

## The Oregonian

### Portland's tech boondoggle enabled by 'significant gaps' in leadership

*By Brad Schmidt  
November 26, 2016*

The city of Portland has stopped work on its latest technology boondoggle, a paperless permitting system, but not before falling years behind schedule and blowing through about \$8 million.

At last count, Portland had spent roughly 70 percent of its budget but as little as 25 percent of the work has been completed, according to a scorching new assessment obtained by The Oregonian/OregonLive through a public records request.

Things are so bad, the report said, it would take six to nine months just to figure out what's been done and how much it'd cost to move forward.

While the city puts much of the blame on Portland's now-ousted lead contractor, Sierra-Cedar Inc., the new report highlights wide-ranging problems inside the city's bureaucracy. It found "significant gaps" in leadership, management and oversight of the project – although only one city employee, the project manager, has been forced out.

What's more, city officials apparently didn't heed repeated warnings from outside experts and missed key opportunities to stop the project before it spiraled out of control.

Portland Commissioner Dan Saltzman, who is ultimately responsible for the project, didn't shy away from the fact the city deserved criticism for spending millions without much progress.

"It does seem bad," he said.

But Saltzman also said city officials will learn from their mistakes and make necessary changes. Portland's Bureau of Development Services is committed to finishing the project in some form, he added, although it'll probably take several more years and likely will be completed on a piecemeal basis.

"It's still the goal to have state-of-the-art technology," he said.

The so-called Information Technology Advancement Project, or ITAP, was supposed to bring the city's permitting bureau into the 21st century. As envisioned, developers and architects would be able to submit paperwork electronically, employees would access records from the field, and historic permit and property information would be available to the general public at the click of a button.

The project was supposed to be a boon to both business and government. Easy access to documents would cut costs for companies by up to \$1 million a year, according to city estimates, while eliminating the need to hire nine new employees would trim \$1.3 million from the annual payroll.

But instead, the project became a boondoggle. It's now joined other high-profile technology disasters, including a software fiasco in 2000 that left the water bureau with millions of dollars in uncollected bills and a separate citywide software effort in 2010 that tripled in cost to \$47.4 million.

Plans for the permitting system began taking shape in 2010 and officials eventually set a tentative budget of \$8.2 million, with completion expected by May 2015. Then the budget jumped to \$11.8 million. The timeline kept slipping, too, first to December 2015, then February 2016, then the end of 2018.

Despite each setback, city officials publicly presented an upbeat façade during quarterly updates provided to the City Council. Commissioner Amanda Fritz, who oversaw the project from mid 2013 to July 2015, previously said she was confident the project would be completed "on time, on budget, and it will work."

Even as recently as five months ago, when Portland cut ties with Sierra-Cedar after paying the company \$3.9 million, Saltzman said he still believed the project could be completed by 2018.

But the city's new report offers a painful dose of reality.

Officials hired Portland-based Virtual Information Executives to evaluate the project. The \$50,000 review repeatedly pointed fingers at the city's project manager, Rebecca Sponsel, and Paul Scarlett, the bureau director.

According to the report, Scarlett delegated almost all project responsibility to Sponsel, a decision that was labeled a leadership gap. The job was too much work for a single project manager, the report said, and Sponsel appeared to lack several key abilities needed to deliver. Reviewers said Sponsel alone approved many project tasks instead of looping in Scarlett or others. And although a steering committee was created, roles and responsibilities weren't clear and key checkpoints weren't defined.

Compounding problems, the city's contract allowed Sierra-Cedar to bill monthly fees without providing working products. Many project documents are incomplete, inconsistent or full of boilerplate language. City officials don't know how much work was actually completed, although it's estimated at between 25 percent and 55 percent.

"A more precise account of work is not feasible given the lack of an accurate, resource-loaded plan with defined metrics against which to measure progress," consultants wrote.

City officials have now spent about \$8 million of the \$11.8 million project budget, a figure that includes staff salaries. Money comes from permitting fees charged by the bureau, not tax dollars.

The outside review also noted a "disconnect" between reports prepared by Sponsel and warnings raised by an outside quality-assurance consultant. And when serious issues were reported, it appeared that no action was taken, according to the report.

City officials also missed key opportunities to head off problems.

The first setback surfaced during contract negotiations, when there was still ambiguity about what would be included in the project. Uncertainty should have been resolved at that time, the report found, resulting in a project plan with clear deliverables and milestones.

"According to many of the project participants, a true project plan was never produced, even to the present," the report stated. "Yet the project went forward. This is a major gap – much of the project's failure to produce completed work stems from this critical missing component."

Absent a detailed plan, Sponsel should have stopped the project, according to the outside review.

"Without a plan, there was no way to provide realistic target dates for pieces of work, no way to forecast the resources needed to complete the work, and no way to report the percentage of work completed," consultants wrote.

City officials have offered varying responses to the report.

Fritz declined to comment, citing a busy schedule and not enough time to review the analysis.

In separate interviews, Scarlett and Sponsel took issue with some findings. Among other things, each said Scarlett was involved in big decisions. Each also said the city did take action in the face of problems, including issuing warning letters to Sierra-Cedar and pushing the company to deliver specific tasks on short timeframes.

"I'm not going to dismiss or skirt any kind of responsibility," Scarlett said. "I wish things had gone better. And certainly, I am very committed to seeing this through."

Scarlett said he terminated Sponsel last week.

Sponsel acknowledged room for improvement but generally defended her work. Asked if she provided adequate leadership, Sponsel responded: "The report says that I did not. But I was only one person in a job that required many more qualified resources, and those were not supplied."

The report recommended stopping the project and Saltzman heeded the advice. Although officials wanted to know how much more time and money it would cost to finish the project, consultants said they couldn't determine either without another six to nine months of review.

Officials are now starting a "discovery project," which could be done in less time. It will highlight what the city should do next, including the potential for upgrading existing software. Whatever emerges, the project will become a priority citywide, led by both the Bureau of Development Services and the Bureau of Technology Services.

Consultants have also recommended a rebranding effort. Not only could that help provide a "fresh start," it may also "infuse new energy and confidence into the project."

## **Portland City Council to review \$90k settlement after 2014 police confrontation**

*By Tony Hernandez  
November 25, 2016*

The Portland City Council will consider Wednesday a \$90,000 settlement proposal to prevent a lawsuit from a teen who was roughed up by police in 2014.

The City Council's agenda item shows Thai Gurule and his attorney, Stephen Houze, could receive the settlement if approved. Gurule was arrested in September 2014 and accused by police of resisting arrest and assaulting officers during a scuffle in the St. Johns neighborhood.

In March 2015, a Multnomah County judge ruled that Gurule, 16 years old at the time, wasn't guilty of assaulting police officers and dismissed charges stemming from the North Portland confrontation.

Cellphone video from two bystanders showed three officers tackling, punching, kneeling, using a Taser and pulling the hair of the teen. The judge said police had used excessive force in their

dealing with the teen. The judge also ruled that police shouldn't have stopped Gurule because they didn't have probable cause.

Negotiations later took place between both parties through private mediation "prior to a lawsuit being filed," according to City Council records. A spokesman for Mayor Charlie Hales, who oversees the Police Bureau, could not be reached Friday.

A woman who said she was Gurule's mother declined to comment. Houze could not be reached. The Oregonian/OregonLive, in a 2015 editorial, reported that Houze took the case for free at the request of a friend who volunteered at Roosevelt High School.

The City Council records show the attorney could receive a \$32,021 check, if approved. The remainder of the settlement would go to Pacific Life & Annuity Services.

## **Steve Duin: Charlie Hales and the long goodbye**

*By Steve Duin*

*November 25, 2016*

As the worst of times take shape in Donald Trump's America, Portland has some consolation: The worst of mayors will soon end his depressing siege of City Hall, clearing the way for Ted Wheeler.

Fifteen long months ago, Charlie Hales abruptly quit his re-election effort, conceding that vigorous campaigning is as foreign to him as governing.

When Hales vanished on his 44-foot sailboat even as police and Portland Parks officers launched September sweeps week on the Springwater Corridor, we had another signature shot of his priorities and commitment.

He won't lead. He can't focus. He has long been poorly staffed and paralyzed by conflict and counter-protests. Growing smaller with each passing month, Hales rarely rose to the challenge of the office, whether it was his Nixonian response to the Harney County shooting by his police chief, or his tone-deaf reaction to the chaotic downtown protests following Trump's election.

The latter even drew censure from the ACLU of Oregon: "We fully rebuke both your calls for the protests to end and your statement that protest cannot effect change in our democracy."

Hales effected so little change. "So many people who go into politics are one-trick ponies," says Paul Anthony, a member of the Portland Public Schools Board and a long-time activist in North Portland.

"Charlie was streetcars, obviously. I don't think Charlie knows Portland at all. His life's work is dedicated to creating the problems we have now: housing, gentrification, pushing out everyone who can't pay what the market can bear."

Hales went out of his way not to involve Wheeler in these final months. He forced the new Portland police contract through council in a room closed off from protesters and with no input from the city's Independent Police Review division.

"They never walked down the hall. They never asked to be included," sniffed Hales, celebrating his aloof isolation.

Trust me, Wheeler isn't surprised. "I hear from people all over the community that they're not part of how decisions are made at City Hall," he says. "Decisions are made on their behalf and they're forced to live with the consequences.

"My job is not to barricade myself in City Hall. My job is to be out in the community, doing my best to understand the perspective of people who are different than myself."

The challenges facing Wheeler, who takes office Jan. 1, would have been formidable with a Democrat in the White House. With Donald Trump at the helm, or desperately searching for it, they are extraordinary.

When we spoke shortly after the election, Wheeler noted, "It's amazing how a few weeks can change things.

"Two weeks ago, this (job) was all about housing, the homeless and filling potholes. Now, we're talking about the rights of women, the rights of immigrants in America, the rights of the LGBTQ community. If this election shows anything, it shows those movements have stalled.

"Trump didn't cause that problem. He exposed it. I don't think Donald Trump created sexism, racism, religious intolerance or xenophobia. All those things were already there, under the surface. Donald Trump pierced the boil."

"As mayor of Portland," Wheeler adds, "my role is to be unequivocal about our values. This is a time where I don't think you can waffle. People are expecting decisive leadership. They're expecting me to take risks. They're expecting me to take the heat."

They're expecting far more than they ever received from Charles Andrew Hales.

Wheeler will be tested immediately by his bureau assignments. He needs to take command of both Housing and Portland Police, but he won't have time to handle both.

Given the potential conflicts with the feds over sanctuary and immigration, he'll probably choose cops, even as critical housing issues swallow us whole.

On similar battles that are bigger than the city – clean air and the economy – Wheeler must partner with, and motivate, Gov. Kate Brown, Multnomah County Chair Deborah Kafoury and Metro President Tom Hughes.

He needs to assure the private sector it can tender big ideas without taking the beating doled out to developer Homer Williams at Terminal 1.

And count Williams among those who believe Wheeler could do worse than to model his approach after that of Vera Katz, Portland's mayor from 1992 through 2004.

"You'll have conflict unless everyone knows you're not afraid of it," Williams says.

"You need chutzpah," adds Sarah Iannarone, who finished third to Wheeler in May's mayoral primary. "You'll need to hold your ground on some unpopular things. You know who had no problem with that? Vera. There's something to be said for not wanting to be liked."

# Steve Novick's walk off: Asking City Council to weigh in on baseball hall of fame

*By Brad Schmidt*  
*November 23, 2016*

Portland Commissioner Steve Novick is going down swinging.

Novick, with only a month left on the City Council following his re-election loss, has decided to ask for an unusual show of support next week.

A big fan of the former Montreal Expos, Novick now wants the City Council to declare support for retired Expo Tim Lincecum's induction into the National Baseball Hall of Fame.

The resolution is expected to take up 7 minutes of city business Wednesday. It was prepared by Novick himself, listing Lincecum's various accomplishment.

"As Peter Gammons once said: 'When it's Lincecum, he scores,'" Novick quipped in a text message.

In his nearly four years on City Council, Novick has frequently cited music lyrics or played songs from the dais. But his wit and humor sometimes got him in trouble. This month, voters picked political novice Chloe Eudaly to replace him, ousting Portland's first incumbent in 24 years.

He's clearly undeterred.

"All Portlanders who are students of sabermetrics and / or were Montreal Expos fans between 1979 and 1990 will be very pleased," Novick wrote in City Council documents explaining the community impact in Portland.

Asked if this might be labeled self indulgent, Novick responded that U.S. Sen. Everett Dickson once gave a lengthy speech in support of making the marigold the national flower.

In other words: So what?

Lincecum making the hall of fame "would be a blow for truth, justice and fairness that all Americans (and Canadians) should appreciate," Novick said via text.

And as to whether this was a parting shot before leaving office?

Channeling Bachman-Turner Overdrive, he responded: "You ain't seen nothin' yet."

## City-commissioner-elect Eudaly must navigate switch from activism to administration: Editorial Agenda 2016

*By The Oregonian Editorial Board*  
*November 27, 2016*

Last week, Chloe Eudaly stood outside Portland's City Hall and urged the council to enact a rent freeze – a move prohibited by state law except in rare instances – even if it "requires an act of municipal disobedience" and would result in the city being sued.

It was the kind of call to action you'd expect from a housing and renters' rights activist, as Eudaly has been. But Eudaly, who won a stunning victory over incumbent Portland City Commissioner Steve Novick, is not an activist anymore.

Eudaly is about to become one of the five elected officials to set policy for the city. She will receive an annual salary of \$115,000 with the expectation that she will not only help craft solutions to address problems, such as the affordable housing crunch, but also uphold the law and spend taxpayer money wisely. Having the city break state laws that she disagrees with won't solve the housing crunch. It will, however, likely alienate potential allies and waste time, attention and money that the city can't afford to lose on quixotic stands.

Certainly, Eudaly can and should signal to Portland voters that she remains committed to the cause that fueled her victory. But she also needs to show them – as well as those who did not support her candidacy – that she can build coalitions, act responsibly and remain open to the possibility that her pet solution is the wrong one.

Rent control, as economists from across the political spectrum have said for years, doesn't fix the underlying problem that drives up rent – a lack of housing. But even if you do believe it's the solution, rushing to declare a rent freeze ignores that state legislators in January will take up various ideas for relieving the housing crisis, including consideration of lifting the statewide ban on local rent-control ordinances.

Cities like Portland have a large toolbox with which to improve housing affordability, including decreasing development fees and easing building requirements that provide minimal added value while driving up costs. Already, city commissioners have wisely pulled back on parking minimums which contribute to higher costs. But elected officials must lead an honest conversation about housing affordability as a city priority where the public at large – not just landlords – shoulders the consequences of changing policy.

There's another issue for Eudaly to keep in mind, and it's directly related to her victory over Novick. While Novick brought vision, smarts and experience to the job, he also showed up to council with an impatience for those who didn't move as fast as he wanted or who disagreed with his solution. He turned ideas into crusades and vilified those who raised legitimate concerns for failing to recognize the rightness and morality of his chosen path.

That turned off many in the community who shared his objectives, if not his strategy.

There's already some of that going on. In her brief comments earlier this month, Eudaly painted landlords with a broad brush as she warned that the days of treating tenants as "used furniture" and "human ATMs" are numbered. While there may well be those who are capitalizing off the tight rental market to impose huge rent hikes on tenants, she risks driving off potential allies who have a different perspective on how the city can help renters, preserve affordable housing and alleviate the regulatory requirements that can discourage new development completely.

Transitions, even for the most practiced of politicians, are never flawless. Making the switch from activism to administration is even more challenging. But voters are putting their faith in Eudaly to be effective in a way that evaded Novick until it was too late. Advocating for meaningless action that will only trigger lawsuits isn't the right start.

## The Portland Tribune

### Sources- Novick to Wall Street Journal: Bring it on

*By Jim Redden*

*November 24, 2016*

Portland city Commissioner Steve Novick is thrilled that he was criticized by the Wall Street Journal for proposing the city increase taxes on publicly traded corporations that pay their CEOs 100 times or more the wages of their average employees.

The City Council is scheduled to vote on the proposal, which could raise an estimated \$3 million a year, on Dec. 7. The federal Securities and Exchange Commission is scheduled to release the CEO and average worker figures next year.

“By choosing not to hire entry-level workers when openings arise — or by choosing to let low-wage workers go when layoffs are required — companies can instantly reduce their ratios and avoid tax hikes, as well as bad publicity,” the paper said in a Nov. 16 editorial titled, “The SEC Tax Comes to Portlandia.”

“Ironically,” Novick says, “by giving the idea a national audience, they are dramatically improving the odds that it will be copied in other jurisdictions. The country’s loudest voice for extreme inequality just shot itself in the foot.”

#### **Are McMansions all that bad?**

How much do Portlanders really oppose the so-called McMansions that are replacing smaller, less-expensive houses throughout town?

During the final hearing on the Residential Infill Project proposal that would limit the size of new houses, Novick revealed that a poll conducted for his unsuccessful re-election campaign found that 46 percent of voters might support him for backing the proposal. But, Novick said, the same poll found that 60 percent of voters might support him for advocating that high school classes start later in the day, giving their teenage students more time to sleep in.

Novick said he found the 14-point spread puzzling, given the public outcry over the proliferation of large, expensive replacement infill houses and the complete lack of debate over starting high school classes later. The City Council is scheduled to take up the project proposal on Dec. 7.

#### **Oregon: Things are different here**

As the old tourism advertising slogan said, things look different in Oregon, especially after the 2016 general election. With all the votes counted, Oregon is now one of just six states in the country where Democrats control the governor’s office and both chambers of the state Legislature.

Although Dennis Richardson made history by becoming the first Republican to win a statewide office — secretary of state — since 2002, Republicans made much bigger gains in other states, adding to their hammerlock on state governments.

Republicans took over five state House chambers and two state Senate chambers on Election Day, putting them in control of a record 68 percent of the 98 partisan chambers in the country, according to the bipartisan National Conference of State Legislatures.

In fact, despite the Democrats’ continued dominance of Oregon politics, the party’s control of state governments nationally has been reduced to a level not seen since the Civil War.

# Portland law and order may change under Trump

*By Nick Budnick*

*November 23, 2016*

The election of Republican Donald Trump could directly affect how the Portland Police Bureau audits and trains officers in the use of force.

For two years, the U.S. Department of Justice has directed changes to how police officers do their jobs in Portland, through a court-monitored agreement with the city and its police.

Now, as a result of Trump's campaign promises, observers widely expect the federal agency to take its foot off the gas and give the city a lot more freedom. People disagree whether that's a good or a bad thing.

Here's a look at what's happened in Portland so far, and what to expect from the Trump administration on civil rights and police oversight.

In 2012, the U.S. Department of Justice filed a lawsuit against the city of Portland, alleging a pattern or practice of unconstitutional use of force against mentally ill people by Portland police.

In 2014, the city entered into a settlement with the DOJ agreeing to make changes in training, policies and oversight. Since then, there have been two rounds of yearly status reports and hearings, showing the bureau making progress in some areas but not others.

In a hearing last month, federal Judge Michael Simon raised the question of whether a new administration might change the direction of federal oversight. Jonas Geissler, a DOJ civil rights attorney in Washington, D.C., responded in the negative.

However, noted Ashlee Albies, a lawyer for the Albina Ministerial Alliance, that was when pollsters had widely been calling the race for Democrat Hillary Clinton.

"I think at the time people were assuming that Hillary was going to win," said Albies, whose client is a party to the federal case.

A U.S. DOJ spokesman declined to comment.

Trump has blasted the Black Lives Matter movement and argued that the federal government should stay out of local police matters. His nomination of Alabama Sen. Jeff Sessions to head the justice department has triggered concerns that DOJ civil rights lawyers could resign en masse.

In the wake of Trump's election, "we are obviously hopeful that there is not a widespread de-emphasis on these types of cases," Albies said. "But I think a large part of it is going to depend on how the next couple of months go and how the next year goes."

Her client, Dr. LeRoy Haynes of the Albina Ministerial Alliance, is not so hopeful, saying he expects DOJ to make "civil rights a lesser priority."

Will Aitchison, the national police union lawyer and consultant whose partner represents the Portland Police Association, has been tracking the situation as well.

"There's definitely the anticipation that Trump will take the position that the Department of Justice overreached in its civil rights enforcement ... and instead was trying to set national standards for policing," he said.

At the last federal court hearing, attorneys discussed how the city had failed to maintain a functioning Community Oversight Advisory Board, intended to be a gateway for community feedback on the agreement. Dozens of recommendations made by the board have not been implemented or even responded to by the city.

Judge Simon repeatedly noted the DOJ could file a motion asking him to take steps to enforce the agreement or even beef it up, with the addition of a stronger federal monitor.

But once Trump takes office, that is unlikely to happen, observers agree.

That won't make everyone unhappy. Portland's police have opposed some of the changes being made under federal authority. Earlier this year, a survey of Portland officers found that 84 percent of them didn't think federal oversight would improve policing.

One reason for officers' discontent has been DOJ attorneys' push for the bureau to change its use of force policies to require officers to use the least level of force reasonably possible. Officers feel the new standard goes further than the one set by the U.S. Supreme Court, and would install a level of second-guessing that could cause officers to make bad decisions in the heat of the moment.

Dan Handelman, of the group Portland Copwatch, said his group is concerned the federal government's required fixes have caused Portlanders' other priorities, such as an end to racial profiling, to take a back seat.

One example is the federal requirement that appeals hearings of officer misconduct findings be heard in 21 days — a timeline that's unreasonable and unrealistic, according to Handelman.

"Here's these people in Washington, D.C., and they have these legal best practices and concepts, but they don't necessarily work in Portland," Handelman said.

"Certainly it's a good thing that Portland came under scrutiny," Handelman said. "The problem of the federal government being here is that the city is only responding to things that the DOJ says are the highest priority."

## **Willamette Week**

### **Portland Mayor Cancels Hope March in Spat with Anti-Trump Protesters**

*By Aaron Mesh  
November 22, 2016*

The mayor ain't marching anymore.

Portland Mayor Charlie Hales has cancelled a "March of Hope" that was planned for this afternoon as an attempt to unify this city against acts of discrimination in the wake of Donald Trump's election.

The cancellation comes the morning after police arrested three of the organizers of Portland's anti-Trump protests—including prominent Black Lives Matter activist Gregory McKelvey—for allegedly telling student protesters to defy police orders.

The anti-Trump protest group, Portland's Resistance, said it would respond by protesting Hales' march today.

"Join us in holding signs denouncing the hypocrisy of Charlie Hales' march," organizers wrote, "and stand in solidarity with the peaceful protesters that have experienced police brutality in the past week, those incarcerated and those most impacted by inaction by our local government."

The mayor cancelled soon afterward, citing the planned counter-protest.

"Canceling this event does not mean our community is canceling hope," Hales said in a statement. "I encourage everyone to continue to reach out to each other and stand against hate."

Hales' spokesman could not immediately be reached for further comment.

Today's march was scheduled to begin at 3 pm near Tom McCall Waterfront Park.

UPDATE, 11:56 am: Portland's Resistance says it will still hold its counter-protest, called "We Won't March."

Update, 12:33 pm: McKelvey has released a statement claiming that Hales ordered his arrested because McKelvey refused to take part in the mayor's "March of Hope."

"When I declined he had to find another way to keep me from going to his march," McKelvey writes. "I was arrested for something completely false along with other Resistance organizers."

Hales' spokesman Brian Worley says that's nonsense.

"The mayor, as police commissioner, does not have the authority to direct Portland Police to arrest anyone," says Worley. "People are arrested for breaking laws. To claim the mayor would arrest people for political retaliation is not only inaccurate, it is dangerous."

Portland Police spokesman Sgt. Peter Simpson also rejected McKelvey's assertion.

"McKelvey, Stevens and Rhodes were arrested for their criminal behavior during the protest," Simpson says, "nothing more."

McKelvey says he'll fight the disorderly conduct charge.

"The police are spreading a false narrative that I was directing students to disobey lawful orders," he says in a statement. "This is a lie. I will plead not guilty and fight every single charge, even if reduced to a violation, in the courts."

## **ACLU of Oregon Warns Portland Mayor, Police Chief: Protesters Could Sue You**

*By Rachel Monahan  
November 22, 2016*

In a letter to Portland Mayor Charlie Hales and Police Chief Mike Marshman, the ACLU of Oregon warns that if the city targeted the organizers of Portland's anti-Trump marches for arrest, they may have violated the protesters' constitutionally protected freedoms.

They also noted that police officers involved may not be exempt from civil litigation if that proves to be the case.

"Despite clear law to the contrary, PPB appears to be engaged in a pattern and practice of retaliatory arrest of local organizers," ACLU of Oregon legal director Mat dos Santos says in the

letter. "We have received other reports of well-known organizers and activists being targeted by PPB for arrest during peaceful protests and are investigating those allegations."

Organizers Gregory McKelvey, Kathryn Stevens and Micah Rhodes were the only three people arrested last night "despite engaging in activities similar to peaceful protesters in their vicinity," dos Santos says in the letter.

"While we continue to evaluate the facts, we caution PPB that it is a violation of the rights of the protesters arrested if police actions are motivated by a desire to chill speech and law enforcement actions would 'chill or silence a person of ordinary firmness from future First Amendment activities,'" Dos Santos writes.

McKelvey earlier today released a statement accusing the mayor of having him arrested for refusing to participate in Hales' now-canceled March of Hope—an accusation denied by spokesmen for the police and the mayor's office.

"The mayor, as police commissioner, does not have the authority to direct Portland Police to arrest anyone," says Hales spokesman Brian Worley. "People are arrested for breaking laws. To claim the mayor would, or could, target and arrest people for political retaliation is not only completely inaccurate, it is dangerous."

The ACLU's full letter is below:

*November 22, 2016*

*Dear Mayor Hales and Chief Marshman,*

*Last night, we learned that Portland Police Bureau ("PPB") arrested Gregory McKelvey, Kathryn Stevens, and Micah Rhodes, members of PDX Resistance and well-known organizers. Targeting individuals for arrest for constitutionally protected speech is prohibited by law.*

*PDX Resistance organizers were singled out for arrest despite engaging in activities similar to peaceful protesters in their vicinity. From our view, the only distinguishing characteristic is their role as leaders in other recent protests that were publicly opposed by your offices.*

*An arrest made in retaliation for a person's exercise of protected speech violates the First Amendment. While we continue to evaluate the facts, we caution PPB that it is a violation of the rights of the protesters arrested if police actions are motivated by a desire to chill speech and law enforcement actions would "chill or silence a person of ordinary firmness from future First Amendment activities." Unlike most other courts, the Ninth Circuit has held that a First Amendment retaliation claim can lie even if the arrest is supported by probable cause. If a First Amendment retaliation claim can be established, then officers would likely not be entitled to qualified immunity.*

*Despite clear law to the contrary, PPB appears to be engaged in a pattern and practice of retaliatory arrest of local organizers. We have received other reports of well-known organizers and activists being targeted by PPB for arrest during peaceful protests and are investigating those allegations.*

*Not only is retaliatory arrest unconstitutional, it is wasteful, consuming limited law enforcement resources in pursuit of charges prohibited by law. For example, activist Teresa Raiford was acquitted after an arrest last year for similar activities. The ACLU of Oregon filed an amicus brief in her case and successfully showed the court that the state*

*has a high burden when wielding the criminal law against protesters engaged in protected First Amendment activity.*

*While we understand the difficulties faced by local law enforcement, silencing the voices of community leaders through a practice of harassing arrests is clearly unconstitutional and destroys trust between the community and its public servants.*

*As those selected to serve the community, we urge you to ensure that public speech, including protest, is protected and not punished.*

*Sincerely,*

*Mat dos Santos  
Legal Director*

*cc: District Attorney Underhill, Mayor-elect Wheeler*

## **The Portland Mercury**

### **Hall Monitor—Eudaly Visits the Precinct**

*By Dirk VanderHart  
November 23, 2016*

WHEN A TRIO of well-known Portland organizers were arrested Monday evening—accused of encouraging a group of protesting Portland Public Schools students to disobey cops—allies went and sat down in front of the police bureau’s Central Precinct.

They wanted to show solidarity with Gregory McKelvey, Kathryn Stevens, and Micah Rhodes, who’ve repeatedly helped stage enormous, sometimes-chaotic protests against Donald Trump in the last two weeks, and who were plucked out of the crowd specifically.

Soon, the supporters—many of them the young organizers of the event—had some newly high-profile company.

Chloe Eudaly, elected to Portland City Council in a surprise upset of Commissioner Steve Novick on November 8, had heard about the arrests, and wanted to see what was up. She traveled downtown from an event at Revolution Hall to investigate.

“I was concerned about their wellbeing and safety,” Eudaly told me the next day. “I support peaceful protests and by all accounts this was one.”

It was another suggestion that Eudaly, a former bookstore owner, might be an entirely different brand of commissioner than what we’ve seen in recent years.

In the days following her election, Eudaly’s not just asking questions about the cops’ decision to arrest McKelvey, whom she counts as a friend. She’s also holding fast to her background as a renters’ rights advocate. At a press conference the group Portland Tenants United held at Portland City Hall on Friday, November 18, she promised she’d look to send a message to the city’s landlords.

“I’m never going to forget the struggle that I’ve gone through to keep my family housed,” she said. In thinking about that struggle, Eudaly said, “I have to recognize my landlords, who over the last four years have raised the rent on my substandard house 60 percent. I will be sending them a message that the days of treating tenants as used furniture, the days of treating tenants

as human ATMs, and the days of predicating their business model on the unfettered right to exploit us are numbered.”

Suddenly, improbably, Eudaly has a far higher platform from which to send that message, and the voters who picked her hoping to change city governance should be heartened by what they’ve seen from Commissioner-elect Eudaly.

But here’s the thing: The hard part is what happens when she sheds the “elect.”

Sure, Eudaly will take office in January alongside a new mayor looking to make right on campaign promises to improve matters for Portland renters. But she’ll also be serving with three long-time commissioners who’ve decided that some of the changes Eudaly says she’ll call for—like instituting an emergency freeze on rent hikes within the city—are impossible.

Eudaly tells me she’ll continue to lobby for those changes as a commissioner. What will be fascinating to see is how she transitions from the role of the protester shouting outside of City Hall and the police precinct to the job of bulding coalitions among her more-staid colleagues.

Plenty of people will be rooting her on.

## **Portland Cops Have Issues With Their New Crime Reporting Software**

*By Dirk VanderHart  
November 23, 2016*

IN CLARK COUNTY, Washington, it became known as the “RegJIN effect.”

Sheriff’s deputies just north of the Columbia River had been told for years to expect a game-changing crime reporting system that would allow them to seamlessly share information with pretty much every law enforcement agency in the region.

And that system—the Regional Justice Information Network, referred to as RegJIN (pronounced “region”)—did change the game. Just not in the right ways.

When the system went live in April 2015, formerly simple police reports became lengthy undertakings, snatching deputies off patrol for an hour or more, according to Clark County Undersheriff Mike Cooke. Hence the “RegJIN effect.”

“It was so inefficient that we actually saw a dip in the number of bookings in the jail,” says Cooke. In some instances, deputies “wouldn’t make an arrest to avoid being tied up for an hour or two with paperwork,” he says.

It’s a dramatic account, but not entirely unique. As law enforcement agencies work to familiarize themselves with the \$12.6 million records system spearheaded by the City of Portland, there’s widespread agreement it’s demanding more officer time than many would like—even as the software recently faltered when it came to submitting detailed reports to the state.

The difficulties shouldn’t be all that surprising. The Canadian software firm officials hired to build RegJIN also sold Portland a new 911 dispatch system in 2011, causing near-mutiny from local law enforcement agencies upset by how buggy it was. Portland re-hired the company,

Versaterm, anyway, agreeing to pay nearly \$6 million more for the new records system than the estimated cost from another vendor.

Now it's up and running, and agencies have already jumped ship.

In June 2016, the Clark County Sheriff's Office and four other Washington State law enforcement agencies gave formal notice they'd be discontinuing use of RegJIN. They've since purchased and launched a new records system that Cooke gushes about for its simplicity and cheaper costs.

"It is everything RegJIN wasn't," says Cooke, who describes the regional system as "going back 10 years in computer technology."

Meanwhile, more than 2,000 officers at police departments in Vancouver, Portland, Beaverton, Hillsboro, and dozens of other jurisdictions are still using RegJIN to report crimes. All told, involved agencies cover 43 percent of the state, according to city staff.

Daryl Turner, president of Portland's rank-and-file police union, the Portland Police Association, tells the Mercury the new RegJIN system has frustrated Portland cops, and is taking up more of officers' time as the short-staffed Portland Police Bureau struggles to attract new recruits.

"It's not as fast and as user-friendly as the system we had," Turner says. "You're having officers off the street more, which means not having the time to proactively police."

The issues aren't limited to lengthy reports. After months of tinkering, officials recently concluded that the software they purchased from Versaterm wasn't able to send detailed information to a crime database maintained by Oregon State Police, as planned. The system's being rejiggered to report a smaller array of data.

Amid that confusion, Portland was unable to submit 2015 data to a yearly report published by the FBI to track crime trends nationwide. The city hopes to have the bugs worked out by the February deadline for submitting 2016 crime rates to the feds.

People at the heart of the RegJIN rollout concede it's been rocky.

"It is very complicated and it's not as easy as what officers used to have," says Tammy Mayer, a senior program manager at the police bureau overseeing the RegJIN roll out. "But it is improving. I think the majority of agencies see the potential and the benefit."

Lana Richards, a Versaterm project manager, contends agencies that have been proactive about learning the system are "doing really well."

And it's true that the system has its fans. Beaverton Police Officer Sean Hinkley, who helps train officers on RegJIN, tells the Mercury that the swift information sharing permitted by the system has, for instance, helped Beaverton cops arrest people sought in Portland. And he says the lengthier reports RegJIN requires make searching the system more useful than other applications.

"We've had cases that have been solved because of the ability to read other agencies' reports," Hinkley says.

The grouching about RegJIN is strikingly similar to Portland's last outing with Versaterm. As the Mercury pointed out three years ago, officials picked the Ottawa-based company in 2013 despite difficulties associated with a new 911 dispatch system Versaterm sold the city in 2011.

At the time, officials offered glowing reviews of the records system they'd convinced Portland City Council to pay for, and suggested that the difficulties with the 911 dispatch system—which

included software crashes and cops being erroneously dispatched outside of their jurisdiction—wouldn't be repeated.

Such was their optimism that, when the city's first choice to provide a new records system fell through, officials agreed to nearly double the estimated costs of a system by choosing Versaterm.

In fact, the rollout will cost even more than that. After officials learned the software couldn't meet state reporting standards earlier this year, the city applied for nearly \$400,000 in federal grant money to pay for fixes.

Portland City Council, voting unanimously to approve that money on November 2, was downright chipper about the project and its history.

"Good work, thank you," Mayor Charlie Hales told city staff, not long after several audience members had raised questions about the process.

Commissioner Amanda Fritz, was a bit more defensive, saying with her vote:

"If I thought that something had gone wrong, I would say so. I continue to support what we did, even though I continue to get quite a lot of questions from the community about this."

## Daily Journal of Commerce

### City council approves appeal of Design Commission condition

*By Sam Tenney  
November 28, 2016*

Portland City Council has granted an appeal by the architects of a Pearl District affordable housing building against conditions imposed on the project by the city's Design Commission. The proposed building will be located at Northwest 14th Avenue and Raleigh Street and is being designed by LRS Architects and Salazar Architect for affordable developer Innovative Housing Inc.

The 12-story project was approved by the design commission in September with multiple conditions of approval, one of which was the subject of the appeal on the grounds that it would add significantly to the project's cost. Commissioners wanted a set of oriel windows at the building's fifth and sixth floors moved up to connect with another group on the upper three floors, creating a singular oriel.

Sarah Stevenson, IHI's executive director, testified last week that the change would trigger structural changes that would add \$160,000 in known costs to the project.

"This comes down to a difference of opinion about two design choices," Stevenson said. "One of the options presents a real increase in cost to an affordable housing development that is struggling to stay on budget. We're appealing to you, our city council, to ask that you prioritize affordable housing over aesthetic nuance, and let us move forward with a project that will provide crucial affordable housing to families in Portland that need it today."

Speaking for the design commission, member Julia Molinar read from a letter prepared by commissioners arguing that the project should be held to the same standards as others.

"It's significant that the proposal fell short across width and breadth of its response to design guidelines," she said. "It is the design commission's decision that the proposed development

does not need to be a model citizen, but it does need to demonstrate a willingness to participate in civic life.”

In a 4-0 vote to grant the appeal, with Commissioner Steve Novick absent, Mayor Charlie Hales and city commissioners were quick to praise the Design Commission for its work.

“I’m going to be very glad to support the appeal,” said Commissioner Amanda Fritz, “while also honoring the good work that the design commission is doing.”

## **OP-ED: A primer on Portland’s new comp plan and development code**

*By Garrett Stephenson*

*November 22, 2016*

The city of Portland is in the process of finalizing an update of its Comprehensive Plan and zoning code, which will govern development over the next 20 years. The new Comprehensive Plan, adopted in June, is based on a new urban design framework that directs future growth to dense urban centers and corridors, rather than large-lot commercial and single-family neighborhoods that have characterized outer Portland.

It is important that Portland property owners develop at least a rudimentary understanding of the proposed land use regulations, which may substantially affect their properties.

Portland’s code revisions touch virtually all of its land uses, including multifamily, commercial, industrial and institutional as well as Central City development. These changes will significantly alter the regulations by which land is developed and used throughout the city, and on balance, place more restrictions on most existing development types.

The plan will be the governing document for land use decisions in the city and be implemented by a revised Portland zoning code, set forth in Title 33 of the city code. Although all land use decisions must be in conformance with the plan, the city code is where the rubber meets the road for most developers, real estate professionals and citizens.

The Comprehensive Plan and code must be approved (“acknowledged”) by the Oregon Land Conservation and Development Commission, and its decision is subject to review in the Oregon appellate courts. Barring appeals, the new code will become effective in late 2017 or early 2018. Inclusionary housing will come into effect on Feb. 1, 2017.

### **Key dates include:**

- February 2017: Inclusionary zoning regulations become effective, affecting multifamily properties with more than 20 units
- Late 2017/early 2018: New zoning code becomes effective
- January 2018: Last chance to get building or land use permits approved under current rules – Schwabe recommends starting due diligence work now because the city could be inundated with applications prior to the effective date

### **Risks include:**

The primary risk caused by the new zoning code is the specter of nonconforming status. Nonconformity increases the long-term risks and costs associated with expanding or selling

property. It can also affect property owners' ability to replace a like property in case of fire or casualty.

Common examples of nonconformity include parking and circulation layout, ground-floor windows, and active ground-floor uses.

**Property owners should:**

Use the city's map app to see how area properties are affected. Simply visit the site, select "Zoning Map Changes and Amendments" and enter the property address to determine the existing and proposed zoning.

Begin due diligence work now on properties you'd like to develop, remodel or expand under current zoning: The new zoning code will become effective in late 2017 or early 2018. If you are planning or considering property redevelopment, a remodel or expansion, it is still possible under the current zoning regulations by submitting a land use application (if required) or building permit application prior to the effective date. It is advisable to begin design and due diligence work on such projects as soon as possible, as there will likely be a large volume of projects submitted prior to the January 2018 effective date.