

## The Oregonian

# Portland enacts rule to eject rowdy protesters from City Council sessions

*By Jessica Floum*

*March 15, 2017*

Her voice warbling with emotion, Portland Commissioner Chloe Eudaly reminded a group of loud protesters at Wednesday's City Council meeting that she was homeless as a teenager, her nephew was killed in an officer-involved shooting and more than 20 years of activism led her to office.

Harkening back to a college course in which her instructor docked students' grades if they dominated the conversation, Eudaly implored activists to do their homework, engage in productive conversation and to stop drowning out other voices at council meetings.

Eudaly's speech preceded her vote for a policy that will allow city officials to eject people from council sessions for dangerous, disruptive or threatening behavior and to exclude disrupters for as long as a year. Her vote was the final in a unanimous City Council decision.

"It's not useful for you to come here and scream at us about things that are untrue or on things we are already doing," Eudaly said. "We need to restore civil discourse to our council sessions."

The behavior, she said, is creating a toxic work environment, wasting public dollars and discouraging participation from other community members.

Protesters jumped out of their seats and yelled "Shame!" and "traitor" in response to the decision.

Prior to the vote, Mayor Ted Wheeler said he would wait to enforce the part of the rule enabling city officials to prospectively exclude disrupters for extended periods until a federal court determines whether the rule is constitutional.

"I have conceded last week and will say again there is a difference of opinion of informed attorneys over whether or not this is constitutional," Wheeler said.

A [federal judge ruled](#) in December 2015 that excluding a person from a council meeting based on past behavior violates that individual's First Amendment rights.

The City Council held off on voting on the item last week after a volunteer from the American Civil Liberties Union urged restraint and called excluding people from future meetings an unconstitutional "overreaction."

ACLU volunteer and attorney Sarah Einowski offered the civil liberty group's help to revise the proposed policy. Mayor Ted Wheeler suggested pulling the item from last week's vote to accept that help, but that meeting never happened because ACLU Legal Director Mathew dos Santos was out of town.

Dos Santos called the effort to meet disingenuous, noting the mayor knew he was on vacation and would be unavailable to talk about an emergency "the mayor had manufactured."

"While I think they could pass an ordinance that passed constitutional muster, they already have existing tools," dos Santos said. "The mayor doesn't seem to use any of the tools that are at his disposal and would rather exclude people prospectively because that's easier."

Dos Santos questioned the City Council's decision to send the rule to the federal courts before enforcing it. He said the federal and state constitution prohibits cities from seeking "advisory opinions" from federal courts.

"The right place to iron this question out is the federal court system," Wheeler said. "That is what it is for."

## Portland's 911 call operations office to get new interim director

*By Jessica Floum  
March 15, 2017*

Portland's office that manages the city's 911 call system and emergency dispatch will have a new interim director in April.

Bureau of Emergency Communications Commissioner Amanda Fritz announced Wednesday that the bureau's operations manager, [Lisa St. Helen](#), will take over as interim director following the retirement of long-time director Lisa Turley on March 31.

Bureau of Emergency Communications operations manager Lisa St. Helen will take over as the office's interim director starting April 1. (Photo provided by Tim Crail)

The management change comes as the bureau [struggles to retain employees](#) and forces operators to work overtime to keep up with increasing call volumes. In December, the city's ombudsman reported that [more than 18,000 calls to 911 fell through the cracks](#) in 2015.

Fritz's decision to appoint an interim director followed a recruitment process that she said failed to meet the city's requirement to interview qualified minority candidates, women and candidates with disabilities.

"The recruitment process did not provide a diverse pool of qualified candidates from which to make a final selection," Fritz said in a statement. "I have full confidence in Lisa's ability and goals for the bureau and look forward to working with her to implement our shared vision."

St. Helen has worked at the emergency communications office for more than 20 years. She served as a police and fire dispatcher, a coach and a supervisor. She now oversees day-to-day operations in the 911 call center. She helped the city implement a new call processing procedure for callers experiencing mental illness.

"I am deeply rooted in our city and have been committed to providing the best service possible during my career," St. Helen said in a statement. "I look forward to serving the employees of (the emergency communications bureau), our partner agencies and the residents of Multnomah County."

# Uber revelations demand a hard cold eye from Portland City Hall: Editorial Agenda 2017

*By The Oregonian Editorial Board*

*March 15, 2017*

Uber's relationship with Portland is based on combat. In December 2014, the ride-sharing service commenced operations in the city before it had gained the regulatory approval to do so, throwing former Mayor Charlie Hales and officials into testy negotiations before the Council swiftly voted 3-2 to grant Uber clearance.

But Uber may have stepped too far out of line. It was disclosed by The New York Times recently that Uber has for years secretly gathered information on users worldwide and that Uber had, in 2014, employed a program in Portland to help its drivers avoid riders who were connected to City Hall or involved in regulatory enforcement. While a clear dodge around enforcement, the broader potential in such screening is clear: A business decides whom to engage and, as if by red-lining, whom it may wish to shut out. Welcome to the sharing economy.

This kind of behavior is underhanded and, if deemed illegal, should not go unpunished. Portland's Bureau of Transportation is scouring Uber data to see whether the company has used the software, called Greyball, since 2014. That's when Erich England, a city code inspector, unsuccessfully tried to hail an Uber car using Uber's app during the weeks the company was operating without the city's approval.

Commissioner Dan Saltzman, along with Mayor Ted Wheeler, have correctly demanded to know more. Last week, Saltzman told Eliot Njus of The Oregonian/OregonLive: "If there's been any similar events (since 2014), then we would go after them for that, as well as seek assurance that it will not happen again."

But knowing Uber and its Portland strategies must go far deeper. The history of the city's relationship with Uber runs too thick, and the potential violations too great.

Mark Weiner, a former political consultant to both Hales and Saltzman, was a paid lobbyist for Uber and, from the dining room of his Eastmoreland home in 2014, aided in brokering Uber's hurry-up deal with the city. That is not to suggest Saltzman would soft-glove any review of potentially unethical or government-thwarting behavior by Uber. But it is to say that any probe of Uber's practices must measure Uber's data collection and use against consumer fraud laws or unlawful interference with Portland's regulatory authority.

City Commissioner Nick Fish, along with Commissioner Amanda Fritz, had voted against allowing Uber to operate in Portland. In an interview last week with The Oregonian/OregonLive Editorial Board, Fish repeatedly used the term "brazen" to characterize Uber's behavior. And he told Njus, following the Times' report: "This is not just bad behavior. This is an attack on our ability as a local community to enforce community standards."

Correct. Fish now wisely seeks for the Council the powers to issue subpoenas to fully examine Uber's use of its Greyball software in Portland. He told the editorial board he'd sent a detailed, confidential memo to the city attorney's office stating his concerns. Separately, the Oregon Department of Justice is determining whether it has jurisdiction to investigate, Njus reported.

Legislature. A draft bill in the current session signed by 21 lawmakers and led by Rep. Brian Clem, D-Salem, would put firms such as Uber and its competitor Lyft under state oversight. The effort is laudable: So many Oregon communities starve for adequate taxi service, and fostering the sharing economy makes sense. If Clem's bill moves forward, however, it must be retooled to provide an exemption for cities such as Portland, with its own regulatory framework for ride-sharing companies.

Tough, if sometimes ruthless, competition works. Naked aggression and connivance over the longterm do not. Uber came into Portland hard and swinging. Yet the embarrassed company announced from its San Francisco headquarters last Wednesday it would no longer use Greyball to thwart regulators - as if such a promise weren't its own embarrassment and indication of hollow corporate culture.

City Hall will reveal its own ethical fiber in how it deals with an Uber review, for which a report to the Council is due within weeks. It will be essential for councilors take clear steps to ensure the public's interest is protected - and for the public to know how, in the new sharing economy, it will be so.

## **The Portland Mercury**

### **Portland Just Passed a Legally Ambiguous Exclusion Ordinance. It's Unclear What Happens Next.**

*By Dirk VanderHart  
March 15, 2017*

As [a proposal](#) that could allow Portland Mayor Ted Wheeler to exclude people from City Council meetings for up to 60 days finished its inevitable march to passage this afternoon, it was really hard to track the votes.

Four of the unanimous five "aye" votes were drown out by angry demonstrators. Commissioner Amanda Fritz who attempted to speak over the outcry, wound up being largely ignored.

Only for Commissioner Chloe Eudaly—a longtime activist who often gets deference from folks disrupting council meetings—did things eventually quiet down.

"I would like an opportunity to speak," Eudaly said. She had to wait for a minute, but wound up launching into a lengthy and powerful speech about the nature of city council meetings, the duty she feels attendees have for informing themselves, and, ultimately, her support for the controversial ordinance.

Here's the whole thing:

"I'm going to give you the benefit of the doubt that you are not being intentionally provocative that you truly believe the things you are saying," Eudaly told people who've interrupted council meetings for weeks and who'd railed all day against the exclusion law, "but I want to let you know that you are misinformed on some of the things that you are talking about. City Council sessions are not town halls, and that's how they are being treated right now. They're limited public forums and they're not adequate for the public truly to be heard."

She continued: "The public needs to come to council having done their homework. You can be smug about it, but it's not useful for you guys to come here and scream at us about things that are untrue or that we're actually doing. It's a waste of everyone's time, including yours."

Eudaly spoke about her time as a homeless teenager, her experience as the aunt of a person killed in a police shooting, and of her history as an affordable housing activist.

"The fact that I can't singlehandedly and immediately satisfy your demands does not mean that we are not listening to you," she said. Constant disruptions, she said, "are at times undermining my efforts on the very issues you are here to passionately represent."

Throughout most of it, the crowd listened respectfully. Then Eudaly voted 'aye,' and it erupted in shouts of "betrayal!" and "I want my vote back!"

Those shouts are less interesting than the question of what happens next with the exclusion ordinance, which goes into effect in 30 days (and as I have to point out again, bans "any dirk" from city buildings).

In a [surprise on Tuesday](#), Wheeler announced on Facebook that he didn't plan to enforce the exclusion portion of the law until a federal judge had weighed in, since the city believes a 2015 federal court ruling that killed a former exclusion policy still holds sway. Other new provisions (like that ban on dirks and other weapons) would still go live.

Wheeler again repeated his intention today not to enforce the policy "until we have clear word from the federal court system."

"It may not be constitutional," he conceded.

Here's the thing that puzzled a pair of attorneys for the ACLU of Oregon who were in the room: It's not completely clear how that will happen.

The attorneys, including ACLU Legal Director Mat dos Santos, say there's no clear way for the city to get the case before a federal judge. It can't just ask or demand that US District Judge Michael Simon—who formerly slapped down a similar policy—will offer an opinion on the new one, dos Santos says.

One way to get the question before a judge, dos Santos notes, is if the law is challenged in court. But no one can challenge the thing if it's not enforced, which Wheeler says won't happen until a judge rules?

It's a dizzying and potentially unconstitutional merry-go-round, and we've asked the city to provide clearer insight into its legal strategy.

One more thing dos Santos and his colleague Sarah Einowski tell the Mercury: They don't think a federal judge necessarily needs to rule on the policy for it to be enforced.

Sure, Simon ruled the city's former law was unconstitutional, but this is a different ordinance. So even as the ACLU believes the new policy is illegal, they don't think the city needs to wait for a judge's ruling to begin using it.

What was already a testy situation between Wheeler and the civil liberties group isn't likely to improve after today's vote. After calling up the ordinance, Wheeler addressed the ACLU's contention the mayor had been disingenuous when he offered to sit down and hash out the law last week.

"That was a very genuine offer," Wheeler said. "We made ourselves available to ACLU attorneys and ACLU leadership, both in person and by phone. We still were not able to have this conversation."

As the Mercury [has reported](#), dos Santos asked that a Tuesday meeting be rescheduled after a flight cancellation meant he couldn't attend. The mayor's office asked whether other ACLU staffers could meet instead, and dos Santos replied that it wouldn't make sense. Wheeler's office [elected to hold a vote](#) on the exclusion ordinance today anyway.

Eudaly also had words for the ACLU. She'd been prepared to vote 'no' unless the group's concerns were addressed, she said, but the ACLU hadn't come forward with a better option.

Dos Santos said after the meeting his group had repeatedly laid out its thinking—similar to Judge Simon's—that Portland is able to kick people out of individual meetings if they're disruptive, but not exclude them into the future.

"I was pretty offended by that," dos Santos said. "The idea that this couldn't wait a week was just nonsense. It's just so silly."