

The Oregonian

Portland's unconstitutional campaign against Uber (Guest opinion)

By Guest Columnist Ed Piper

May 12, 2017

Many Portlanders are justifiably incensed by the direction in which Attorney General Jeff Sessions has steered the Justice Department since taking office. There is, however, at least one major issue on which the Justice Department and Portland's city government see eye-to-eye.

[As the New York Times reported last week](#), the Justice Department has launched a criminal inquiry into Uber's "Greyball" technology, through which the ride-sharing giant frustrated Portland city officials who created and used fake Uber accounts in an effort to build a regulatory case against the company. Through Greyball, Uber identified the fake accounts and displayed decoy "ghost cars" whenever a phony user attempted to hail a ride. Portland supports and is cooperating with the Justice Department's inquiry.

Mayor Ted Wheeler believes Portland is in the right, but he couldn't be more wrong.

Wheeler has declared that Greyball "thwart[ed] the city's job to protect the public." Protect the public? That justification -- some would say "pretext" -- is eerily but uncoincidentally reminiscent of the Justice Department's stated reasons for other dubious federal initiatives against which Portlanders have rightly rebelled. After all, President Trump and Sessions have defended their administration's Muslim travel ban and stepped-up immigration enforcement in essentially identical terms.

Moreover, like those initiatives, Portland's campaign against Uber likely is unconstitutional. To understand why, imagine that an undercover police officer walks into a restaurant, poses as a patron, and begins searching for contraband while the restaurant's true patrons are dining. The restaurant's owner asks the detective to leave; after all, its rules prohibit patrons from disturbing other guests. Believing that different detectives might later attempt the same stunt, the owner also begins to screen patrons before they enter. If he concludes that a would-be patron is a cop, the owner turns him or her away.

In those circumstances, the Fourth Amendment entitles the owner to refuse to submit to the detectives' warrantless searches by prohibiting them from entering the restaurant. It also prohibits the government from retaliating against the owner for doing so. That, however, is precisely what the Justice Department and Portland want to do to Uber. Like most smartphone apps, Uber requires users to agree in advance to terms of service, which include a rule prohibiting users from accessing the app for fraudulent purposes. And, like a restaurant owner who ejects an unruly patron, Uber is well within its rights to ban a user who breaks its rules.

By creating fake Uber accounts, Portland's regulators did just that. Greyball, then, was Uber's means of withholding its consent to any future searches of its private electronic data. It identified users who intended to use its technology in ways that it deemed inappropriate, and prevented them from exploiting that technology to unauthorized ends. The Fourth Amendment entitles Uber to take those steps.

Regardless, with the Justice Department's backing, Portland has taken the position that Uber should be penalized for its refusal to permit regulators to co-opt the company's own technology for use in the city's regulatory efforts. That amounts to an unconstitutional punishment for Uber's

refusal to submit to a government intrusion into its private electronic data, to which the Fourth Amendment applies with the same force as it would to a private home or office.

Publicity-wise, Uber has elicited little sympathy of late. Its toxic workplace culture, for example, has been well-publicized. But neither poor publicity nor "public safety" concerns excuse the Justice Department's and Portland's violations of the Fourth Amendment. They should abandon their unconstitutional crusade against Uber, and focus instead on the myriad other injustices now facing the city and the nation.

Ed Piper is a Portland attorney whose practice focuses on privacy, data security, and white-collar criminal defense.

End of the line for city-funded transit passes for Portland Public Schools? Yes, please: Editorial Agenda 2017

By The Oregonian Editorial Board

May 12, 2017

It seems odd to praise Portland Mayor Ted Wheeler for wanting to slash the city's contribution to a program that provides transit passes free to Portland Public Schools high schoolers. While Wheeler reluctantly agreed to include money for the passes in his proposed budget for the coming year, he's unwilling to commit to funding in the future. Considering how thousands of students rely on those TriMet passes for getting to and from school, much less around the city, some might well view Wheeler as Portland's early frontrunner for Grinch of the Year.

But Wheeler's proposal - and commissioners' support for altering the contribution - are positive signs for anyone who values equity and fiscal discipline, both of which are ignored by the city's longstanding practice of chipping in for these passes. The city is using taxpayer dollars to help only students in PPS, not students in other Portland school districts such as David Douglas or Parkrose, both of which have far greater percentages of low-income students. And the city is helping bear a responsibility that belongs squarely on the shoulders of PPS, a separate governmental body whose general fund is projected to be almost \$100 million greater than the city of Portland's in the coming year.

It's worth noting just how these free bus passes came about in the first place. The state mandates that school districts provide yellow-bus service for students who live 1.5 miles or farther from school. Because PPS schools are well served by the existing TriMet system, the district has in the past fulfilled that requirement by giving free bus passes to qualifying students.

But the program has been supersized over the years to provide those passes to all Portland Public Schools high school students, regardless of family income or distance from school. At first, a tax-credit program administered by the state helped cover the cost. When that program dried up, the district and TriMet turned to then Mayor Sam Adams to take on some of the cost.

Adams agreed. The arrangement continued under Mayor Charlie Hales, even though his spokesman acknowledged at the time that providing bus transportation for PPS students isn't a city responsibility. It is apparently easier to pick up the tab than to take a difficult stand against something that is meant with the best of intentions.

But best intentions don't excuse bad policy decisions. This is more than just finicky border-tending. Such extracurricular expenditures deplete a city treasury that's already stretched thin in covering core functions as affordable housing, public safety, road maintenance, traffic-safety

improvements and other services on which Portland depends. The city government last year had to seek a gas tax from voters to find money to fund road improvements. Wheeler's proposed budget includes another ambitious proposal to issue bonds to help catch up on deferred street and infrastructure maintenance. These are the lengths to which the city must go, belatedly, when leaders forget what they should focus on.

Thankfully, Wheeler has company from his fellow city commissioners in at least altering the current set-up for 2018 and beyond. They shared his discomfort with the inequity of a taxpayer-funded program that benefits PPS students regardless of financial need, while ignoring low-income students in other Portland school districts. At the same time, the mayor called for a review of TriMet's actual costs of administering the program, which the transit agency has pegged at \$3 million a year.

A lot can happen in a year. Maybe Portland Public Schools will re-envision the program to only provide for low-income students living 1.5 miles away or farther. Maybe a new program will emerge that is deserving of city funds for fulfilling a citywide responsibility. And maybe Wheeler and other city commissioners will get cold feet about yanking city support.

But every time Portland leaders take on initiatives outside their core mission, it siphons away money, attention and ultimately, the city's ability to deliver on what people expect. Mission matters. It's time for all our elected leaders to recognize that.

The Portland Tribune

Council to consider revised Portland budget Wednesday

By Jim Redden

May 14, 2017

The City Council will hold its first hearing on the amended version of Mayor Ted Wheeler's proposed budget on Wednesday.

Although the council held a hearing on the proposed budget and recommended changes last week, some spending requests remain unresolved. They include whether the City should consider more than Wheeler's proposed \$25 million to the Portland-Multnomah County Joint Office of Homeless Services. The item to be considered on May 17 calls for a work session to be held on current and future funding levels.

Among other funding increases, the amended proposed budget calls for \$1.5 million to be spent on Vision Zero transportation improvements to reduce fatal and serious crashes in East Portland. And it authorizes the first stages of Build Portland, Wheeler's proposal to dedicate general fund increases from expiring urban renewal area to infrastructure project.

You can read details at www.portlandoregon.gov/auditor/article/639222.

To read a previous Portland Tribune on the proposed budget, go to portlandtribune.com/pt/9-news/357113-237114-wheelers-proposed-budget-draws-praise-criticism.

City warns of sewer overflow into Willamette River

By Jim Redden

May 14, 2017

Heavy rains and debris led to a combined sewer overflow into the Willamette River from the Southwest Carolina Street outfall north of Willamette Park on Saturday afternoon.

The Bureau of Environmental Services says the overflow began about 5 p.m. and lasted around ten minutes. The bureau says the event is considered ongoing and additional showers this weekend may lead to additional discharges.

The quantity of the overflow is unknown. This same outfall was the site of a 13 minute overflow on Feb.8 that cleared itself.

A combined sewer overflow is about 80 percent stormwater and 20 percent sanitary sewage. Because of increased bacteria in the water from the sewage, the public is advised to avoid contact with the Willamette River downstream of Willamette Park for 48 hours after the event ends.

Environmental services will update the public when the overflow stops. Find out more about CSOs, what they are and why they occur at: www.portlandoregon.gov/bes/article/565063

Willamette Week

Landlord Group Spent the Most Lobbying the City in First Three Months of the Year

By Elise Herron

May 12, 2017

Multifamily NW—the organization of Oregon's largest landlords—spent more money lobbying in Portland in the first quarter of this year than any other entity.

That's significant because the group loudly complained at City Council hearings in February that landlords had been left out of deliberations before the passage of the city's landmark relocation ordinance, which requires landlords with more than one unit to pay tenants' moving costs when they're evicted without cause or their rent is increased by 10 percent or more in a year.

Multifamily NW spokesperson, John McIsaac, declined to account for how exactly \$35,198 was spent, but lobbying forms show before the city ordinance was passed, the group's lawyer and lobbyist John DiLorenzo met with the mayor once and talked with him three other times by telephone about the relocation ordinance.

Wheeler also had a second meeting with representatives of the group, including its executive director Deborah Imse, on the issue.

Prior to City Council's Feb. 2 vote to approve the ordinance Multifamily NW provided bitter testimony, claiming they hadn't been brought to the decision making table.

"My organization represents 200,000 units throughout the state of Oregon. I'm an industry expert, there are many other industry experts in the room...we were not asked to participate," said Tokola Properties VP and Multifamily NW board member Jeff Edinge during the testimony.

McIsaac, contacted after the lobbying forms were released, continued to attack Commissioner Chloe Eudaly, who along with the mayor championed the legislation.

"Commissioner Eudaly's ordinance was founded on alternative facts and fueled by emotion, and we don't believe that's good for landlords, tenants, or the city at large," McIsaac says.

Eudaly shot back via email, saying Multifamily NW's intentions are also suspect.

"Given the motivation of emotion or greed, I would choose the former," Eudaly tells WW.

"Relocation assistance was the only tool left that could provide any meaningful protection to renters, thanks to special interest groups like [Multifamily NW] lobbying our legislature to ban rent control and preempt just cause evictions at the state level decades ago," she adds.

Grievances aside, the monetary magnitude of Multifamily NW's lobbying efforts stands in contrast to other businesses and groups with in the city. It's \$20,000 more than the second most financially active group, Lyft, and a massive sum more than Portland Tenant's United \$0.00 in lobbying. PTU backed the the relocation ordinance.

The Portland Mercury

Will Portlanders Slap Limits On Campaign Contributions? Progressive Groups Plan to Find Out

By Dirk VanderHart

May 12, 2017

Reformers had an easy time last year convincing Multnomah County voters to put limits on campaign contributions for county races. Now they're hoping to make the same plea at the city level—even as the legality of their reforms remains an open question.

Months after more [than 88 percent of voters](#) approved Measure 26-184, which strictly limits financing in elections for county officials, local progressive activists have drafted a measure to slap the same basic strictures on city races, the Mercury has learned.

"Clearly the citizenry here wants to do something," says Jason Kafoury, a Portland attorney who had a central role in pushing last year's reforms. "We should be thinking big in Portland. Especially with national politics as corrupt as it is right now."

To refresh, the regulations [\[PDF\]](#) voters passed in November—set to take effect in September of this year—limit campaign contributions at \$500 per individual or political action committee, per candidate. So-called small donor committees could only accept donations of up to \$100 per contributor, but contribute as much as they want to candidates.

The regulations also limit how much people or organizations can spend to tout a candidate via "independent expenditures," and require that the top five donors that fund campaign advertisements are explicitly listed.

As we [reported recently](#), there's no telling whether some of those provisions are legal. A 1997 Oregon Supreme Court ruling prohibited limits on campaign contributions, and the US Supreme Court's infamous Citizens United decision did the same for independent expenditures. As a result of all this, Oregon has some of the loosest campaign finance laws in the country.

So the county is taking the rare step of asking a Multnomah County judge to gauge the merits of its new campaign finance laws before they kick in. A hearing in the case is expected next month, and could culminate in the policies being wholly or partially ruled illegal (an outcome advocates would appeal).

The uncertainty doesn't matter to Kafoury and his cohort, who tentatively hope to land a city campaign finance measure on the May 2018 ballot. An early draft of that measure [\[PDF\]](#) has many similarities to the county policy, but also far more specifics about how top donors to campaign ads would need to be identified (including a partial accounting of how they make money).

Kafoury argues the limits would have a more profound effect on city races, which can cost hundreds of thousands of dollars more to run than contests for county seats. Mayor Ted Wheeler, for instance, raised [more than \\$780,000](#) last year—and his race didn't go past the May primary.

But it's not clear a majority of council will agree. Reformers are hoping the council will vote to refer a change to the City Charter to the ballot, which would save them from having to collect signatures.

But the makeup of City Council shifted in January in ways that might not favor them. When Commissioner Amanda Fritz [succeeded in pushing](#) a public campaign finance system through council late last year, she relied on the votes of former Mayor Charlie Hales and former Commissioner Steve Novick to do so. Commissioners Nick Fish and Dan Saltzman both opposed passing the policy outright, instead saying they wanted voters to decide. Wheeler, not in office yet, was perceived to be skeptical of the program. Commissioner Chloe Eudaly, also not in office yet, publicly supported the effort.

It's too early to say what shape discussions around campaign finance reform could take in the next year. We've reached out to various commissioners' offices to see if they'd support a new push, but Kafoury acknowledges his group hasn't set meetings.

In addition to the potential push in Portland, the Oregon Progressive Party and Alliance for Democracy are hoping to change the state constitution to formally allow campaign contribution limits. According to [that initiative's website](#), they're shooting for a November 2018 ballot measure.

By the way, speaking of campaigns, next Tuesday is election day. [YOU NEED TO VOTE.](#)

A Federal Judge Has Refused to Toss Portland's New Meeting Exclusion Policy—But the City Still Can't Use It

*By Dirk VanderHart
May 11, 2017*

There have been a ton of changes to security at Portland City Council meetings since the council [passed a constitutionally ambiguous new exclusion policy](#) back in March.

City Hall has a [number of new barriers](#) to prevent access to the council dais, the city's [paying almost \\$190,000 a year](#) on security guards to check visitors' bags, spectators are no longer allowed in the balcony of council chambers, and only one of that room's two entrances can actually be used as an entrance. Yesterday, two contract security guards were sitting right outside of chambers during the meeting, which is the first I've seen that.

Mayor Ted Wheeler is clearly trying to pre-empt the frequent meeting outbursts that have marked his term. But what he's not yet doing is enforcing the exclusion ordinance.

As promised, the mayor won't exclude anyone from meetings (for up to two months) until a December 2015 ruling from US District Judge Michael Simon is modified or done away with. And while the city hasn't even asked for such a ruling yet, Simon did recently refuse to put the smack down on the new policy.

That ruling [PDF] came in the ongoing feud between frequent council attendee Joe Walsh and the city. Walsh succeeded a couple years back in convincing Simon to rule the city's former exclusion policy unconstitutional, and when council passed the new ordinance, he attempted right away to get Simon to toss it.

Simon refused. In his May 5 decision, the judge pointed out he'd merely stopped the city from enforcing its old policy, not from enacting a new one.

"The mere act of passing, or enacting, the New Exclusion Ordinance, as distinct from enforcing it, does not violate the Court's injunction," the judge wrote. "Walsh has not yet been harmed, or even threatened with harm, by the New Exclusion Ordinance."

We've reached out repeatedly to the City Attorney's Office to figure out when the city might seek permission to use the exclusion ordinance, but haven't heard back. However, Wheeler spokesperson Michael Cox says city lawyers are forming up an argument, and will file a motion for the judge to consider the new policy in the near future.

The Daily Journal of Commerce

Design Commission weighs in on stadium plans

*By Kent Hohlfeld
May 12, 2017*

The Portland Design Commission gave its first impressions of the proposed \$50 million, 4,000-seat expansion of city-owned Providence Park during a design advice hearing on Thursday. It attracted a large crowd of architects, neighborhood business representatives, team officials and soccer fans.

"Every time I hear the door squeak, it sounds like a Timbers horn," said Tim Heron, senior planner for the Portland Bureau of Development Services. "I was anxious that this was going to be an interesting hearing."

The proposed expansion of the 91-year-old stadium, which is home to both the Timbers and Thorns soccer teams, calls for the addition of two seating decks as well as concession stands and restroom facilities. Also, the existing 47-foot facade would be modified to rise to 92 feet, 10 inches.

One of the major reasons why advice was requested at this early stage of the design process is that the project owner has an aggressive timeline for construction.

"Their goal is to get first work started in the right of way in October," said Bob Haley, senior planner with the Portland Bureau of Transportation. "That is a pretty optimistic schedule to get through a very complicated public works permit to do all the utility work in October. And then the following year I believe is when the structural work begins. It's a very quick timeline."

One of the major problems is that plans include a major encroachment into the public right of way on Southwest 18th Avenue. That will require approval of the Portland City Council, the Portland Bureau of Transportation and TriMet, which operates mass transit in the area. The Design Commission is expected to recommend that the City Council approve the encroachment request.

Project planners wanted the Design Commission to give advice on the overall concept before moving forward with discussions with other agencies.

“No one has a problem with building in the public right of way,” Design Commission Chairman David Wark said. “It seems like the major encroachment idea is supported. Now it’s about working out the messy details.”

Many of those details still have to be finalized. Project architect Allied Works Architecture is still working on plans ranging from crowd control to whether the proposed roof, extending over the grandstand, will be metal or fabric. Another issue is how Southwest 18th Avenue will be treated.

Currently, temporary barriers are used to direct crowds to transit options on game days. However, those barriers are often ignored as fans cross streets illegally. Commissioners and project officials discussed the merits of a permanent structure that would prevent jaywalking both on game and non-game days.

“It seems to be that there needs to be some idea of how to get out instead of just at the north and south area,” Wark said.

A permanent structure, however, would present its own problems.

“Adding thousands of people ... if you build this fence, then you only have a 10-foot-wide sidewalk,” Design Commissioner Jessica Molinar said. “There are 3,000 people on the sidewalk; you’re sort of penning them in in this space.”

Discussions on Thursday also touched on project officials’ need to demonstrate a public benefit in order to justify the encroachment on public space. The Design Commission encouraged the team to look for ways to increase that benefit.

“Obviously there is economic benefit in terms of income,” Wark said. “You do have to pay to go in here, so it automatically limits the people that can benefit from this. It seems like there should be something in addition to the unseen public benefits.”

Overall, the design proposed was largely influenced by the vertical elements of stadiums in Europe and Central America. It includes an open steel latticework to create platforms for people. Tensioned cables lining the new facade would support a roof structure that will cover the new and existing seats.

“The expansion of Providence Park creates a new stadium type,” said Brad Cloepfil, principal and founder of Allied Works Architecture. “The design was conceived to amplify excitement, theatricality and intensity of the stadium experience.”

Also on Thursday:

Lloyd Center

The Design Commission got its second look at plans for CAPREF Lloyd Center LLC’s renovation and expansion of the aging Lloyd Center mall. The design presented Thursday by Waterleaf Architecture’s Bill Bailey was different in several ways from the one shown March 9.

Many of the changes focused on the plaza at the corner of N.E. Ninth Avenue and Multnomah Street. Commissioners previously recommended that designers use it to shape the building's entry.

Overall, commissioners were complimentary of the changes; however, they said the plaza isn't defined adequately.

"The plaza needs to take a firmer position on whether it's public space or if it's part of the mall," Commissioner Julie Livingston said. "It should be more public and perform more like other public spaces in the neighborhoods do."

Commissioners also advised designers to make sure the plaza would be useful at all times of the year. Currently, plans call for a lot of outdoor tables, planters and a water feature that could have limited use during winter months.

"The outdoor space needs to work when it's raining on Tuesday in October," Commission Vice Chairman Tad Savinar said. "It's October on a Tuesday afternoon for nine months of the year here."

Portland City Council nixes project's requirements

*By Kent Hohlfeld
May 12, 2017*

The Portland City Council on Wednesday approved an appeal by TMT Development to remove conditions attached to the Design Commission's approval of a building rehabilitation.

Though the firm's [plans to renovate](#) the Studio Building and Guild Theatre, at 901-919 S.W. Taylor St. in downtown Portland, were approved by the Design Commission, it added requirements tied to window replacements. But the City Council voted 4-1 to strike down those conditions.

"This has been before (the Design Commission) twice," Portland Commissioner Dan Saltzman said. "My best judgment is there is a lot of effort on this and it makes me support removing the conditions."

The project team's top concern, and a major factor in the council's decision, was the added cost that the conditions would impose.

The Design Commission wanted developers to use a clearer glass, and add interior muntins and a spacer bar to the aluminum windows that were selected. Those changes would have increased the project cost by \$105,000, according to TMT Development President Vanessa Sturgeon.

"There is virtually no discernible visual difference between what we proposed and what the commission wants us to do," she said. "That is a budget buster."

The glass requested by the Design Commission has approximately 4 percent less tint and is brighter than the glass planned by the project team. The replacement of 192 windows is part of an \$8 million restoration effort. Other changes requested by the commission that were not appealed added more than \$70,000 to the cost, according to Sturgeon.

On top of economic arguments, the project team argued that changes to the spacers and muntins would not be seen from the outside. Therefore, it stated, the Design Commission lacked authority to make that requirement.

A big concern of councilors was adding cost to what they see as a relatively minor improvement. “The building, though grand she is, is an old dump,” Mayor Ted Wheeler said. “We have someone that is willing to (rehabilitate) it and we are quibbling over 4 percent?”

Originally, the Design Commission had urged the building’s owners to rehabilitate the building’s existing steel windows. Once it became clear that could not be accomplished and still meet energy code, the commission’s goal became to ensure that replacement windows resemble the original ones as closely as possible.

“Generally there is a lot of movement toward the clearest glass possible on historic buildings,” Design Commissioner Julie Livingston said. “We thought that the muntins and clear glass were OK with the owner. Had we known, we would have had more conversations.”

Overall plans to renovate the building include replacing the windows, performing cosmetic improvements, making changes to comply with the Americans with Disabilities Act and installing new climate control systems.

Portland Commissioner Amanda Fritz, who cast the lone dissenting vote, said she felt unqualified to overturn a Design Commission decision on an issue that would largely affect the essence of the structure.

“I don’t want us to become the default design review commission,” she said. “I feel I don’t have information to vote against the Design Commission.”

One area of broad agreement was that projects like the Studio Building and Guild Theatre rehabilitation should go before the Historic Landmarks Commission instead of the Design Commission. The Studio Building and Guild Theatre are listed on Portland’s Historic Resource Inventory (HRI), but not on the National Register of Historic Places. Currently, a building listed on the HRI does not go before the Historic Landmarks Commission unless it has other historic designations.

“Buildings on the HRI should be reviewed by Landmarks – I agree with that,” Livingston said. “This building should be looked at by Landmarks. They bring a level of authority that Design Commission may not.”

PDC stokes Union Station rehabilitation

By Chuck Slothower

May 11, 2017

The Portland Development Commission is laying the groundwork for a major rehabilitation of Union Station – the city’s 121-year-old train depot.

The project, which wouldn’t begin until 2020 at the earliest, would restore and preserve the main concourse and replace the building’s mechanical, electrical and plumbing systems. Railroad tracks and platforms also would be replaced.

The unreinforced masonry building, clock tower and annex are in need of a full seismic retrofit, PDC officials said. The building is listed on the National Register of Historic Places, and the PDC is working to save the “Union Station” and “Go By Train” signs that adorn the clock tower.

“A lot of people are excited about a revitalized train station,” said Elise Hendrickson, the PDC’s construction services coordinator. “It’s an iconic Portland building.”

Existing office tenants on the second and third floors will be evicted, but such action may be years away.

“They’ll have plenty of heads-up,” Hendrickson said, adding that the PDC has already met with office tenants.

Current tenants include a few attorneys, architects, small nonprofit groups, poetry publisher Tavern Books and custom shoemaker ExIT Shoes. Many of the offices are vacant.

John Bradach, a construction attorney and mediator, has housed his solo law practice in Union Station since 2010.

“It’s real comfortable,” he said. “It’s not class-A space by any means. What I love is coming and going through the station.”

Bradach, who intends to retire in a few years, said the PDC’s 2020 timeline “works for me.”

It has yet to be decided whether the second and third floors will be retained as offices and renovated, or whether they will be repurposed. PDC officials emphasized it’s early in the process for the Union Station project.

“I think we’re leaning toward offices, but who knows what the future may hold?” Hendrickson said.

PDC officials were reluctant to put a price tag on the rehabilitation effort, but Hendrickson said the cost would be “significant.”

“Funding is a big unknown at this point,” she said.

The PDC is likely to pursue state and federal grants for the project, including high-speed rail, energy conservation and historic preservation grants. The agency also is exploring the possibility of bringing in a private-sector partner.

“The very earliest construction would start in 2020, and that’s all contingent on finding funding sources,” Hendrickson said.

DOWA-IBI Group has been hired for early design work for Union Station. HDR Inc. is examining the rail infrastructure and Amec Foster Wheeler is grappling with environmental issues at the site.

The future of Wilf’s Restaurant and Bar, a Union Station fixture since 1975, is an open question. General Manager Adele Nofield said there “weren’t a lot of clear answers” when she met with PDC staff recently.

“Obviously, our goal would be to stay here,” she said. “We’re still quite successful. I’m not sure how that would all play out.”

The remake of Union Station is seen as complementary to the Broadway Corridor plan for the U.S. Postal Service parcel that is estimated to result in 3.8 million square feet of residential, office and retail development.

Train station officials have long dealt with complaints about homelessness and panhandling. The neighborhood remains somewhat gritty.

Amtrak serves the station with its Cascades, Coast Starlight and Empire Builder trains. The station sees 10 passenger trains a day, and two more will be added this summer. Union Station also sees light freight traffic.

Union Station in 2016 served more than 590,000 passengers – an amount that is expected to double in coming years. Amtrak officials did not respond to messages seeking comment. PDC

officials said Amtrak and the Oregon Department of Transportation are interested in upgrades that would shave time from train trips through the station.

\$482M in school projects going; \$790M more sought

By Garrett Andrews

May 11, 2017

Despite several scandals now circulating around Portland Public Schools, the district has gotten credit for doing at least one thing right – managing the spending of dollars from its latest, \$482 million construction bond.

School board members have credited the district’s Bond Accountability Committee for keeping the 2012 program on track – so far – despite challenges. Some, like harsh weather and an unfavorable bid climate, are said to be beyond PPS’ control. Others, like achieving significant participation by minority- or women-owned firms, have vexed the district for decades.

The BAC, comprised of veterans of large-scale capital projects from the public and private spheres, aims to ensure voters are getting what they were promised in 2012. Their role could even expand, as voters next week consider PPS’ next ask – \$790 million to continue to address long-delayed capital construction needs and address a number of pressing health and safety issues. The bond would be the largest ever in Oregon.

When Kevin Spellman was first asked to join the BAC, he had a lot of misgivings, he said, because school districts and capital construction don’t go together well. He didn’t want to spend all his time criticizing. He thought it might become “too much of a job.”

Spellman stepped down as president of Emerick Construction in 2005. In 18 years with the company, he worked alongside industry leader Jim McKune and was a major player in the education sector. Spellman now runs Spellman Consulting, advising businesses in construction management practices. And since 2012, he’s served on the BAC.

“The reality has been that they have a lot of good, professional staff dedicated to this bond, and they’ve done a creditable job,” he said.

It hasn’t been easy. For one thing, 2012 bond projects have taken place primarily during one of the busiest periods of construction activity in the city’s history. Except for some initial, low bids in 2013, the district has had to take bids at or above the engineer’s estimate.

This is understandable considering how much work is going on, according to Spellman. With so many opportunities available, all firms are being choosier. Fewer firms are bidding, and fewer subcontractors and skilled workers are available now than just two years ago.

“Everyone is just really, really busy,” he said. “Everybody is picking and choosing their opportunities, and that inevitability results in a difficult bid climate for a construction owner.”

This situation is particularly acute as it relates to participation by minority- and women-owned firms on 2012 bond projects. The district has an “aspirational target” of 18 percent participation (because the district hasn’t performed a formal disparity study, it can’t set firm goals). And so far, across all projects, 11.5 percent of total payments have been paid to firms certified by the Certification Office for Business Inclusion & Diversity. Contractors only must prove they made a “good faith effort” to hire minorities or women and minority- or women-owned firms.

For projects that have gone out to bid, participation by COBID firms hasn't been substantial. But participation has been much greater under firms using the construction manager-general contractor method, Spellman said. Lease Crutcher Lewis has stood out; it served as CM-GC for the Roosevelt High School project, which had 22 percent participation by minorities or women.

And these statistics don't tell the whole story, according to Spellman. Because the district has performed so little capital construction since the 1940s, it has little contracting data. That precludes an opportunity for comparison.

"The sense is that participation under the bond is way up from what the district was doing before, but we don't have data to show that," Spellman said.

Plus, an extremely wet winter has put a damper on bond projects. Schedules for all major projects have been "negatively affected" by weather, according to the BAC's latest report. Leaders of the Roosevelt project are expecting a \$1 million cost overrun. (They plan to pay it back with a 25-year, interest-free bond.) The Franklin High School project team expects to use its entire contingency, and Faubion School team is down to 3 percent.

Observers believe up to five bond cycles could be needed to pay for modernization of Portland Public Schools' building inventory. The \$790 million bond would be the second.

Moving forward, this could be how PPS projects are funded.

"No one else is going to step in and fix our schools," Spellman said.

If all of Portland Public Schools' 2012 bond projects were combined into one, it would be the largest construction project in the city. At the peak of construction in summer 2016, PPS was spending \$786,000 per day, or about \$16 million per month.

Currently, the three large projects – modernizations of Franklin and Roosevelt high schools and the rebuild of Faubion – are nearing completion. The fourth big-ticket item – modernization of Grant High School – will start this summer.

The proposed \$790 million bond would thoroughly renew three high schools – Lincoln, Madison and Benson. Also, Kellogg Middle School would be demolished and replaced. However, nearly all of the district's 90 schools would receive at least some attention.

Bond dollars would help address a number of health and safety issues with district buildings. Lead amounts found in water pipes and paint were found higher than believed initially, and problems relating to asbestos, radon, seismic vulnerability and insufficient fire and life safety systems were discovered. The scandal ultimately led to Carole Smith stepping down as superintendent.

The district looked at possibly putting the bond request before voters in November 2016, but such action would have been premature, board member Amy Kohnstamm said. Information wasn't collected completely and the full description of the planned work wasn't drafted fully until late fall, she said.

"We knew that wasn't fair to the voters," she said. "For them to tax themselves at this level they deserve to know exactly what they're going to get."

The modernizations would bring the big-ticket schools fully up to seismic standards, while giving students state-of-the-art learning environments, Kohnstamm said.

The assessed value per individual for the proposed bond would be about average for Oregon, Kohnstamm said. The district and the tax base is broader here than in the rest of the state, she added.

The Portland Business Journal

Uber responds to city council action

By Malia Spencer

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Uber's general manager in Oregon says the company will "review any appropriate request" for information from the city of Portland following the council's decision this week to [issue a legislative subpoena](#) to the San Francisco-based company.

The response comes after the council voted unanimously to issue the subpoena to gather documents and other information related to technology used by the company in 2014 to evade Portland regulators.

News of the technology, known as Greyball, first surfaced [in a March in a New York Times](#) story about the company. The software was used when Uber first [started operating in Portland](#) before the ride-hailing platform had official clearance to do so.

The Portland Bureau of Transportation [conducted an audit](#) and it sought information about Greyball as part of its regulatory authority to ensure the company is not avoiding certain residents or neighborhoods for service.

"The report issued by PBOT following its investigation into the use of Greyball found there were no indications that Uber attempted to evade inspections since rideshare regulations went into effect," said Uber's Oregon General Manager [Bryce Bennett](#) in an email.

"We were forthcoming during the investigation and provided PBOT a thorough accounting of how the technology was used, which is what enabled investigators to reach that conclusion."

According to the council, once the city has all the information requested from Uber, city officials will be able to revise the code to better regulate the town's transportation options.