

The Portland Tribune

Opposition surfaces to idea of using Terminal 1 for homeless shelter

By Jim Redden

July 27, 2016

Business and property owners near Terminal 1 in Northwest Portland are speaking out against its use as a homeless shelter, even temporarily.

And so is environmentalist Bob Sallinger, who says using Terminal 1 as a permanent shelter will violate policies to preserve existing industrial land the City Council approved just a few weeks ago.

“This is not the appropriate location for a homeless shelter. It is industrial land in an industrial sanctuary,” says Jim Stumpf, president of the Overhead Door Company of Portland and a member of the board of the Northwest Industrial Neighborhood Association, where his business and Terminal 1 are located.

According to Stumpf, the association board has scheduled a special meeting for Wednesday to approve a letter to the City Council against turning a vacant warehouse at Terminal 1 into a homeless shelter that could hold hundreds of people, as proposed by Commissioner Dan Saltzman.

Although Saltzman will ask the council to use the warehouse as a temporary shelter on Aug. 10, local developers Homer Williams and Dike Dame have been soliciting private funds for a permanent homeless multi-service center at Terminal 1.

That idea is opposed by Sallinger, the conservation director of the Portland Audubon Society, if it becomes permanent. He says the change would violate new policies in the Comprehensive Plan update approved by the council on June 15. They seek to preserve industrial land for industrial uses, especially along the Willamette River, where Terminal 1 is located at 2400 N.W. Front Ave.

Among other things, the policies call for a limit on the conversion of industrial lands for non-industrial purposes, “especially land that can be used by river-dependent and river-related industrial uses.”

Although Salinger is not opposed to the city opening a new homeless shelter, he says, “This is one where it feels like council has not come close to doing its due diligence or fully informing itself or the public about the implications of this decision. It feels like the kind of well-intentioned but very poorly considered decision that so often gets council into trouble and ultimately destroys public trust.”

Sallinger says the Comprehensive Plan update acknowledged the city has a shortage of industrial land, and that converting 14 acres of it to a non-industrial use will allow industrial representatives to demand it be replaced — potentially reopening debate on the conversion of West Hayden Island to a marine terminal, something the council has so far rejected.

“How will the City make up for this lost acreage? Will it cave to industry demands to roll back environmental protections along the river or convert natural areas like West Hayden Island to industrial use?” Sallinger asks.

Saltzman tells the Portland Tribune he is not surprised by the opposition to his proposal, saying the council will take public testimony on it at the Aug. 10 hearing.

"Those are all legitimate perspectives," says Saltzman.

According to Saltzman, he will ask the council to use the warehouse as a homeless shelter for six months, something that can be done under the City Code and extended up to 18 months in six month increments.

Saltzman did not rule out using the warehouse as a homeless shelter permanently if the private sector provides enough support. Williams and Dame had originally estimated the cost of their project at \$100 million with half the money coming from the private sector, but have since scaled it back to \$60,000. Simply using the warehouse as a shelter would cost much less, however, although no specific figure has yet been released.

"We are going to approach this in phases and see if the private sector can raise the resources necessary to make it successful. If we have to change the zoning, that raises all sorts of rabbit holes we need to go down, including the Comprehensive Plan," says Saltzman.

Mayor Charlie Hales and Commissioner Steve Novick have expressed support for the proposal, meaning it will be approved if they and Saltzman vote for it.

Other opponents include Commissioner Nick Fish, nearby developer

Using Terminal 1 as a homeless shelter is opposed by Commissioner Nick Fish, who is in charge of the Bureau of Environmental Service, which owns Terminal 1. The bureau bought it from the Port of Portland to use as a staging ground for the Big Pipe project that reduced combined sewer overflows into the Willamette River. It has since been declared surplus and put up for sale under a process approved by the council. Bids are being accepted through Aug. 15.

Fish says Terminal 1 should be sold as industrial property that will be used to create family-wage jobs. He says the proceeds would help reduce future BES rate increase.

The idea is also opposed by Tom Cody, the founder and president of project^, a Portland-based investment and property development company. It is currently constructing two six story office buildings on a 91,540 square foot strip of land sandwiched between Northwest Front Ave and the BNSF railroad tracks at 17th Avenue. It is just seven blocks south of Terminal 1, between it and Old Town, where many homeless service agencies are located.

"Our investment is based on the zoning in the area. It's not an appropriate site for a homeless shelter. It's isolated and away from services," says Cody.

Both Cody and Stumpf say they and others in the neighborhood feel blindsided by Saltzman's proposal. Although Williams and Dame pitched their idea of a homeless service center to the Northwest Industrial Neighborhood Association a few weeks ago, Stumpf says no one knew it had any support on the council. According to the council, no one from Saltzman's office or any other city agency has asked the association's opinion about it.

The debate is occurring shortly before Hales has ordered approximately 500 homeless camper to move out of the Springwater Corridor for health and safety reasons. Hales admits there is not enough available shelter space to accommodate many of them, and predicts most will end up camping in other parts of the city.

Homeless shelter proposal breaks unwritten City Council rule

By Jim Redden

July 26, 2016

The homeless crisis has caused an unwritten rule of the City Council to be broken.

Council members usually do not interfere with the operation of bureaus overseen by other members. But Commissioner Dan Saltzman has proposed opening a homeless shelter in a vacant 68,000-square-foot warehouse owned by the Bureau of Environmental Service (BES) over the objections of its commissioner, Nick Fish.

Adding to the breach of protocol, Saltzman, who is in charge of the Portland Housing Bureau, unveiled the proposal mere days before BES was scheduled to accept bids for the sale of the warehouse.

Fish has been overseeing the lengthy surplus sale process previously approved by the council, and has been expecting to sell the former Terminal 1 site for millions of dollars that can be used to reduce the size of future BES rate increases.

But last week, Saltzman let it be known he will ask the council on Aug. 10 to allow the housing bureau to lease the property and contract with a nonprofit social service agency to shelter hundreds of homeless people in it for 18 months. And Saltzman appears to have the votes to do it. Both Mayor Charlie Hales and Commissioner Steve Novick are supportive of the idea, adding up to a majority of the council.

The idea of using the property for homeless services was first proposed months ago by local developers Homer Williams and Dike Dame, who said it would be a suitable location for a large residential multi-service center similar to one in San Antonio. They estimated the project could cost \$100 million, with approximately half the money coming from the private sector. Saltzman says his proposal is a smaller step in that direction.

The 14-acre property is currently zoned industrial. It was purchased from the Port of Portland by BES to serve as a staging ground for the Big Pipe project to reduce combined sewer overflows into the Willamette River. Fish says the zoning should stay industrial and be used by the buyer to create family wage jobs. Saltzman says the council should change the zone to allow the shelter, which is currently prohibited there.

As part of an ongoing civil lawsuit over BES and Water Bureau spending, a Multnomah Circuit Court judge has ruled ratepayer spending must be reasonably related to the primary missions of the bureaus.

John DiLorenzo, the lawyer representing the ratepayers in the suit, says leasing Terminal 1 to the housing bureau for a homeless shelter could be legal, however, because it has been declared surplus. But DiLorenzo says BES should charge the full market rate for the lease, otherwise ratepayers would be illegally subsidizing an unrelated use.

Willamette Week

BikeTown Is a Rarity: A Portland City Service That Bars Users From Suing

By Peter D'Auria

July 27, 2016

Evan Hanczor was eager to explore Portland on a BikeTown ride.

The Brooklyn, N.Y., resident rented two bicycles last weekend from Portland's brand-new, bright orange bike-share system. But he had no idea that by clicking "yes" on the contract in the BikeTown phone app, he was waiving his right to sue the bike share.

"That's troubling," Hanczor said July 22. "When you're hopping on a bike, you're agreeing to some risk. But if it was a clear malfunction of the equipment, whoever runs this should have some sort of exposure."

Last week's launch of a long-awaited Portland bike-share system was by many measures a success. In its first six days, 5,500 people made 13,023 trips on the rental bikes.

But within 48 hours of the BikeTown debut, a Portland personal injury lawyer made an alarming discovery: an obscure clause in the contract, barring riders from suing BikeTown in court.

Buried about three-quarters of the way through the bike share's user agreement, a clause stipulates that users must waive their right to a civil jury trial if something goes wrong on a ride. Instead, the contract forces them into private arbitration with the bike share's operator, New York-based company Motivate.

"You agree that any dispute or claim relating in any way to your use of the services will be resolved by binding arbitration, rather than in court," the agreement reads. It also bars customers from joining a class action lawsuit.

The clause, first reported July 20 by the website BikePortland, is a rare instance—possibly the only one—where a contractor providing publicly funded Portland city services has locked out its customers from suing, even if they get hurt or have their property damaged. Five arbitration experts, as well as numerous city officials, interviewed by WW could think of no other local examples.

Those legal observers were troubled.

"The city spent time developing this, using employees' time, using money from the citizens of Portland," says Lake Perriguet, a leading Portland civil rights lawyer. "To access government services, generally you don't have to waive your constitutional rights."

Portlanders can sue their water and sewer providers. They can sue other transportation services: TriMet, the operators of the SmartPark garages, and even the aerial tram. They can sue rec centers and public pools.

WW could find just one contractor receiving city money that has an arbitration clause similar to BikeTown's: Active Network, which provides services for Portland Parks & Recreation's website. (A trash-pickup company contracting with regional government Metro has a similar clause, but with an exception for injuries or property damage.)

Private arbitration clauses in contracts are used to shield corporations from consumer lawsuits, says Phil Goldsmith, a Portland lawyer and mediator.

In the 1990s, "businesses started doing arbitration as a way to gain advantages over their nonunion employees," says Goldsmith. "The stronger party writes the terms, the weaker party gets to say yes or no."

Legal experts say arbitration stacks the deck against consumers.

"Arbitrations are typically run by these private arbitration companies," says Mark Ginsberg, the Portland personal injury lawyer who spotted the BikeTown clause. "They are very pro-corporation-biased. They are not fair, they are not a level playing field. They are not even close."

In a statement, a Motivate spokeswoman defended the company's practices.

"We believe arbitration is the most efficient and expedient process for resolving disputes," Motivate tells WW in a company statement. "The process assigns a neutral arbitrator to each case and provides an option for either part to have a new arbitrator assigned if there is any doubt about the first one. And, consistent with best practices, we provide an opportunity for any members who prefer not to arbitrate to opt out."

There is a way out of BikeTown's arbitration clause: Email legal@motivateco.com with the subject line, "ARBITRATION AND CLASS ACTION WAIVER OPT-OUT" within 30 days.

But Goldsmith says few people will bother.

"It's a fig leaf," Goldsmith tells WW. "Some number in the high 90 percent of people never read it."

Mandatory arbitration clauses are common in private companies' contracts, appearing in user agreements for companies from Microsoft to American Express and apps such as Pokémon Go.

But they've received increased scrutiny and backlash since a 2015 New York Times investigation.

This spring, the Consumer Federal Protection Bureau proposed new rules to ban financial companies from putting the clauses in contracts with customers. New rules proposed last month by the Department of Education would ban the clauses in the contracts of any educational institution that receives federal funding. Chicago's city council is currently considering a proposal to ban any company that uses the clauses from doing business with the city.

When city officials launched BikeTown last week, they praised it as an ideal public-private partnership.

Officials lauded the fact that the program will not require taxpayer money for its day-to-day operation, instead relying on a five-year, \$10 million sponsorship deal with Nike. The project began in 2011 with \$2 million in federal grant money, allocated by Metro. The placement of its racks, bicycles and terminals was organized by the Portland Bureau of Transportation, and the state contributed \$42,000 for a BikeTown rack at Union Station.

Yet city transportation officials say they did not know that Motivate was placing an arbitration clause in the BikeTown contract.

"Throughout the process of launching BikeTown, we have been careful not to discuss the ins and outs of the contract negotiations," says PBOT spokesman Dylan Rivera. "We feel this is

important in order to preserve the integrity of both past and future negotiations. We do encourage all people who use BikeTown to read the user agreement."

City Commissioner Steve Novick, who oversees the bureau, now says keeping a distance from contract details was a mistake.

"When the city attorney and PBOT negotiated with Motivate, I now wish the city had considered asking for stronger language concerning legal remedies," Novick says. "We should keep this in mind with all city contracts. These mandatory arbitration clauses are now rampant, and that is disturbing."

Ginsberg says he was disappointed to discover the clause in a city program he otherwise supports.

"I really do want BikeTown to succeed," Ginsberg says. "[But] that type of agreement is not needed to run a bike-share program."

Homelessness Activists Trying to March Springwater Corridor Campers Into Mayor Charlie Hales' Neighborhood

By Julia Comnes

July 25, 2016

In the wake of an eviction notice from Mayor Charlie Hales, hundreds of homeless people camping along the Springwater Corridor bike trail in East Portland are trying to figure out where to go.

Some organizers are looking for a new campsite. As first reported by The Portland Mercury on Saturday, the activist group Boots on the Ground is trying to open an "economic refugee camp" somewhere in the city.

Other activists want to stay and fight the police for control of the largest homeless camp in the Pacific Northwest.

Advocacy group Portland Tenants United released a list of demands to Hales this morning—including that he cancel the sweep—and indicated that some campers won't budge.

"At last night's meeting," says Portland Tenants United spokesman Gabriel Erbs, "the Springwater Corridor residents voted not to release specific plans to the media or general public about the scale of their resistance against the sweeps."

Recent mayoral candidate Jessie Sponberg is planning a third option: moving the camps to Hales' neighborhood.

This morning, Sponberg announced an "economic refugee exodus" this Thursday from the Springwater Corridor to parks in the Eastmoreland neighborhood, where both Hales and Multnomah County Chair Deborah Kafoury reside.

"No one wants to have this fight on their front lawn. The city is turning people's homes into battleground," Sponberg said of the sweep. "Let's take it to the mayor's front lawn."

Sponberg's rhetoric recalls his efforts in 2013 to occupy the city's open-air reservoirs on Mount Tabor in protest of the city constructing new underground tanks. That protest went on for several days and was largely without incident, but did not change the city policy.

Sponberg hopes that 100 people will participate in the exodus, though he knows that many people will want to stay behind at Springwater until the sweep.

Sponberg isn't sure if the Eastmoreland location would be a temporary or permanent location for a camp—he says it's up to Hales. "We can turn it into a permanent solution," said Sponberg. "It's a beautiful park where people can access resources. It's a perfect site for that unless the mayor finds something else."

Hales spokesman Brian Worley says the mayor is not yet offering comment on Sponberg's planned exodus.

"If a camp was to spring up in Eastmoreland neighborhood, it would be dealt with in the same way as one in any other neighborhood," says Worley. "We're certainly working very hard to find shelter for people leaving Springwater. We're prioritizing some of the most vulnerable people."

The Portland Mercury

Hall Monitor: Homer Williams' Wish List

By Dirk VanderHart

July 27, 2016

HOMER WILLIAMS is used to getting his way when it comes to homelessness in this city.

The Portland developer instrumental in shaping the Pearl District and South Waterfront—and always ready with the checkbook when a favored candidate is up for election—last flexed that muscle in 2013. That's when he and his business partner, Dike Dame, effectively halted the planned move of homeless rest area Right 2 Dream Too (R2DToo) to a city-owned lot near their shiny new Marriott.

Nearly three years later, R2DToo is still working toward a move (and fending off a new batch of irate developers in the process), and Williams says he's a changed man.

"It's a world I'd never known about," he told me last week of the city's homeless population. "These people don't want to be there. Everyone thinks they're lazy, they're drug addicts. These people can be helped."

Williams credits his new perspective on meeting Ibrahim Mubarak, an instrumental leader with R2DToo and the group Right 2 Survive. And while Williams' tone can sound worrisome at times—in recounting one story to me, he called a homeless black man "cute"—the developer's now relentlessly pushing a vision to help.

Williams being Williams, it looks like he might get his way.

For months, he's been advocating an immense new homeless campus with a temporary, barracks-like shelter space for hundreds of people, and a longer-term residential facility. Williams got the idea while visiting a similar site in San Antonio, Texas, called Haven for Hope,

and he hit on a possible site for his project early on: an old Northwest Portland shipping terminal known as Terminal 1.

Williams says the project would cost roughly \$60 million, which could be split between private donations and public funds. It'd take years to develop.

The problem? The Portland Bureau of Environmental Services now owns the plot, and its overseer, City Commissioner Nick Fish, isn't interested in turning it into a shelter. As rumbles of Williams' plan grew in June, Fish released a lengthy memo laying out a list of reasons why it shouldn't happen at Terminal 1. Those included zoning restrictions, a dearth of similar industrial land near the city center, and the plot's impending sale.

But it looks like Fish's arguments might not matter.

Last week, the Oregonian broke news that Commissioner Dan Saltzman will put forward a proposal to shelter homeless people at a 100,000-square-foot warehouse that sits at the site—a surprise to Fish, and effectively a shot across his bow.

What's more, a majority of council appears to support that plan. Mayor Charlie Hales and Commissioner Steve Novick have spoken positively about Terminal 1's potential as a shelter.

This type of thing is simply not done. In Portland's commission form of governance, commissioners are almost always given a wide berth when it comes to managing their bureaus' assets.

The fact that that trend might be bucked in this case says a lot about the increasingly frantic nature of the city's homelessness crisis. But it'd be stupid not to also note the role the prominent developer has played in getting us to this point.

Once again: What Williams wants, he probably gets.

As Portland's Largest-Ever Homeless Sweep Looms, Advocates Plot Resistance

By Dirk VanderHart

July 27, 2016

THERE IS SHOUTING on the Springwater Corridor again, and it's coming from a house.

It's 10 am on Saturday morning. As advocates prepare to meet with some of the hundreds of homeless residents who will likely be pushed from the multi-use path beginning Monday, August 1, a woman stands on her deck overlooking the trail. She looks tired, strained by the ongoing drama playing out in Portland's densest clutch of poverty.

But mostly, she's angry.

"You'd fucking shit a brick if this happened by your home," she says to no one in particular, as volunteers carry cases of water past her house and toward a large encampment across the trail. "Are you from Lents? None of these people are from Lents!"

The woman refuses to give her name, saying it would only make her a target if it showed up in print. But she's happy to vent at length about the entrenched camps that have caused her problems in the last year.

“I can’t wait to move out, but I’ll never be able to sell,” she says, still half-shouting. Of the nearby camps, she offers a familiar refrain: “There are appropriate places for this. It’s not humane.”

That sentiment—“it’s not humane”—will be echoed just across the Springwater moments later, in a wildflower-dappled floodplain known as “Lambert Field” that’s attracted campers for years.

Two years ago, when the Mercury visited the field for a story on camp cleanups [“Off the Springwater,” News, July 9, 2014], it was largely overgrown, with just a few tents. Today it holds one of the largest encampments on the trail.

Advocates from local volunteer organizations like Boots on the Ground PDX, Free Hot Soup, Rose City Backpacks of Hope, and Portland Tenants United have called the morning meeting to discuss how to react to a decision they say lacks both humanity and logic: Eight days earlier, Mayor Charlie Hales revealed plans to eradicate camping on Portland’s swath of the Springwater trail for good beginning in early August—a massive sweep that is quite possibly the largest single enforcement action like it in the city’s history.

In announcing the impending “cleanup,” Hales placed a premium on an extensive social services outreach he promised would occur. He only glancingly acknowledged an important fact: There are few additional services to provide to displaced people. Outreach has largely involved getting campers on waiting lists for housing, counseling, and other services.

“Housing doesn’t really exist for us to put people into” right now, says Shannon Singleton, executive director of JOIN, an outreach organization that works to find places for people to live. “We can’t promise anything quickly.”

Even a brand-new 200-person homeless shelter in East Portland might not be much help. It’s replacing a 260-bed facility downtown, meaning a net deficit in shelter space for now. The mayor’s office says 55 shelter beds are available for some of the Springwater’s displaced campers.

As Hales explained to the Mercury after announcing the sweep: “Some of those folks are going to camp elsewhere, and hopefully do so in a way that has less impact than what we’ve seen along the Springwater.”

But if the mayor’s early warning gave social workers time to get people on lists, it’s also given other groups time to strategize.

“What we wanted to do is have a conversation—find out what you want from the community,” advocate Vahid Brown tells upward of 60 people at Saturday’s meeting. He’s addressing homeless residents from along the trail, but they are in the minority. Only about 10 hands go up when Brown asks who’s actually living at Lambert Field or nearby. Some others had lived on the Springwater until finding better options. Most of the people present are advocates and volunteers. A few concerned or aggrieved housed Lents neighborhood residents hang out on the perimeter, listening or recording the meeting.

“I really, really object to them throwing our possessions away,” says Desiree Rose, who’d camped along the corridor until finding a home at North Portland camp Hazelnut Grove.

“It’s kind of pointless,” a man living on the trail says of the possibility of resisting the impending sweep. “They do anything they damn well please.”

“I been pretty happy homeless,” another man says. “I been pretty happy camping on the bike path.” Someone says, “Amen!”

Others suggest that all of the Springwater campers are being punished for the work of a few of bad actors. After all, Hales’ announcement followed both a shooting and fire along the trail.

“If someone gets shot, you don’t evict the entire apartment complex,” Ree Kaarhus, executive director of the group Boots on the Ground PDX, told the Mercury two days earlier. “That’s not the way it goes.”

At the meeting, plans begin to unfold for how to respond to the impending cleanup. The collected group comes up with a list of demands they’ll forward to Hales—including that the mayor call off the sweep, identify a new place for people to go, stop criminalizing camping, and allow people to host camps in their backyards.

There are other efforts in the works, too.

Kaarhus announces her organization is planning an “economic refugee camp” for people displaced by the sweep. Like a camp for abused women Boots on the Ground PDX and others briefly established on city property in May, it will be tidy, she says, with space for trailers as well as tents, and security. There will also be a strictly enforced code of conduct.

“This is going to look like a UN refugee camp,” Kaarhus tells the crowd, saying the location will be kept secret until July 31. “If we can make it work, the city may open more organized camps.”

Austin Rose, an activist with Portland Tenants United (PTU) is also present. He explains his organization will help campers nonviolently resist the sweeps, if they choose. One man worries that could get him arrested. Rose says it could, and that PTU activists are willing to put “our bodies on the line,” to help people stay put.

“We want to help you organize a defense of your home,” Rose says. “All we have to do is convince Charlie Hales that it’s not in his best interests to make these sweeps happen.”

But it appears the mayor is resolute. After meeting with trail residents who said they’ll refuse to budge on Monday, the mayor’s office said there are no plans to delay the action.

For the woman shouting out her grievances near the Springwater, that’s little comfort. “They’re just going to come back,” she says.

When a woman who appears to camp on the Springwater rolls by on a bicycle a moment later, calling out “Hi,” the lady on the deck softens.

“Howdy, how you doing?” she replies, then turns back to the conversation. “Some of these people are really nice, and I feel for them.”

Developers Just Sued the City—Again—Over Fees To Pay For City Parks

By Dirk VanderHart

July 26, 2016

Portland Parks and Recreation did itself a solid last year: The oft-cash-strapped bureau ramped up the fees it charges developers to pay for the strain brought by new workers and residents flocking to the city.

To hear parks boosters tell it, the change to these "system development charges" (SDCs) would finally mean a reasonable, adequate influx of cash to help build out city parks for increased use.

The developers paying the fees use different terms—like "slush fund" and "money-grab."

Now, a coalition of development, realty, and business groups have sued the city for a second time over the SDC changes, and it's a case worth paying attention to. If the developers can get a judge to agree with their lengthy arguments, they say the city might have to pay back millions in ill-gotten gains from its own general fund, squeezing out money for other purposes.

"This may well end up creating a fiscal catastrophe for the citizens of Portland," reads a strongly worded petition filed in Multnomah County Circuit Court yesterday.

Let's back up: In 2015, Portland City Council voted 3-2 to modify how it assigns SDCs for parks to new developments. The move involved foundational changes in how the fees were calculated—including a switch that meant larger homes pay more—and amounted to some hefty fee increases (here's much more on that discussion). In total, Parks said the new fees would rake in \$552 million over 20 years.

Builders cried foul right away, filing a lawsuit shortly after council approved the changes. And they got a judge to agree with them on one thing: Earlier this year, Multnomah County Judge Cheryl Albrecht ruled the city hadn't drawn up a detailed list of the projects it planned to pay for with the money, as required by state law. The bare-bones project list PP&R had created included only the vaguest details of where and when money would be spent.

So the city went back to the drawing board. In May, the city council very quietly approved a new plan, flushing out some of the details of how it wants to spend its \$552 million.

We've already reported on the fact that one of those projects—improvements to a rickety boat dock—raises questions.

But in the suit file this week, a coalition of seven organizations say the whole list doesn't pass muster. They contend it was illegal that the city modified its first spending plan like it did, since that spending plan would have had to be legal in order to be modified in such a fashion—and it wasn't. They're asking a judge to toss the whole thing.

There are some serious allegations in the filing, many of which are familiar from the first suit (which is under appeal). Most severe, the plaintiffs—including the Portland Business Alliance—suggest the parks bureau has purposefully misled the public as to how much it will actually collect from its modified charges. By including artificially low population forecasts, the suit says, the city was able to claim it will only collect \$552 million. In reality, the plaintiffs say, the number might be higher than \$1 billion.

The potential problem for Portland taxpayers: The filing argues that if a court ultimately agrees that the city's plan is illegal, it'll have to repay the SDCs it began collecting as of July 1 out of its general fund. You know, the same scarce general fund that city council members were openly warring over during this year's budget process.

That's what the city of Molalla had to do several years ago, when it was found to have misspent SDCs, and was sent scrambling to come up with \$2.5 million.

We've reached out to PP&R and Commissioner Amanda Fritz's office, which oversees the bureau. We'll update if we receive a response.

You can read Monday's court filing [here](#) [PDF].

The Daily Journal of Commerce

Portland Development Commission close to hiring executive director

By Chuck Slothower

July 26, 2016

The Portland Development Commission could be ready to select its next executive director as soon as Monday.

The PDC is planning to hold an executive session on Monday, spokesman Shawn Uhlman said. The board may then reconvene the same day in a regular session during which commissioners could formally direct staff to begin negotiations with the final candidate.

The PDC began the process of searching for an executive director after Patrick Quinton gave notice in February that he intended to step down after five years. His last day was June 8. Faye Brown, the PDC's chief financial officer, has filled in as interim director.

The PDC hired executive search firm McDermott & Bull to aid in the search for Quinton's permanent replacement. Last week, The Oregonian reported that the list of candidates had been narrowed to Kimberly Branam, the PDC's deputy director; Elissa Gertler, Metro's planning and development director and a former PDC economic development manager; and Odis Jones, chief executive of MVP Partners in Detroit.

Uhlman confirmed Tuesday that the short list is unchanged. He said that reference checks for the three candidates are under way.

The next executive director will have a role in developing the 14-acre former U.S. Postal Service property bridging Old Town Chinatown and the Pearl District, as well as encouraging development in urban renewal areas such as Gateway and Lents.

OP-ED: Laws to increase affordable housing and sustainability

By Stephanie Holmberg

July 27, 2016

According to the U.S. Census Bureau, the Portland metropolitan area in July 2015 had an estimated 2.4 million residents. For perspective, that means Portland increased by 111 residents per day over the course of one year. This growth in Portland has come with unique challenges, particularly for the construction industry racing to keep up with housing and other infrastructure needs for new residents.

In October 2015, the Portland City Council unanimously declared a housing emergency, signaling a renewed effort to address homelessness, provide affordable housing options, and bolster laws that protect renters' rights. At the same time, maintaining Portland's position as a leader in environmentally-sustainable building practices continues to be a priority for the city.

Last month, the Portland City Council unanimously approved a 1 percent construction excise tax (CET) recommended by the Portland Housing Bureau. The CET – which will be implemented on Aug. 1 – is estimated to generate about \$8 million per year and will aid in supporting both affordable housing and homeownership projects in Portland. Earlier in the year, the Oregon Legislature lifted its 17-year moratorium on inclusionary housing laws, such as this one, which paved the way for cities and counties across Oregon to adopt excise taxes like Portland's that support affordable housing programs.

The revenue generated by the tax will be broken into two categories: residential and commercial. Of the funds generated by residential construction, the state requires that 15 percent be directed to homeownership programs, 50 percent to developer incentives for inclusionary zoning, and the remaining 35 percent toward housing programs. Inclusionary zoning is a policy framework that incentivizes developers to build housing for low- and moderate-means tenants, whether through exceptions to density requirements allowing for more units to be built or by waiving certain timeline requirements so developers can build more quickly. Of the funds generated by commercial construction, the state requires 50 percent to go to housing programs.

Despite broad acknowledgment of the housing crisis in Portland, the City Council's approval of the CET has brought criticism. Some industry groups have expressed concern regarding how quickly the council moved on approving the tax, noting the unintended, negative effects the tax might have on the cost and pace of development. However, from a functional standpoint, Portland developers already pay plenty of "system development charges" (SDCs) for various reasons, and this CET does not function much differently. The question remains whether it will have a chilling effect on development.

In addition, in February, the Portland City Council adopted an ordinance, including code language, which requires projects seeking a demolition permit of a house or duplex to fully deconstruct that structure if it was built in 1916 or earlier or is a designated historic resource. "Deconstruction" is a way to remove structures that keeps valuable materials out of the landfill, protects health, creates pathways to construction careers, and generates affordable reusable building materials. Only certified deconstruction contractors will be able to perform this work, and at least one person currently employed by a firm must be certified in order for the firm to be certified. Certification requires successful completion of a one-hour skills assessment, an online written examination, and 500 hours of experience in any of 10 core-competency areas.

After the code changes take effect on Oct. 31, 2016, approximately 33 percent of single-family demolitions will be subject to the deconstruction requirement. The city of Portland says the increased deconstruction will divert 8 million pounds (4,000 tons) of materials for reuse (annually), create job opportunities that act as a pathway for construction careers, and increase the likelihood of discovering materials containing lead and asbestos for safe removal and disposal.

Ultimately, the new CET and deconstruction requirements are likely just the first of many changes to come in the Portland construction and development industries, given Portland's steady growth. Only time will tell how these changes shape the existing housing landscape and whether the goals intended by these shifts are achieved. Developers and contractors should start thinking now about how these measures may affect their immediate business decisions as well as long-term objectives. While the legal implications of these measures may not be readily apparent, knowing that projects are going to cost more will be an important consideration when deciding whether to enter into new projects and in making decisions about risk exposure.