

The Oregonian

\$258 million affordable housing bond will be a test for Portland (opinion)

By Guest Columnist Bruce Stephenson

July 5, 2016

In a historic pronouncement, the Portland City Council asked voters to approve a \$258.4 million bond measure for affordable housing. If passed, it will set the foundation for a systematic response to the housing crisis.

Since declaring a "housing state of emergency" in October, the City Council has allocated over \$100 million to stay the emergency, and this final investment should still critics such as Joel Kotkin, who claims that the gentrification of minority neighborhoods is a racist mark against the "achingly politically correct city."

Limiting suburban sprawl and investing in sustainability is Portland's downfall, Kotkin contends. His new book, "The Human City," offers affordable, laissez-faire Houston as a prototype, but it fails to mention that the displacement rate of African Americans in the historic Third Ward matches Portland's. Thousands of Houstonians also inhabit gated subdivisions on low-lying flood-prone land, an exclusionary, unsustainable landscape foreign to Portland.

Portland is a definitive "knowledge city," according to analyst Richard Florida, where clustering population in urban centers is a key factor in innovation and economic growth. The booming high-tech sector exemplifies how specialized skills, creativity and abstract thinking can fuel profits. The good news is that capital is flowing into Portland; the problem is that markets do not respect equity.

City planning is a paradoxical enterprise. In a capitalist society, where property rights and free enterprise are sacred, planners must set controls on development to procure the common welfare. Portland, as much as any city in the United States, balances private interests and the public good to productive ends. Yet, even here, housing a diverse range of incomes is a challenge.

Gentrification, which is the opposite of the lethal dis-investment that eviscerates cities, is a product of urban revitalization. In Portland, investment in pedestrian-scaled urbanism with access to transit has increased the demand for new development in older neighborhoods with disadvantaged populations.

Lisa Bates, a Portland State University professor, identified areas prime for gentrification and found that renters occupied 44 percent of households. There are no easy solutions, but ensuring that 45 percent of housing is affordable (the urban renewal requirement) in these areas is step one.

Of course, homeowners will still sell their property to reap windfall prices. In the real estate market, the profit motive is a Darwinian force that drives cycles of boom and bust. Thus, even the best-planned city will grapple with gentrification until housing is defined as a public utility.

Allocating \$258 million for affordable housing will move Portland in that direction. The bond measure vote, then, is not only a test for the city but the nation.

When Ronald Reagan severed funding for the department of Housing and Urban Development, he claimed municipal governments should solve urban problems. His mantra still holds sway, and Portland stands at the nexus of progressive and conservative values.

In November, property owners will be asked to help their less-fortunate neighbors, and their decision will reveal the virtue of a free people and Portland's standing as a model city.

The Portland Tribune

Chief releases police report and personnel files, earns mayor's support

*By Jim Redden
July 6, 2016*

Mayor Charlie Hales expressed support for newly appointed Police Chief Mike Marshman on Tuesday after the release of a 2006 police report into allegations that Marshman physically abused his former stepson four years earlier.

Although Marshman was not charged or disciplined because of the 2002 incident, he expressed remorse for his behavior Tuesday, saying it was "not my finest hour as a parent." He is not considering resigning, however.

"I'm planning on staying. The incident happened during a marriage that lasted 13 years, but it didn't work out," Marshman told the Portland Tribune.

Marshman denied the most serious accusation in the report, that he strangled his stepson during the incident. Instead, Marshman told the Portland Tribune on Tuesday that he "'checked" his stepson across the chest with his forearms, with his fingers resting across his throat.

Marshman also told the Tribune that he misspoke when interviewed by the newspaper about the incident last week. At that time, Marshman said his stepson was 19 or 20, not 17 as described in the police report. Marshman said he thought the question was about his stepson's age during the investigation, which happened four years after the incident.

Marshman also released his personnel file on Tuesday. It is replete with positive evaluations and commendations for his actions during his lengthy career with the bureau. The only criticism is a letter of reprimand for an incident when he was assigned to the Mounted Horse Patrol and someone complained about the way Marshman's steed pinned him against a loading dock.

Marshman says he hopes the release of the documents will help restore public confidence in the police bureau. Hales appointed him on June 27 to replace former Chief Larry O'Dea, who resigned while being investigated for misleading investigators about allegedly shooting a friend by accident during a hunting vacation in Eastern Oregon. Criminal, internal and independent investigations into the incident are still underway.

"When judging Mike Marshman's professional qualifications to be chief over his 25-year career," Hales said Tuesday, "he has demonstrated dedication and a superior skill set to be a leader — including strong recommendations from the U.S. Department of Justice, and key

community partners. I have confidence that Chief Marshman can lead complex reforms, and urgent needs the bureau must address now, and into the future.”

The police report released Tuesday adds new details to the investigation into the abuse allegation, which was made anonymously in two letters received by the bureau in the months following Marshman’s 2005 divorce from his former wife. It documents an extensive investigation into the accusation that Marshman abused his stepson at their home when he was a sergeant, including interviews with the stepson, the ex-wife, and the new resident of the home, where a wall allegedly had been damaged during the confrontation, among others. The report refers to pictures of bruising on the stepson’s neck taken the next day, but they are not included.

"Portlanders should be reassured by the extent of the investigation," Marshman said.

A 2006 report by the Multnomah County District Attorney’s Office summarizes the criminal investigation and also explains why no charges were filed against Marshman at the time. The report, first described by the Portland Tribune last week, says Marshman and the stepson clashed after the stepson called Marshman an “a**hole” for asking him to turn off a light in a room in their home.

The DA’s report says the stepson said there were no lasting injuries as a result of the incident, which ruled out a felony charge being filed. Too much time had passed for any possible misdemeanor charges from being filed, the report says.

Marshman also was investigated in 2006 by the bureau's Internal Affairs Division over the incident, but he says the accusations were deemed “unproven” and the records were purged after seven years, according to bureau policies.

Release not first time

This is not the first time a Portland police chief released his personnel file under pressure.

Former Chief Charles Moose released his in 1997 after an attorney said he requested it as part of a discrimination lawsuit filed by a former bureau employee. It revealed Moose had been disciplined four times since joining the bureau in 1975 for yelling at retail clerks or city employees he thought were discriminating against him.

Moose was the bureau’s first African-American chief. In each case, Moose said he thought he was being discriminated against because of his race.

In all four cases, Moose was sent to counseling for violating the bureau’s standards of conduct, communication and procedures. The first incident took place in 1982 and the most recent one occurred in 1992. Moose expressed remorse for the incidents when he released his file.

Former Mayor Vera Katz said she was aware of the incidents and discipline when she appointed Moose as chief in 1993. Much of the rest of the file included positive performance reviews and commendations from citizens.

Moose left Portland in 1999 and became police chief in Montgomery County, Maryland, where he was the primary official in charge of efforts to apprehend the so-called “Beltway snipers” who killed 17 people and wounded 10 others between February and October 2002.

Find out more

- Portland Police Bureau reports on the incident: tinyurl.com/jyvd22f
- Marshman's personnel file: tinyurl.com/zyta6h2
- Most recent Portland Tribune story on the issue: tinyurl.com/hv9sx6o

Willamette Week

When an \$83,000 Sprinkler System is a Cost of Doing Business

By Nigel Jaquiss

July 6, 2016

At least 14 Portland nightclubs were affected by the city's 2013 sprinkler ordinance—an ordinance the state Building Codes Division now says is illegal.

Biddy McGraw's

6000 NE Glisan St.

Best known for: Founding publican Patricia "Biddy McGraw" O'Neill.

What they paid: Philip Ragaway, who owns the building that houses Biddy's, told a state Building Codes Division investigator he spent about \$83,000 installing a sprinkler system in the buildings.

Alhambra Theater

4811 SE Hawthorne Blvd.

Best known for: Closing in 2015.

What they paid: Ragaway, who also owns the Alhambra Theatre, says he spent about \$90,000 putting in a sprinkler system there. In addition, he says the systems in both of his buildings cost about \$7,000 a year to maintain.

Duke's Country Bar

14601 SE Division St.

Best known for: Country dancing, Taylor Swift's 2006 set.

What they paid: Co-owner Jeff Plew told a state investigator he spent \$94,000 on a sprinkler system for Duke's.

Dixie Tavern

32 NW 3rd Ave.

Best known for: Female patrons dancing on the bar, goldfish races.

What they paid: Plew is also a co-owner of Dixie Tavern, where he spent about \$35,000 installing sprinklers. He says he borrowed money at 14 percent interest to do so.

Dante's

350 W Burnside St.

Best known for: Karaoke From Hell.

What they paid: The owner of the buildings that house Dante's and the Star Theater shared emails with a state investigator in which Frank Faillace, the clubs' owner, said he spent "close to \$100,000" installing sprinklers at both venues.

Star Theater

13 NW 6th Ave.

Best known for: Burlesque shows.

What they paid: Faillace told his landlord he had to borrow money for sprinklers in both of his clubs, and complained to him about "some places operating as normal without the required fire sprinklers."

Holocene

1001 NE Morrison St.

Best known for: Electronica, Damian Lillard's first live hip-hop verse.

What it paid: Co-owner Jarkko Cain told the state investigator the cost of installing a sprinkler system was \$42,475.

Ash Street Saloon

225 SW Ash St.

Best known for: Metal!

What it paid: Owner Patricia Greenlee told an investigator that 10 businesses shared the cost of installing sprinklers. Her share came to \$11,000.

Silverado

310 SW 3rd Ave.

Best known for: Being one of the city's two gay strip clubs.

What it paid: Owner Tom Breazeale said the bids for installing sprinklers came in at \$70,000 to \$80,000, with another \$20,000 to hook up to city water. He never installed the system, he told an investigator, because the city never OK'd the plans he submitted.

Inside an Illegal Crackdown by the Fire Bureau That Put Portland Nightclubs Out of Business

By Nigel Jaquiss

July 5, 2016

On a muggy, overcast Halloween night in 2013, the lights went out at Backspace, an all-ages club in Old Town.

In a city with few places where kids can watch live music, the sweaty coffeehouse defined Portland's underage music scene for six years.

The club's closure left a void that hasn't been filled by any venue since. Local music luminaries mourned the club's demise. "Backspace was huge for my generation of musicians," says Bim Ditson, drummer for the group And And And. "It wasn't just a big deal locally, it was known nationally as a hub for all-ages shows."

What most people didn't know: Backspace closed because of a crackdown by City Hall demanding that more than a dozen nightclubs install new sprinkler systems.

Now, WW has obtained details of an extraordinary state investigation shedding new light on the circumstances behind the closure of Backspace and another club.

An investigator for the Oregon Building Codes Division is unambiguous in his conclusions: By enacting a 2013 sprinkler ordinance, the city broke state law, unfairly forced business owners to spend hundreds of thousands of dollars, and ultimately put two nightclubs—including Backspace—out of business.

"Many property and business owners paid from two to five times the city's [cost] estimate, resulting in costs for some businesses approaching \$100,000," says a report obtained by WW on the state investigation. "At least two shuttered their doors, citing the costs of compliance with Portland's ordinance as the reason."

Portland business owners often bemoan heavy-handed regulation by the city—but the investigative report presents a new twist: A state agency is accusing the city of knowingly breaking the law in its zeal to regulate nightclubs. The investigation is nearing a conclusion just as a new fire chief, Mike Myers, takes over the city's second-largest bureau.

The report reaches damaging conclusions about the city's actions:

- City officials knew they lacked the legal authority to require nightclubs to install sprinklers, yet chose to bypass the steps that might have allowed such a code change. "Portland was keenly aware of this procedure but chose to ignore it," the report says.
- They made the change without first notifying the club owners, despite mandating costs that would run to hundreds of thousands of dollars. "The very individuals who would be most affected by the ordinance received no advance warning," the report says.
- Having enacted the new rules, the city enforced them selectively, forcing some clubs to comply immediately while turning a blind eye to others. "The city treated similarly situated businesses differently," the report says.

City Commissioner Dan Saltzman, architect of the city's 2013 sprinkler ordinance, says the state investigation is way off base. He strongly defends his decision, saying it was a "fundamental issue of public safety" and not an overreach.

"I thought it was the right thing to do then," he says, "and I still think it was the right—and legal—step to take."

In 2013, Mayor Charlie Hales put Saltzman in charge of Portland Fire & Rescue. Saltzman's first act: proposing a new sprinkler requirement.

City code at the time said that any new nightclub with a capacity of 100 or more had to have a sprinkler system—but older clubs that opened before sprinklers were required were grandfathered in, meaning they could operate legally without them.

Saltzman wanted to change that. His ordinance required all nightclubs serving more than 100 patrons to have sprinkler systems, regardless of when they opened. The new rule would impose significant costs on some clubs.

Saltzman says no specific incident in Portland moved him to propose the change, just his general sense that nightclubs without sprinkler systems were dangerous.

In the summer of 2013, Saltzman's office began communicating with Fire Marshal Nate Takara about the commissioner's desire for sprinklers in nightclubs.

But that plan immediately encountered a legal hurdle.

In an email to a Saltzman aide, Takara pointed out that unless a nightclub made structural changes that increased its occupancy, it only had to comply with whatever building code requirements were in force when it began operating.

"Since these businesses were legally permitted," Takara wrote, "Portland Fire & Rescue has no authority to require retroactive fire sprinklers in these businesses unless modifications are made that increase occupancy load."

So the city set about adding to its authority.

In preparation for briefing the City Council, then-Fire Chief Erin Janssens emailed Takara seeking information to include in an FAQ document.

"What public outreach was performed on this regulation?" Janssens asked.

"None," Takara replied.

At a Sept. 4, 2013, council hearing on the sprinkler ordinance, Janssens talked about decades of nightclub fires all over the world and presented a brief video of the 2003 Station nightclub fire in West Warwick, R.I., which left 100 people dead at a Great White concert.

"The fire has spread exponentially now at this point," Janssens told the council, apologizing for the graphic nature of the footage. "People are getting burned."

City officials were alarmed.

"I'm convinced one day we're going to convene as a City Council after a tragedy has occurred, and we'll do the same thing that I'm proposing," Saltzman said. "So I hope we can do it now and hopefully save some lives."

A week later, the City Council passed the ordinance unanimously.

After the vote, fire officials notified 14 nightclubs that they needed to install sprinklers within the next 16 months.

That was new information to almost all of them, since most were unaware the council was even considering a rule change. It was also an expensive proposition.

Jeff Plew, a partner in two affected clubs, Duke's Country Bar and Grill and the Dixie Tavern, quickly realized he would have to spend nearly \$130,000 to install the sprinklers.

Plew says fire officials threatened him with fines and possible closure if he didn't comply in time.

"It's not right what they did," he says now. "I'm not some guy from Las Vegas rolling around in a three-piece suit. I can't afford this."

The new ordinance hit nightclub impresario Frank Faillace particularly hard. Faillace operates two Old Town clubs, Dante's and the Star Theater.

He tried to negotiate with the city for more time. Emails show his pleas were rejected.

"We either come up with the money and get it done, or we are out of business after December 31 of this year [2014]," Faillace wrote in an email to his landlord.

In an email to Takara, Faillace said he spent "close to \$100,000 installing these sprinkler systems." He said he had to borrow the money, rather than pay for it out of operating cash flow, because Takara, the fire marshal, insisted the work be done by Jan. 1, 2015.

Philip Ragaway, the owner of buildings containing two eastside clubs, Biddy McGraw's and the now-defunct Alhambra Theatre, also faced a cash crunch.

He spent about \$173,000 to install sprinklers in both buildings.

Ragaway, who has operated numerous nightclubs in Portland since 1993 and dealt with city and state regulators on numerous issues over the years, tells WW he's never experienced a jolt as unexpected and unaffordable as the sprinkler ordinance.

He says the cost of the new sprinklers forced him to raise the rent at the Alhambra Theatre from about \$4,000 to about \$7,000 a month—which caused the club to go out of business.

"The moment I put sprinklers in, the rent had to go up," Ragaway says. "My tenant was already behind and he couldn't afford the sprinkler cost, so I had to pay and lost the tenant."

At least one club on the city's list escaped the costly renovations. Silverado, a gay bar and strip club downtown, was informed by the city that it had to install sprinklers.

Tom Breazeale, owner of Silverado, told an investigator he obtained bids for a sprinkler system that would have cost about \$100,000 to install but that the city never responded to the plans he submitted for a permit.

"Silverado never has installed the system and has never received a letter or a fine," says Dixie Tavern owner Plew. "I think it's unequal enforcement." (Breazeale could not be reached.)

On Sept. 18, 2014, records show, the Oregon Restaurant and Lodging Association approached the state Building Codes Division to complain about Portland's new sprinkler ordinance.

As its name suggests, the Building Codes Division sets statewide standards for residential and commercial structures.

Agency director Mark Long met with a representative of the city attorney's office to discuss whether the city had the authority to force nightclubs to install sprinklers. The meeting did not go well.

On Jan. 28, 2015, Long told the city attorney in writing he had "reason to believe that Portland's ordinance may not be in conformance with Oregon law," and said his division was opening a formal investigation.

Oregon law prohibits cities from imposing rules that conflict with state building code. Yet Portland had done just that.

The Building Codes Division began a formal investigation conducted by an employee named Adam Blechman. WW obtained a copy of Blechman's report, which is dated April 14, 2016.

As he began gathering documents from the city, including emails between fire officials, Blechman soon found evidence that city officials had known they were on shaky ground.

Takara, the city fire marshal, had sent emails in 2013 to the state Fire Marshal's Office in which he acknowledged that the city needed permission from the Building Codes Division before making any changes to the sprinkler code.

"Takara acknowledged that existing structures cannot be required to add sprinkler systems," Blechman writes in his report. "The state building code cannot be modified by a local jurisdiction."

But the city never sought nor received such permission.

"Portland was keenly aware of this procedure," Blechman writes, "but chose to ignore it."

Today, the city of Portland and the Building Codes Division are at an impasse.

Portland Fire & Rescue spokesman Lt. Rich Chatman says Fire Marshal Takara cannot comment because of the division's continuing investigation.

"The fire marshal acted out of a desire for public safety," Chatman says. "There was no intention to be punitive."

Building Codes Division officials also declined to comment on the case because it remains unresolved.

In the conclusion of his report, however, Blechman lays out recommendations for next steps, including assessing penalties against the city and suing to compel it to cease enforcement of the 2013 sprinkler ordinance.

Sean O'Day, general counsel for the League of Oregon Cities, says it's rare for a state agency to sue a city. "In my experience, it is not common," he says.

Saltzman says he's aware of the state investigation but was not interviewed for it. He says he's convinced the sprinkler ordinance was the right step, and that it has made club patrons and employees safer.

"There have been tragedies around the country and around the world," Saltzman says. "I wasn't going to have a tragedy on my watch when I had the authority to do something."

Although Saltzman says he's confident the city's legal position is sound, the club owners who collectively spent hundreds of thousands of dollars are not so sure.

"There are more than 100 school buildings in this city that don't have sprinklers or meet seismic code," says Ragaway, the landlord of Biddy McGraw's. "There are churches and nonprofits the city doesn't go after. When I complain, they say, 'Just raise the price of your drinks.' It doesn't work that way."

The Portland Mercury

New Police Chief Mike Marshman Has Released His Full Personnel File, and An Investigation Into a Past Domestic Dispute

By Dirk VanderHart

July 5, 2016

Mike Marshman's been police chief for eight days, and he's already releasing a criminal investigation into himself.

After news broke late last week that Marshman choked his former step-son more than a decade ago—an incident that apparently left marks on the 16-year-old's neck—Marshman released both all the 2006 investigative files into that incident and his complete personnel file.

It's a rare and sort of stunning move by the new chief, who's stressed accountability and "community trust" since being promoted last Monday (and it's probably the cheapest any substantive police record has been in this city in years). And the files at times paint a deeply unflattering picture of Marshman.

"In reading the investigative reports for the first time this weekend, I was reminded of and felt sadness over a failed relationship," Marshman wrote in a statement accompanying the files. He has since divorced the mother of the apparent victim (and prosecutors have long-since declined to file charges, partly because the statute of limitations had expired for a possible charge). "It was a volatile situation and I grabbed my stepson and shoved him up against the wall," Marshman continues. "I realize that this encounter was not my finest hour as a parent and is a moment that I regret."

The documents show Marshman's then step-son called him an "asshole" when asked to turn off a light in their Sauvie Island home, prompting Marshman to grab him and push him up against a wall. The incident wasn't investigated for years, until 2006, when a pair of anonymous letters were sent to police detailing the encounter.

Investigators looking into the incident subsequently photographed dents in the wall where the incident occurred, the documents show. They persisted after Marshman and his ex-wife had moved out. Marshman's ex also provided pictures of the marks Marshman left on his stepson, which included "fingerprints on one side and thumbprints on another and yellowing in the center," according to the files.

An interview with the unnamed victim in the incident shows Marshman asked him to repeat himself after the boy called him an asshole. He did and Marshman "choked him and he couldn't breathe and then he dropped him." The victim said Marshman "realized he had done something stupid," and came to talk to the boy shortly afterward about "getting a counselor."

"This is a time where the members of the community as well as the members of the Portland Police Bureau have lost faith in its leaders," Marshman says in his statement. "I hope that by releasing this information and talking about it, it will demonstrate that my commitment for the Bureau to be transparent and accountable starts with me."

But the incident in question was apparently not the only physical altercation Marshman got into with his former stepson. His ex-wife told investigators of another incident when the boy was approximately nine years old. She said she found Marshman on top of the boy in their bathroom, hitting him. The incident didn't leave any marks, she said.

Marshman was aware that the incidents might have an effect on his employment, according to the investigative reports. They note that he and his ex-wife purposefully didn't mention them to a marriage counselor, for fear that "something might happen to Mike and his job if they did."

Marshman's personnel file is nearly 200 pages long, and includes a slew of commendation letters and glowing performance reviews, along with at least one letter of proposed discipline against Marshman, stemming from his use of force in the 1995 arrest of a homeless man. Then Chief Charles Moose ordered Marshman to receive "command counseling" in that case.

Here's the investigative file Marshman released [[PDF](#)].

The Portland Business Journal

Hales gets a new chief as his term hits the stretch run

By Andy Giegerich

July 5, 2016

The deputy chief of staff for Portland Mayor Charlie Hales will helm the City Hall crew as they enter their last six months in office.

Tera Pierce will take over for Josh Alpert, who recently left for a job with the environmental group C40 Cities. Diana Nuñez will become deputy chief of staff after serving as community outreach director.

Hales will leave office in January.

"Tera has been a key member of my team, leading with intelligence, strength and humor," Hales said in a release. "I'm excited to have her join me at the helm for these last, critical six months."

Pierce had previously served as chief of staff for Rep. Jennifer Williamson, a Portland Democrat. Before entering Oregon politics, she managed a Chevrolet dealership in South Florida.

While in Hales' office, she led a community centers initiative, created the new Tribal Liaison position and worked on the city's state legislative agenda.

"Our goal is to leave Portland an even better place through our agenda, and by providing a seamless transition to the next administration," she said.