

The Oregonian

Mayor Charlie Hales calls for investigation into police use of force in activists' arrest

By Samantha Matsumoto

November 30, 2016

Mayor Charlie Hales called Wednesday for an investigation into allegations of excessive force by Portland police when they arrested activist Kathryn Stevens last week during an anti-Trump protest.

A video shows officers grabbing Stevens by the head at one point while she struggles and clings to another protester, Portland's Resistance founder Gregory McKelvey, who also was under arrest.

Hales said the city's Independent Police Review Division will open an administrative inquiry into claims by Stevens and McKelvey that police injured Stevens.

"If there are findings of wrongdoing, there will be proper discipline," he said in a statement.

Hales, who also serves as the city's police commissioner, said many demonstrators have remained peaceful, but "unfortunately, there have also been safety concerns such as walking onto freeways and blocking the MAX light-rail lines."

On the night Stevens and McKelvey were arrested Nov. 21, the mayor said police "were responding to legitimate concerns about the safety of middle and high school students being directed to block traffic and disregard police instructions."

McKelvey said this week that officers hit and dragged Stevens and tried to break her neck. He posted a video to social media showing an officer putting his hands on each side of Stevens' head.

Police spokesman Sgt. Pete Simpson said the officer was using a "mandibular angle pressure point" and pointed to a TV station video that he said shows more context for the arrest than the seven-second video released by McKelvey.

That video shows both officers and protesters congregating at the scene with audio of some demonstrators yelling support for McKelvey and Stevens as they shout at police to release them.

Simpson said any police use of force is documented in reports and undergoes a review by police supervisors.

"I take any allegations of improper force and misconduct seriously," Police Chief Mike Marshman said in a statement. "I demand that all officers' conduct is within the law, policy and consistent with the values of the community and the Portland Police Bureau."

Stevens, along with McKelvey and Micah Rhodes, another leader of the Resistance group formed after Donald Trump was elected president, all were arrested during a rally and march led by high school students.

Police said officers "observed McKelvey and Rhodes actively encouraging and directing student protesters to counter lawful police orders." Police arrested Stevens when she "attempted to interfere with McKelvey's arrest," they said.

The activists said police targeted them because they're leaders in the protest community and the city wanted them to stop protesting. They said they weren't directing the march and were following the students' lead.

Stevens clung to McKelvey as police arrested him, according to both Stevens and a police report written by Officer Ryan Mele. The arrest was near the Multnomah County Courthouse.

Stevens said she was trying to protect McKelvey. Police pulled her away, knocking her and McKelvey to the ground, she said. Officers held her down on top of McKelvey, she told The Oregonian/OregonLive in an interview this week.

"They were pushing my head down, pushing my body down," Stevens said. Officers repeatedly told her that she was hurting McKelvey and asked her why she wasn't getting up, she said.

According to Mele's police report, Stevens wrapped her legs around McKelvey and wouldn't let go. Another police report by Officer Patrick Mawdsley said he told Stevens to release McKelvey when he heard McKelvey say she was hurting him.

Mele wrote that officers were concerned that Stevens was creating a dangerous situation by resisting arrest because drivers could be distracted by the commotion.

"I knew I had to make the arrest quickly and get Stevens out of the area for the safety of myself and her but she would still not let go (of McKelvey)," he wrote.

Stevens said as she was sitting on the sidewalk at one point during the arrest, an officer came up to her and began grabbing her head, digging his knuckles into her temples.

According to the police report, Mele used a "bureau taught pressure point" on Stevens when it appeared as if she was preparing to spit on him.

Officers then pulled her into a doorway, dragging her by the hood of her coat, Stevens said. She said she choked and lost consciousness for a few seconds.

Two officers surrounded her, blocking her from the view of anyone except McKelvey, she said. They knelt on top of her, holding her down as an officer grabbed her head a second time and hitting her, she said. She remembers them yelling at her, "Are you having fun?"

"He was just hitting me repeatedly," Stevens said. "It was just excessive and very hurtful."

Mawdsley said that he and Mele pulled Stevens into an alcove because she was uncooperative. Mawdsley asked Stevens if she wanted to stand up but she remained on the ground. He said he "maintained ahold of her" while she was on the ground to "prevent her from escalating and causing additional force to be used."

Mawdsley said he and Mele were using "the minimum amount of force to take (Stevens) into custody" so they wouldn't incite other protesters.

Stevens and McKelvey said they believe the officers were trying to get a reaction from McKelvey. Stevens and McKelvey are a couple.

Stevens said she didn't get adequate medical attention when she was booked into the Multnomah County jail downtown after her arrest. She said she asked for help at the jail, but an official from Portland Fire and Rescue only told her that her hand was sprained.

Mawdsley's police report said Stevens refused treatment from the fire officials.

Stevens said she drifted in and out of consciousness from pain during the four hours she was in custody. When she was released, she went to a hospital emergency room, she said.

Doctors there told her she had a sprained hand and elbow and internal bruising, she said. For days afterward, it was painful to move or eat, she said.

Though she's recovering, she said she's shaken by the encounter.

"I just couldn't believe it was happening," she said. "It was completely unjust. There was no reason to hurt me."

Activist Cameron Whitten witnessed Stevens' arrest and called the police actions an excessive use of force. He said he saw officers take Stevens by the hood and roughly push her down onto her knees.

He didn't see officers grab her head because a line of officers blocked his view, he said.

"No one peacefully protesting should be handled that way," he said.

McKelvey said the police reports contradict what happened in the video -- for example, Stevens did not try to spit on an officer, he said. More videos of the arrest will be released this week, he said.

It shouldn't have taken video evidence to spur an investigation into police use of force, he said.

"We've been calling it out and protesting for a long time," he said. "And now that we have video evidence, we get an investigation."

Portland's elected auditor wants more autonomy

By Brad Schmidt

November 30, 2016

After months of tension with Mayor Charlie Hales, Portland's elected watchdog wants greater independence over spending, hiring and legal decisions.

Auditor Mary Hull Caballero said she shouldn't need to routinely seek permission from the very government officials and programs scrutinized by her office.

Hull Caballero is now pushing for more autonomy, although she'll need agreement from the City Council and Portland voters for any changes to become official.

"The auditor's office needs to be structurally independent," Hull Caballero said this week, making her pitch publicly ahead of a City Council discussion in January.

Hull Caballero wants to rewrite Portland's governing document, called a charter, to enshrine her proposed changes. Changing the charter would require a public vote. While none of Hull Caballero's tweaks are considered overtly controversial, they've been met with some skepticism inside City Hall.

First, the auditor wants to mandate her office's responsibility to oversee the Independent Police Review Division and the Office of the Ombudsman. Each has been under the auditor's purview since 2001, but that's because the City Council approved the arrangement - not because the roles were assigned by voters.

Second, she wants to be able to hire staff and set salaries without approval from the human resources bureau, which traditionally reports to the mayor. She also wants to hire outside consultants without the blessing of the city's procurement division. Hull Caballero couldn't point to any instances since taking office in 2015 when officials rejected her decisions.

Third, Hull Caballero wants more control over her annual budget. Details aren't yet clear, but Hull Caballero said she doesn't want the City Council to be able to take money from her office to pay for their policy priorities. An outside company would be hired to evaluate whether her office spends money effectively, she said.

Finally, the auditor wants an in-house attorney, or the ability to hire outside attorneys, without seeking approval from either the City Council or the city's top lawyer.

Hull Caballero said the job of the city attorney's office is to minimize legal risk and liability, and that may conflict with her accountability role. As an example, she pointed to the city's conflict over ride-share company Uber.

Her office last year investigated whether Hales and Commissioner Steve Novick violated city rules by not reporting their contacts with Uber's lobbyist. Hales and Novick received legal advice from the city attorney, she said, limiting her own office's ability to seek guidance without setting up a conflict.

Hull Caballero plans to present her plan to the City Council during a Jan. 10 work session, after Mayor-elect Ted Wheeler takes over. It would advance for consideration Jan. 25.

If approved by City Council, the changes would be referred to voters in the May 2017 election.

Developers race to beat Portland's inclusionary zoning policy

By Elliot Njus

November 29, 2016

Portland's looming inclusionary zoning policy has set off a race to get apartment projects approved before the affordable housing requirement kicks in.

City officials say there are more than 14,000 apartment units in the process of getting city approval. That's about three times the number permitted annually during the recent apartment-building boom years.

That doesn't mean they'll all be built in 2017. Developers who get far enough in the approval process to obtain "vested rights" in their project can apply for a permit even years later, and they won't have to comply with any new rules created in the meantime.

"We expect there will be an ever-increasing uptick right up until the Feb. 1 date when this would go into effect if it's approved by the City Council," said Rebecca Esau, a manager at the city's Bureau of Development Services. "We're getting a lot of questions about what the minimum requirements to get vested are under the current regulations."

There are other reasons developers might be rushing projects along, said Sam Rodriguez, managing director at Mill Creek Residential Trust. Construction costs are rising, and interest rates are poised to climb. Still, the inclusionary zoning policy is front-of-mind for many developers.

"The reality is, we don't know what the program is going to look like," he said. "If you have projects, I think everybody is trying to lock in the known conditions. It's just the natural thing to do."

But, Rodriguez said, most developers -- including his own firm, Mill Creek -- are holding off on preparing new projects until the policy starts to take shape. That's because the uncertainty makes it difficult to judge the viability of a project.

"It's very difficult to approach an investor with a project if you can't tell them exactly how the program works," he said. "They'll say, 'Come back to us when you know.'"

The front-loaded development pipeline doesn't necessarily spell a problem for the inclusionary housing program, said Kurt Creager, the housing bureau's director.

Having projects in the pipeline would help keep housing under development while builders adjust to the new regulatory scheme, he said, and the construction excise tax paid by those builders would still help pay for affordable housing.

"We're not concerned about some people getting in under the wire," Creager said.

The city's proposal now calls for developers to set aside at least 20 percent of their units for residents making less than 80 percent of the median family income; currently that's \$58,650 for a family of four. In exchange, builders would receive such concessions as tax waivers on the affordable units and increases in allowed density.

Developments with affordable units also would be exempt from minimum parking requirements under a shift approved by the Portland City Council last week.

Some developers and economists say mandatory inclusionary zoning will ultimately raise construction costs, and could counterintuitively hurt affordability by reducing the number of housing units built.

That concern led the Portland Planning Commission to recommend increasing incentives for developers or reducing the amount of affordable units required. The commission said the policy shouldn't put additional costs on developers because doing so risks backfiring by reducing the supply of new housing.

"If we cannot continue to entice developers as our partners, developers will fail to not only bring on affordable units, but also hurt our other goals," commission chairwoman Katherine Schultz told the City Council on Tuesday.

The Housing Bureau has said developers can afford to absorb the cost of affordable housing without reducing the number of units built.

The City Council, a majority of which has already signaled support for inclusionary housing in principle, is expected to approve the policy in December. It would take effect in February.

Portland police protest coverage cost \$592,816 in overtime

*By Maxine Bernstein
November 29, 2016*

Portland police have racked up \$592,816 in overtime costs between Nov. 3 and 16 from officers' response to protests in the days before the presidential election and in its aftermath.

The police response to the Million Mask march, an anti-capitalist demonstration on Nov. 5 when protesters blocked Interstate 5 north near the Morrison Bridge, cost \$29,677 in overtime, the Police Bureau reported.

The police response to the anti-Trump protests cost \$563,139 in overtime, according to the bureau.

Police decided they needed to stand firmer with a more visible presence after a march turned into a riot on Nov. 10 when a small band of destructive protesters infiltrated the marchers

demonstrating against the election of Donald Trump. The vandals smashed windows of Pearl Street businesses, set fires to newspaper boxes and broke windows of cars parked in a Toyota dealership lot.

The bureau largely relied on its four 15- to 18-member Rapid Response Teams, squads of officers clad in riot-control gear and trained in crowd control, to block streets and entries to bridges and the freeways. Protesters largely ignored the chief's and mayor's pleas to get permits to march and forged their own routes. On several nights, officers fired tear gas and flash-bang grenades to disperse the demonstrators.

The bureau also used other mobile field forces staffed by precinct officers. At times, the precincts had to limit their patrol responses to only emergency priority calls because some officers were pulled for protest coverage, Police Chief Mike Marshman said.

At least 120 people were handcuffed, cited or taken to jail during the protests.

In the midst of the protests, Marshman told The Oregonian/OregonLive, "We're trying to be prudent, but it is what it is."

The post-election protest coverage costs will come from the bureau's \$9.1 million overtime budget. The bureau has spent about \$4.8 million of that budget, according to city figures.

Police anticipate using salary savings from 87 officer vacancies this fiscal year to cover potential overspending in the overtime budget, police spokesman Sgt. Pete Simpson said. The fiscal year ends in June.

The Portland Tribune

City forcing Portland resident to remove trees at her expense

By Lyndsey Hewitt

December 1, 2016

Massive elm trees that form a canopy over Ladd's Addition streets are so iconic, they've inspired an ongoing volunteer crusade to save the street trees from dreaded Dutch elm disease.

When one of the graceful trees is deemed diseased and untreatable, the city steps in to remove it, at no cost to the adjacent homeowner, to stem the spread of the disease.

So Ladd's Addition resident Alyssa Gregg was taken aback on Oct. 26, when she received a notice from the city informing her she must remove the two elms on the city parking strip in front of her house within 15 calendar days. The city normally foots the bill if elms are afflicted with Dutch elm disease, but in this case the city said they were infected with something else, and therefore Gregg must pay to take them down. Her estimated tab: \$2,000 per tree.

The notice says that if the trees aren't removed, Gregg will be charged the "cost of removing the nuisance, a civil penalty, overhead, and auditor's charges." Then a lien will be placed against the property for the charges.

Fellow neighbors who received the same notice have already removed their trees, but Gregg deems the city's action abusive and is fighting back.

She thinks it's a way for the city to make the owner pay before Dutch elm disease actually infects it.

"(The city is) basically saying 'we want to do a preemptive strike before we're financially responsible for this tree,'" Gregg says.

"This was the first season that we had that it sort of didn't look great."

Gregg, who has lived in the neighborhood since 2001, was informed in July that the city would be testing the trees for Dutch elm disease, but it wasn't until late October that she got the bad news.

According to the city's Urban Forestry tree inspector, Oregon State University labs didn't find Dutch elm disease, but did confirm two "saprophytic fungi" that are present only in dead or decaying organic matter. Samples tested were taken from young twigs and branches. The city considers the elms a public safety hazard, citing a "progressive state of decline" determined by on-site risk assessment inspections, which consist of limited visual inspections and other protocols posed by the International Society of Arboriculture.

Unconvinced, Gregg spent \$150 to have testing done with a private company called Waypoint Analytical, which did not detect any infectious pathogens. Arborists told her that she could make a more concentrated effort to save the trees at a lesser cost than removal.

Dave Kaplan, treasurer of Save Our Elms, a nonprofit that slowing the spread of Dutch elm disease in the neighborhood, says the city's authority to make neighbors pay to remove diseased trees has always been in the code — but enforcement has been "in and out."

In fact, for the past few years, he says dead trees "have been standing for months," calling it ironic that they're putting Gregg under a tight timeframe to remove the trees.

"Our relationship with the city forestry department is a love-hate relationship," says Kaplan, a 30-year resident of Ladd's Addition. "We would like to see them more responsive when trees are dead, and see them come down sooner, just because as they stand, they pose a threat."

Gregg, however, isn't so sure her trees pose such a threat, and notes they didn't fall during recent high winds. Furthermore, Gregg says losing the large trees will affect her property value and energy costs, since the trees provided shade and natural temperature control.

"It's a big concern that they're driving so hard to tear them down. Why not give me a chance to inoculate them?" she says.

Inoculation is a treatment process that Save Our Elms volunteers utilize to help slow down Dutch elm disease in trees and involves injecting trees with fungicides.

Kaplan says the trees in question were treated two years ago with Arbortect fungicide, the "gold standard" for Dutch elm disease inoculation. Gregg's trees would be due for re-treatment in the spring if they were deemed healthy enough to withstand stress from the process, but the city forester makes that decision, he says.

Most in the neighborhood support Save Our Elms and partake in this process annually.

"Every year, we go inoculate with our own time and resources that we've personally committed," says resident Steve Chercover. "And then the city will remove trees where I guess we've failed to intervene. And yet if it's not Dutch elm, you're on your own," he says.

Gregg has conceded she'll have to schedule to have them removed, but she plans to fight for a \$4,000 reimbursement. By her reading of the city code, she's not responsible for the costs to remove trees on city property.

The code says it's the responsibility of the owner to "maintain the trees located on their property or on the adjacent street planting area."

The city forester then has the authority to direct the property owner to remove the trees to "maintain public health, safety, or health of the urban forest," says Mark Ross, Portland Parks and Recreation spokesman.

When asked if 15 days notice to pay up to \$4,000 to remove trees was reasonable, Ross said, "It's a good amount of money, no question, and that isn't lost on us." He says that's why the city granted Gregg an extension, to give her time to find a contractor, and that the two could determine a payment plan.

Ross emphasized the possibility of injury or even death as a possibility if the trees aren't taken care of.

Gregg has since been showing her notice to fellow neighbors to warn them of the possible expense if their trees aren't looking particularly healthy, and has also consulted a lawyer.

Uncertain future

Save Our Elms, the nonprofit that's worked since the mid-1990s to inhibit the acceleration of Dutch elm disease in Ladd's Addition, may itself be in trouble, according to an Oct. 16 letter posted online and signed by its board of directors.

The disease first was detected in the inner Southeast neighborhood in 1993, when the grove had 260 elms along the streets.

The nonprofit's initial strategy was to inoculate every tree, on a three-year cycle. However, the disease accelerated and the neighborhood continued to endure losses. The organization refocused its approach and started a more expensive process to slow the disease.

Losses have continued, however, and the organization has reported 19 trees lost in the past two years, and 75 elms lost overall since efforts started. A new portion of infected elms emerged on Ladd Avenue last year.

"The Board of Directors has come to the conclusion that continued efforts and fundraising for a process that has stopped showing measurable results may not be a responsible course of action," the letter says.

It says the organization doesn't have enough funds to protect every tree in the neighborhood, and to do so, it would need to inoculate 85 trees per year, "expanding our revenues by a factor of five."

Over the decades, Save Our Elms has planted 250 disease-resistant elms, as well as 500 other varieties "based on the historic landscape plan drafted in the first decade of the last century," says treasurer Dave Kaplan.

Ladd's Addition, one of Portland's historic districts, is the city's oldest planned community and one of the oldest in the western United States, according to the National Parks Service. It was developed starting in 1905 with a unique radial street design that is in contrast to the city's grid street pattern.

Find out more: saveourelms.org.

Police chief put on the spot over cop with checkered past

*By Nick Budnick
December 1, 2016*

A police disciplinary case that has gone public will put Portland Chief Mike Marshman under a spotlight as he decides whether to fire a cop with a controversial history.

An internal investigation has found that in April 2015 Officer Scherise Hobbs used a confidential database for personal reasons, one that is explicitly restricted for law enforcement purposes. She did so to run the name of her former stepdaughter with whom she'd had a stormy relationship.

Such cases are hardly unheard of among cops, but Hobbs' documented history of misusing government property could make it a career-ender.

That decision is in the hands of Marshman, and it will constitute Portlanders' first up-close look at how the relatively new chief handles a potential firing of a rank-and-file officer.

"It could set a tone," said Dan Handelman of Portland Copwatch, who tracks the bureau's disciplinary process closely. But because the circumstances of Hobbs' case are pretty specialized, he added, "It won't necessarily set the tone for all disciplinary cases."

Hobbs' former stepdaughter, Rachael Winterling, last month went to the Portland Mercury and then to the Portland Tribune, sharing a document showing Hobbs violated policies concerning the bureau's Law Enforcement Data System. The Mercury published an article about Winterling's case the day after she spoke with the Tribune.

"In 2013 I realized that she had been monitoring my social media using a fake account," Winterling says. "In 2014 I sent her a cease and desist letter ... And then I found out that my DMV information had been accessed (by Hobbs through the law enforcement database)."

Winterling, a 23-year-old college student, says she has PTSD and blames Hobbs for it based on a 2007 clash that left her distrustful of police. Hobbs suggested Winterling, then 14, had broken into her apartment, but several of the girl's friends confirmed she was with them at the time of the incident.

Hobbs did not respond to a request for comment placed through her union, the Portland Police Association. PPA President Daryl Turner declined to comment, as did Marshman through a bureau spokesman.

"The Portland Police Bureau does not comment on or confirm personnel matters because it could interfere with the process of conducting a neutral, objective investigation and we must protect public employees' privacy interests consistent with the Oregon Public Records Law and relevant collective bargaining agreements," Sgt. Peter Simpson wrote in an email.

Though in April 2016 Hobbs was found to have violated policy, her case remained open as of last week because a final decision on the disciplinary consequences had not been made. Such cases go to a police review board, and then the officer can request a mitigation hearing with the chief.

Marshman took over the police bureau in June vowing to uphold high standards and restore the community's trust. But his lack of previous management experience means that he has a scant track record on disciplinary cases, adding significance to the Hobbs case.

A former bureau spokesman, assistant to former Chief Mike Reese and federal compliance coordinator, Marshman was popular with rank and file cops before becoming chief. But he never served as precinct commander or assistant chief — so he didn't have to make the kind of disciplinary decisions that tend to make enemies within the bureau.

Hobbs, meanwhile, has become well known among her colleagues.

In 2002, The Oregonian reported, Hobbs was suspended for having sex with another officer while one of them was on duty and using police bureau computers to pursue the relationship. In 2005, after she was found to have engaged in similar behavior with the same officer, a disciplinary review board recommended she be fired, citing evasiveness and failure to acknowledge the gravity of her behavior. But Chief Rosie Sizer chose to suspend her for a time instead. A union grievance led to the City Council authorizing a 2010 settlement paying her almost \$2,000 and restoring her lost vacation pay, according to The Oregonian.

That year, The Oregonian reported that Reese warned Hobbs in a letter that she'd be fired if she engaged in any further instances, "no matter how small, where your personal relationships cloud your judgment and result in you misusing work time and/or bureau equipment."

Hobbs was well known within the bureau for other reasons as well. After the bureau adopted Tasers she became one of the more frequent users of the devices. Her fellow cops called her "Lady Lightning," according to a 2004 review of bureau Taser use by Willamette Week. At a 2003 crash scene, dealing with an argumentative driver, she pulled her Taser and threatened to use it if the driver did not "follow directions and stop being lippy," according to the report she filled out.

With violations of the bureau's data system, known as LEDS, the Portland Police Bureau typically metes out punishment of a few days off without pay, officers say. And those cases rarely become public.

In this case, it almost certainly will. That's because the police bureau twice a year publishes a summary of cases handled by the police review board, as well as how the chief or city commissioner in charge of the case eventually rules.

Handelman says the information may show what happens to Hobbs, but it won't necessarily be satisfying. "We'll know what the final decision was, but we won't necessarily know the reason why."

City receives higher bids for Terminal 1 the second time around

*By Jim Redden
November 30, 2016*

In the second round of bids for Terminal 1, the city of Portland has received seven offers ranging from \$10 million to \$10.5 million.

Strangely, one bidder, Medford-based Lithia Motors, proposed the city move the iconic Portlandia statue from the Portland Building to the site.

"The offering parties would like to propose that the iconic Portlandia Statue be moved to the Terminal 1 site, welcoming seafarers and the world to our beautiful City," Lithia Motors wrote in its bid "As the second largest hammered [sic] copper sculpture in the United States and the

symbol of the City, Portlandia could finally find a place to project both her place and the confidence of the community."

The first time the city put Terminal 1 up for sale, it also received seven bids, but they ranged from \$6 million to \$10 million. The sale was suspended after the City Council voted to allow developer Homer Williams to try to open a homeless shelter at the 14-acre industrial site in Northwest Portland.

The bidding process was restarted after Portland Housing Commissioner Dan Saltzman pulled the plug on Williams' project.

The property is owned by the Bureau of Environmental Services, which is overseen by Commissioner Nick Fish. He has always wanted it sold to create industrial jobs, with the proceeds used to hold down future sewer rate increases. At the time, Fish thought the possible homeless shelter discouraged some businesses from bidding on Terminal 1.

Three of the offers are repeats, although one bidder, the Winkler Development Corporation, changed its proposal from an affordable housing project to an industrial development.

The proposed projects range from a consolidation of Lithia Motors' operations in Portland to a business park. Three are unspecified. The bids are:

- Tandem Development Corporation, \$10.5 million, unspecified.
- Winkler Development Corporation, \$10,350,000, river-related industrial development.
- Kidder Mathews/Cody Development, \$10,050,000, modern jobs center and innovative business park.
- Lithia Motors, \$10 million, operations consolidation.
- Melvin Mark real estate brokers, \$10 million, unspecified.
- Lincoln Property Company, \$10 million, unspecified.
- Prologis, a global industrial real estate development firm, \$10 million, multi-tenant industrial park including manufacturing and warehouse facilities.

The previous offers included: a \$6 million bid from Costco Wholesale proposes one of its membership stores at the site; an \$8.5 million bid from Kidder Mathews proposes a "new and innovative business park"; a \$10 million bid from Winkler Development for 1,000 affordable housing units; a \$9 million unspecified offer from Kehoe Northwest Properties, LLC; a \$8 million unspecified bid from WPC 2400 NW Front Ave LLC; a \$10 million unspecified offer from Lincoln Property Company; and an \$8 million unspecified offer from Conax Properties USA, Inc.

The city will now engage in a due diligence process before picking the buyer.

For a Portland Tribune story on the previous bids, visit tinyurl.com/huwxw4k.

Portlanders' ratings of city livability fall to new low

*By Kieran Hanrahan, OPB
November 30, 2016*

Portland residents are giving the city the lowest livability ratings on record, according to a City Auditor's report released Wednesday.

The auditor's office surveyed 3,000 Portlanders by mail this summer. Sixty-three percent of respondents said they feel that Portland is livable. That's the lowest rating the city has received since the auditor began asking the question in 1998. It's down from 74 percent last year.

Respondents viewed several indicators more negatively than in prior years



Geographic and demographic disparities were apparent in respondents' opinions.

For example, 74 percent of Inner Northeast Portland residents gave the city's livability a positive rating, compared with just 44 percent of East Portland residents.

Portlanders also gave lower ratings if they were older than 60, didn't have a bachelor's degree, earned less than \$75,000 a year, had a disability, or had lived in their current residence for more than ten years.

Livability wasn't the only measure of Portlanders' satisfaction that declined this year. Residents are increasingly concerned about housing affordability, land-use planning, traffic, the city's delivery of services, and other issues.

Those who have lived in their homes for more than ten years and those older than 60 were most consistently dissatisfied, registering lower levels of satisfaction than other demographics on every issue except housing affordability.

Auditor seeks more autonomy with reform measure

*By Jim Redden
November 30, 2016*

Tensions have been growing for years between the City Council and the City Auditor's Office.

Most recently, the council balked at changes proposed to the Independent Police Review division within the Auditor's Office, proposed by City Auditor Mary Hull Caballero. Mayor Charlie Hales clashed with Hull Caballero over his plan to speed up foreclosures on long-empty "zombie houses" with delinquent fines collected by the Auditor's Office. And Hull Caballero has pushed back on a new public campaign-financing program that Commissioner Amanda Fritz has proposed creating in the office, saying she does not have enough employees to administer it.

Now Hull Caballero is saying that, although her office is an elected position created by the City Charter, she does not believe it is independent enough from the council or the city agencies it is charged with overseeing. Among other things, her audits frequently criticize the management of bureaus overseen by the mayor and council members. So she wants Portland voters to approve a number of charter reforms at a May 16, 2017, special election to increase its authority.

"There are a lot of ways we can get crossways with the other elected officials and the executive branch of the city," Hull Caballero told the Portland Tribune earlier this week.

One example is when Hull Caballero learned that Mayor Charlie Hales and Commissioner Steve Novick had a private meeting with political consultant and Uber lobbyist Mark Wiener while the council was considering allowing the ride-sharing company to operate in Portland. The meeting was not disclosed by Hales, Novick or Uber, in apparent violation of lobbyist regulation requirements enforced by the Auditor's Office. When the office began its investigation, Hull Caballero quickly realized the City Attorney's Office was advising Hales, Novick and her office about the matter at the same time. She decided to hire outside counsel, but had to get permission from the city attorney.

"It was a clear conflict, but I have to get approval to set it right," said Hull Caballero, who eventually sent warning letters to Hales and Novick and fined Uber \$2,000.

Among other things, Hull Caballero wants all the oversight responsibilities of the office to be authorized by the charter. She also wants the office to be able to administer its own budget, have an in-house lawyer, and be free from the policies, rules and authority of the Office of Management and Finance.

Former City Auditor Gary Blackmer supports the reforms.

"The auditor's job is not to make council members happy, and that tension interferes with the task of holding the city accountable. Each of the 10 years I was auditor, the council agreed to divide up the budget pie without considering my office. Legal advice is handed out by the fourth floor of City Hall and the attorneys were insensitive to the auditor's unique role and responsibilities. Those practices continue, so I totally support Mary's proposals," said Blackmer, who also served as Multnomah County auditor and head of the Audits Division of the Oregon Secretary of State's office.

Hull Caballero is scheduled to present her proposed reforms to the City Council at a Jan. 10 work session. She wants the council to hear them on Jan. 25 to meet a Feb. 2 deadline for referring measures to the May 16 ballot.

"What I'm asking the council to do is, let the voters decide what kind of auditor's office they want," said Hull Caballero, who previously served as Metro auditor.

But it is the council, not Hull Caballero, that will decide whether to hold a hearing on her proposals and which of them to refer to the voters, if any.

Some might argue the fact that Hull Caballero needs council approval to ask voters to reform her office proves her point — although the office is charged with auditing everything from the city's financial condition to individual agencies, it is not truly independent.

The 2017 council that takes up the matter will have two new members, Mayor-elect Ted Wheeler and Commissioner-elect Chloe Eudaly, who have yet to be fully briefed on the charter proposals. Hull Caballero has already briefed the carry-over members. Commissioner Nick Fish is generally supportive of the reforms. Commissioners Amanda Fritz and Dan Saltzman will not comment until they have seen more specifics.

Portland has had an elected auditor since 1868. Additional responsibilities have been added over the years and now include providing audit services, code hearings, maintaining the city's archives, foreclosing on delinquent properties, accepting city election filings, reviewing allegations of police misconduct, handling citizen complaints through an ombudsman, and registering lobbyists and campaign consultants who contact council members.

Not all of the duties and responsibilities are spelled out in the charter. The last substantive charter changes passed 30 years ago, when former Auditor Jewel Lansing wanted to begin

conducting performance audits on city bureaus. Hull Caballero says the structure of the office no longer meets best practices developed by peer organizations in other cities.

Proposed changes

The City Charter reforms that City Auditor Mary Hull Caballero is proposing include:

- Making all oversight functions of the City Auditor's Office permanent, by adding civilian oversight of law enforcement and ombudsman responsibilities to the charter.
- Increasing the autonomy of the office to make administrative and management decisions by exempting it from Office of Management and Finance policies, rules and authority. That city office currently has authority over how the auditor's office is administered, including approval authority over procurement and personnel decisions.
- Allowing the office to seek independent legal advice by giving the auditor the ability to appoint in-house counsel and directly hire outside counsel. At the present time, the auditor's office may obtain legal advice only from the City Attorney's Office, which also represents the council and the bureaus and is subject to the Auditor Office's oversight. The auditor may now obtain outside legal services only with the prior approval of the city attorney.
- Allowing the office to adopt an independent budget through a process yet to be determined. Under the current process, the City Budget Office evaluates the auditor's proposed budget and recommends what level of funding it should receive to the council, which makes the final decision.

The Portland Mercury

Seven Companies Want to Buy Terminal 1—And One Wants Portlandia, Too

Dirk VanderHart
November 30, 2016

Lithia Motors doesn't just want Terminal 1 for its \$10 million. It wants Portlandia.

The massive, Medford-based auto retailer is now one of seven entities [PDF] that have active bids to purchase the much-discussed Terminal 1 from the City of Portland, after a local developer's push to bring a homeless shelter to the Northwest Portland site fell through in October.

Those proposals—unlike an earlier round of bids that was scuttled amid the shelter discussion—contemplate a similar price for the 14.5 acre industrial property just north of the Pearl District. All the offers are between \$10 million and \$10.5 million. The city's Bureau of Environmental Services (BES), which owns Terminal 1, has estimated it could get between \$8 million and \$12 million for the site, considered a rare piece of central industrial land in a hot real estate market.

But Lithia, in its proposal to "consolidate its scattered [Portland] operations under one roof" at the site, is pushing for just a little extra—as in, the city's flagship statue.

"The offering parties would like to propose that the iconic Portlandia Statue be moved to the Terminal 1 site, welcoming seafarers and the world to our beautiful City," the proposal reads.

"As the second largest hammered [sic] copper sculpture in the United States and the symbol of the City, Portlandia could finally find a place to project both her place and the confidence of the community."

Portlandia's current perch, leering at passers by from the Portland Building, has long been seen as not ideal, since it's pretty easy to pass her by without noticing.

Lithia's the only entity that tried to get a city icon thrown in with its offer, but there are some other noteworthy proposals.

Three of the bids are repeats:

- Portland-based project[^] is offering \$10.05 million for the land, nearly \$2 million more than it contemplated during the first round of offers. The development company still wants to construct a new Portland outpost for "retail fixture company" EYELEVEL.

City officials have made clear they're trying to get as much money as possible for the land, but it's worth noting that project[^] likely has some goodwill with the city at this point. When the homeless shelter proposal on the land fell through, company founder Tom Cody—who'd been eyeing T1—offered up a downtown space for a temporary winter shelter that could take its place.

- Winkler Development, also of Portland, is bidding \$10.35 million for Terminal 1. But unlike its first proposal for the land, which involved building affordable housing, Winkler now says it wants to make the land "an industrial family wage jobs center."

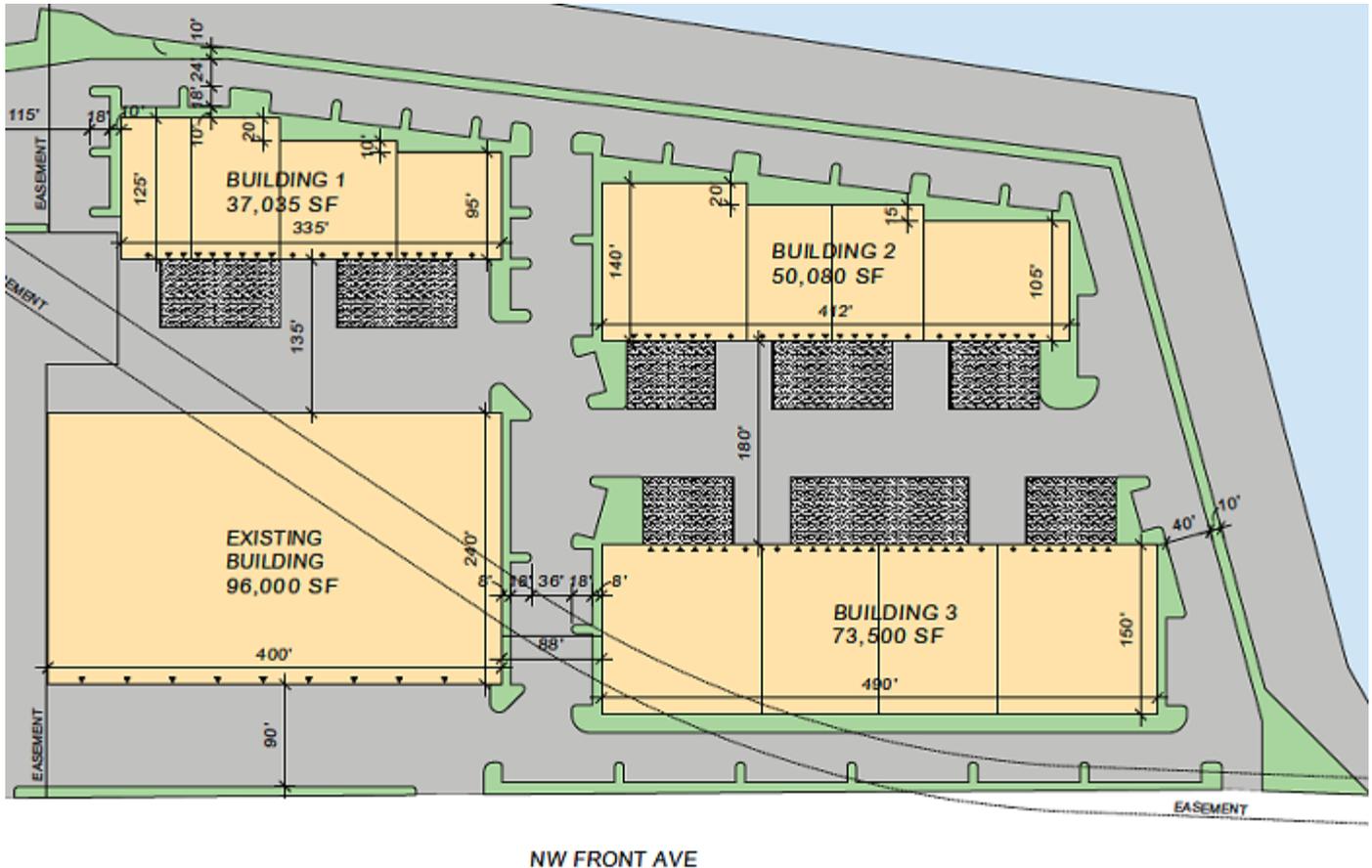
"It is clear the consensus needed for a suitable conditional rezoning to permit affordable housing on the site will not be obtained in the near term," the company's offer says.

Also repeating its offer: Dallas-based Lincoln Property Company, which still isn't giving specifics on what it would do with the land, if its \$10 million bid is accepted.

The three other interested buyers are:

- Seattle-based InterUrban Development, which is putting up \$10 million for the land, without offering specifics.
- San Francisco-based Prologis, which bills itself as the "largest owner, operator and developer of industrial facilities in the world," and boasts a client list of some of the country's biggest corporations. Prologis is offering up \$10 million, and presenting two ideas for Terminal 1. Either the site would feature four warehouses, or a single "one-of-a-kind multistory industrial building" at the site. Those ideas are pictured below.

- Tandem Development Corp, based in the Chicago area, is offering the largest sum for Terminal 1: \$10.5 million. It's also not specifying what it would do with the land.



BES spokesperson Cheryl Kuck says BES hopes to make "substantial progress" in selecting a bidder by the end of the year.

"We will exercise due diligence in analyzing and evaluating the offers and complete the selection process as soon as possible," Kuck says. "Our aim will be to select the proposal that best meets the city's long-term planning goals for the property and provides the best return for our ratepayers."

Kuck notes that one other entity submitted a proposal, but has since retracted it, meaning the city received eight proposals in total during a roughly two-week window that closed November 18.

Portland Invests Millions in Banks that Fund Controversial Private Prisons

*By Dirk VanderHart
November 30, 2016*

WHEN DONALD TRUMP was elected on November 8, the country's two largest private prison operators had reason to break out the champagne.

CoreCivic (formerly the Corrections Corporation of America) and the GEO Group saw their stock prices soar in the 24 hours following the vote. Fortune magazine went so far as to call CoreCivic

“the biggest winner of the election,” noting that the company’s stock shot up more than 40 percent overnight (GEO’s rose by roughly 21 percent).

It made sense: Trump’s headed to the Oval Office on a promise to deport millions of immigrants, and the two companies operate detention centers that US Immigration and Customs Enforcement (ICE) will increasingly rely on if his dodgy assurances come to pass.

But if the election bolstered for-profit prison corporations, it also made the target on their backs all the brighter. And if local advocates have their way, Portland will be at the forefront of a new movement to snuff them out.

On Wednesday, November 30, the city council will take up a recommendation to place nine new names on the city’s “Do Not Buy” list—a ledger of corporations that Portland refuses to purchase bonds from., no matter how lucrative the potential returns.

Among the companies that the city’s Socially Responsible Investments Committee (SRIC) wants blacklisted are Amazon, Nestlé, and Walmart (which is already listed, but has to be re-listed by the year’s end to remain).

More controversial is the inclusion of banks that prison corporations like CoreCivic and GEO Group rely on to operate and expand. Wells Fargo, JPMorgan Chase, HSBC, and Bank of New York Mellon are all among the SRIC’s recommendations, and have all been tied in some way to aiding for-profit prisons.

Now, in its first-ever report to council, the two-year-old SRIC has taken an interesting step. Since the city doesn’t invest directly in private prison operators, the committee wants Portland to sever ties with banks that help finance them.

Looming largest is Wells Fargo. The bank offers “contracted services for and financing of the private prison industry that has been the subject of multiple lawsuits over egregious basic human rights violations,” says a September 30 report urging council to end city investments in Wells Fargo (roughly \$57.6 million as of October 31).

The bank, of course, has other blemishes on its record—including forcing fraudulent accounts on unsuspecting customers—but severing ties on the basis of its clients would put Portland in largely uncharted waters. While two universities and the city of Berkeley, California, recently pulled direct investments in prison corporations, virtually no one’s stopped supporting banks that finance them—yet.

“It would be the first time that a city chooses to divest from one of these prison profiteers,” says Amanda Aguilar Shank, of the Portland-based nonprofit Enlace, which pushes prison divestment nationwide. “Our goal is to set a precedent.”

Not everyone agrees that’s the right move—and it’s not remotely clear Portland’s city council will approve. In response to the divestment recommendations, City Treasurer Jennifer Cooperman issued a memo [PDF] in October urging caution.

“It is a slippery slope to reach beyond a specific company/industry on the [Do Not Buy] List to the banks that provide their financing,” Cooperman wrote. “It is not clear that Council intended the SRIC to reach this far.”

As part of her analysis, Cooperman offered a sort of worst-case scenario of what divesting from Wells Fargo could cost. It suggested Portland could lose out on between \$600,000 and \$766,667 a year if it discontinued its investments. Those numbers, though, assume the city would instead be placing its money in US Treasury bonds and not a more lucrative investment, which isn’t necessarily the case. The estimate also wasn’t based on the actual investment

Portland currently has in Wells Fargo, but the maximum potential investment it's allowed to place into any one corporation.

Oregon has no privately run prisons, but a certain segment of Portlanders have plenty of experience with them. Advocates say many immigrants detained by ICE agents locally are sent to the Northwest Detention Center, a controversial, 1,575-bed facility in Tacoma, Washington, run by GEO Group.

Inmates at the detention center staged a series of highly publicized hunger strikes in 2014, shining light on a host of grievances ranging from bad food to poor treatment by guards. The action led US Rep. Adam Smith (D-Washington) to call conditions at the facility "shocking."

The controversy goes deeper than that. The US Department of Justice announced in August it would phase out its use of private facilities, saying they weren't as safe or secure as federally run facilities. And Hillary Clinton, had she won the presidency, made clear she'd support ending private prisons at the state level.

None of that affected ICE, which uses private facilities for about two-thirds of its detention beds.

Portland uses those beds a lot. According to the Transactional Records Access Clearinghouse (TRAC) at Syracuse University, the ICE holding facility in Portland detained 1,058 people from October 2014 to September 2015. It sent 981 of them elsewhere, a number that ranks Portland ahead of 81 percent of ICE facilities nationwide.

Divestment campaigns like the ones Enlace and others are urging are sometimes seen as merely symbolic, but Aguilar Shank argues they can have real impact. If more cities that invest in Wells Fargo put pressure on the bank to stop lending money to prison companies, she says, it might eventually balk. She cites a new report from the research group In the Public Interest, which analyzed lending to for-profit prison corporations, and concluded that convincing banks to stop that lending "would significantly disrupt their operations and growth."

Plenty of local outfits agree. The Portland chapter of the National Lawyers Guild sent the city council a letter on October 31 saying the city "should heed its values and divert the funds it currently invests in Wells Fargo into strengthening our local communities reinvesting in communities directly and negatively impacted by mass incarceration and disproportionate enforcement of existing laws."

City council might well agree with Cooperman that opting out of bank investments because of whom they finance would be going too far (a vote on the recommendation is scheduled in December), but a move against immigrant detention facilities would also be consistent.

Portland's already positioning itself as something of a thorn in Trump's anti-immigrant ambitions, with incoming Mayor Ted Wheeler vowing to maintain our status as a "sanctuary city" that doesn't help federal agents arrest immigrants—even if federal funding is pulled because of it.

But Wheeler, steeped in investment policy as the state's treasurer, might be skeptical of the divestment proposal.

"Mayor-elect Wheeler's approach to policy decisions has always centered around first, what will achieve tangible results, and second, what is responsible financially," Wheeler spokesman Michael Cox tells the Mercury. "Divestment strategies are not typically center-of-target."

Hall Monitor—A Declaration of Independence

By Dirk VanderHart

November 30, 2016

PORTLAND CITY AUDITOR is an office built with conflict in mind.

As the only elected city office aside from members of city council, the auditor oversees deep dives into Portland's inner workings, regularly emerging with biting conclusions. Its ombudsman's office investigates complaints about city officials, demanding records from other city agencies. Its Independent Police Review (IPR) pokes into allegations of police misconduct.

Given all this, it's been odd lately to see the bulk of controversy emanating from the office not focused on Auditor Mary Hull Caballero's findings of waste or lax oversight, but from Hull Caballero chafing at a lack of independence and authority.

Repeatedly in the last year, Hull Caballero has said she's run up against limitations in her ability to do her job. She's hoping you'll change that.

The auditor's quietly airing a still-vague set of changes [PDF] she'd like voters to make to the city charter—tweaks she says will enshrine a better reflection of her office in Portland's pre-eminent governing document, and give her the breathing room she needs.

"It makes sense why it evolved the way it did," Hull Caballero says, "but it doesn't work anymore."

You don't have to look too hard to find evidence of Hull Caballero's disaffection. During city budget deliberations earlier this year, she railed against cuts to her office that Mayor Charlie Hales had considered, and even threatened to jettison a portion of the duties her employees carry out.

And last year, when her office was investigating whether Hales and Commissioner Steve Novick had broken disclosure rules by not reporting a meeting with an Uber representative, Hull Caballero was troubled by the fact that the city attorney's office was advising her staff as well as Hales and Novick.

"I did not feel that my office was being served well by that arrangement," Hull Caballero says.

A similar issue cropped up recently, when Hull Caballero was seeking legal advice on whether Commissioner Amanda Fritz would be violating the city charter by forcing Hull Caballero to administer a new publicly funded elections system. The auditor says the deputy city attorney tapped to give her advice was the same one helping Fritz craft her proposal.

So Hull Caballero is proposing four changes to the portion of the charter that lays out her responsibilities. She wants the ombudsman's office and IPR, which have been housed with the auditor since their creation in 2001, to be formally listed among her duties. She wants freedom from constraints that the city's Office of Management and Finance puts on other bureaus, arguing it's not proper that an office she audits has power to regulate her decisions. She'd like "independent budgeting" to ensure her funds won't be unduly slashed (this would likely involve a mechanism that increases her budget as city revenues rise, and decreases it when they fall). And she wants the ability to hire outside attorneys whenever conflicts arise.

Hull Caballero understands this might sound like a lot of freedom. She insists the auditor's office will contract regularly with outside consultants to ensure it's held accountable.

Still, don't be surprised to see officials throw up red flags. City Attorney Tracy Reeve is said to be dubious of the proposal (though she wouldn't go into detail with me, citing attorney-client privilege), and Hull Caballero says Commissioner Amanda Fritz has voiced concern.

Not briefed: Hales, perhaps the auditor's most constant sparring partner in recent years. Hull Caballero pointedly scheduled the first hearing on her proposal for January 10, when Hales will be gone and Mayor-elect Ted Wheeler is in office.

She's hoping the next council will push her proposal to voters in a May 2017 election, and, frankly, she doesn't see any reason why it wouldn't.

"The question we're asking is, 'Will you refer this to the voters?'" she says. "It's a weird thing for them to say, 'No we won't.'"