 730 talented and highly trained people dedicated to protect lives, property, and the environment. I have loved coming to work each day, and am proud to call many of you and my esteemed colleagues throughout our city, state and nation, friends.

My initial plan when I became Fire Chief was to retire in 2015, however as projects continued, I stayed to see those things through. What I've come to realize is that we will always be in the midst of one innovation or another, and every leader must at some point identify when they will pass the proverbial torch. I've stayed to finish goals I had set, including ensuring we had a solid and experienced leadership team in place to help the next Chief, and initiatives for the next generation to advance.

Mayor Charlie Hales, Sitting on Flush Campaign Account, Gives to Commissioners Novick and Fritz

*By Beth Slovic
January 12, 2016*

Mayor Charlie Hales started 2016 with nearly \$28,000 in his campaign account, despite announcing in October he wouldn't seek a second term.

He dropped hints in December on how he plans to spend his contributors' money.

New records with the state elections office show Hales on Dec. 1 gave \$1,000 each to Commissioners Steve Novick and Amanda Fritz, who both face re-election primaries in May.

Novick has reported collecting \$160,000 in 2015; Fritz so far has reported just one \$2,000 contribution from herself and a \$71.88 personal expenditure in 2015.

The Portland Mercury

Hall Monitor

Road Wear Fair Shares

By Dirk VanderHart

January 13, 2016

ON JANUARY 6, Commissioner Steve Novick had just heard a glowing recommendation for one new source of money for Portland streets when he let fly with another idea.

The 10-cent gas tax Novick wants to put before voters in May, cheered on by the City Club of Portland at the meeting, would be a small step toward solving Portland's ever-growing road maintenance backlog—reportedly \$64 million over four years, though estimates suggest the city should spend more than seven times that much.

So Novick unveiled another concept he's been shopping around recently: a new sales tax on the metal-studded tires some drivers slap on at the first sign of frost.

"Studded tires impose inordinate wear and tear on the roads," Novick said at the hearing, noting he'd spoken to the heads of Multnomah, Washington, and Clackamas Counties about the idea. "All of them expressed interest in that."

That's maybe an overstatement. Multnomah County Chair Deborah Kafoury, for instance, vaguely remembered Novick mentioning something about the tax, spokesperson Dave Austin told me, but "recalls no detailed discussion."

But Novick's convinced it can work. His idea, still short on specifics, hinges on all three counties in the Portland region passing the tax at once, since he says "people would cross county lines" to buy cheaper tires.

Whether or not it comes to pass, the idea makes sense. Damage from studded tires costs Oregonians roughly \$8.5 million a year according to the Oregon Department of Transportation (ODOT)—a figure that doesn't account for damage to city roads. People should be willing to pay for the privilege of issuing that punishment to our streets.

Interestingly, the fuel tax Novick hopes to put before voters in May will let another type of road destroyer slide. The tax won't apply to diesel vehicles over 26,000 pounds, even though those huge trucks grind streets to rubble.

"We don't want to let diesel off the hook," Novick told me last week. But he said officials at ODOT had impressed upon him that truckers would simply bypass Portland when needing to fuel, leaving local truck stops in the lurch.

It's not a scientific finding. ODOT spokesperson Kevin Beckstrom called it "an anecdotal thing that was passed on, and someone took it as gospel truth." Of 14 Oregon cities that impose fuel taxes, just one absolves diesel.

It's not hard, of course, to envision truckers venturing beyond city limits for cheaper fuel. But let's be clear about the damage they're causing city roads. According to a recent report from the City Club, "one heavy truck does roughly as much pavement damage as 10,000 cars." They should pay for roads, just like studded tire users.

Which is why you might be hearing about yet another proposal soon. The city's exploring taxing diesel fuel as it leaves enormous storage tanks on the Willamette River, a so-called "load fee" Novick thinks can apply even to trucks that barely drive in Portland.

He expects some outcry, but thinks the idea will fly. "We need to figure out a way that freight pays."

The City's Terrified You'll Access Its Decades Old Legal Opinions—So It's Heading To Court

*By Dirk VanderHart
January 13, 2016*

In the 1980s, the Portland City Attorney's office shared three opinions with Portland city officials.

It shared far more than that, of course, but the Multnomah County District Attorney has specifically ordered that you should be able to see these ones, along with a city attorney's memo from 1990. They're the subject of a recent public records request by Portlander Mark Bartlett, who believes the opinions could throw a wrench in the ongoing transformation of open-air water reservoirs on Mt. Tabor and in Washington Park. And they're aged enough—more than 25 years old—that the DA's office says they're no longer subject to attorney-client privilege.

Portland City Council mostly disagrees. In a 4-1 vote this morning, at the urge of city attorneys, commissioners voted to appeal the order that it fork over the documents. That despite the DA's office's belief that state law unequivocally mandates that "public records that are more than 25 years old shall be available for inspection."

Commissioner Steve Novick, who noted he doesn't "see away around" the DA's opinion, was the lone "no" vote.

Commissioners took a lot of heat from audience members for the decision, but most were ardent that it was necessary. At issue, they argued, was the integrity of the city's legal defense. Led by Commissioners Nick Fish and Amanda Fritz, the council seemed to agree that frank legal opinions might be jeopardized if you and I could access them two and a half decades down the road.

"If we can't get candid legal advice about the strengths and weaknesses of our case without fear they will become part of the public domain... we won't ask for them," said Fish. "In that narrow instance, I think the district attorney's decision doesn't make sense."

Fish says he's not at all concerned with the specific content of Bartlett's request—and that he doesn't even know what the memos contain. If he were, he'd perhaps have more reason than other commissioners to take issue in this case. Bartlett is a longtime participant in the struggle over the open air reservoirs. In his request and subsequent appeal, he makes clear he believes the opinions he's asking for could stymie plans for repurposing the reservoirs, which is largely the purview of the Fish-controlled Portland Water Bureau. Bartlett apparently believes land transfers between the Water Bureau and Portland Parks and Recreation are "illegal."

"If the City is confident that they are not acting illegally and are complying with the Charter, then disclosing the content of these opinions...will not be any concern," he writes.

Council plainly disagrees. Fish repeatedly raised scenarios like the ongoing cleanup of the Portland Harbor Superfund, which has dragged on for years, and promises to drag on for years more. Fish argues it's possible legal advice the city received at the beginning of the process could be publicly available before its all over—to the general public, sure, but more worryingly to oppositional parties.

"If the statute can be read in a different way...I'd prefer to have a court decide that," Fish said.

Everyone except Novick agreed, though even Chief Deputy City Attorney Harry Auerbach conceded the appeal was "not a slam dunk by any means. We're trying to preserve our ability to give you the best legal advice we can."

City council's also going to try to petition the legislature to modify Oregon public records law, to make clear that attorney-client privilege should never expire.

Weirdly, this wasn't the only appeal council mulled this morning. Commissioners also debated whether to fight a recent ruling [pdf] by US District Court Judge Michael Simon that people can't be excluded from city properties into the future being disruptive on a given day.

The ruling came after Joe Walsh, a frequent gadfly at city council hearings, filed suit, disputing a months-long exclusion issued last July. (The city used to have footage online of the delightful and theatrical exchange that led to Walsh receiving the exclusion, but now I can't find it.) In his opinion, Simon essentially struck down the city ordinance (scroll down to 5b) that allows the city to kick people out of public buildings for weeks, months, or forever, for violating rules of conduct. Simon upheld the city's ability to kick people out of individual hearings for being disruptive.

The city's thinking of appealing that—largely, it emerged today, because commissioners are concerned Portland no longer has leeway to ban people who are threatening city officials or staff. Looming large in that discussion was a November 25 incident where police arrested a man named Barry Joe Stull prior to the council meeting (video below). When the room was cleared out, someone had apparently left a backpack behind containing, according to Commissioner Dan Saltzman, a "beeping smoke detector."

"I don't know if this was a hoax," Saltzman said this morning. "The intent was to stoke fear."

Commissioners had far more qualms about appealing Walsh's case than they had in the public records matter. That was helped along by Mat dos Santos, legal director at the ACLU of Oregon, who said his organization opposed the appeal.

"A simple fix to the ordinance would create exactly what you're trying to do," dos Santos said.

"Identify a distinction between city council meetings where people are disruptive and situations

where people are creating an actual threat. That is not protected by the first amendment—never has been."

Commissioners liked that suggestion, but held off on any action today. They'll reconsider an appeal in two weeks.

By the way, Walsh also spoke up at the hearing, chiding commissioners for even considering an appeal of his victory—which could set precedent in the Ninth Circuit Court of Appeals.

"You'll make me a folk hero in nine states," Walsh said. "I'm too old for that."