

## **The Oregonian**

### **Chief Mike Marshman among six remaining candidates for city's top cop job**

*By Maxine Bernstein*

*July 10, 2017*

Portland's national search started with 33 candidates, fell to 11 after a review of resumes and written applications and now stands at six after Skype interviews.

Current Police Chief Mike Marshman said he's among the six candidates still in consideration.

Seattle Assistant Chief Perry Tarrant, also believed to be among those remaining, declined to say Monday if he had applied and is still in the running.

"I would have to defer to the city of Portland," said Tarrant, who also serves as the president of the National Association of Black Law Enforcement Executives.

The mayor's spokeswoman declined comment about who's still in the running.

Tarrant has served as an assistant chief for the Seattle Police Department since March 2015, leading its Special Operations Bureau, which includes Homeland Security matters. Before joining the Seattle Police, Tarrant spent 34 years with the Tucson Police Department. He began his career working patrol and then worked in the canine, SWAT, bomb squad, aviation and internal affairs divisions. In 2014, Tarrant was appointed to coordinate Yakima's gang prevention and intervention programs and work as the city's emergency preparedness director.

Tarrant has a master's degree from Northern Arizona University and a bachelor of arts degree in political science from the University of Arizona.

Observers indicated Corey Falls, the former Jackson County sheriff who has worked for six months as Gresham's director of police services, had applied for the job, but he said Monday that he hadn't put his name in.

"I like the job I have," Falls said.

The Skype interviews were done by Barbara Buono, Mayor Ted Wheeler's senior policy adviser; Joseph Wahl, the city's manager for the police search who works in the city's Office of Equity and Human Rights; and Michael Alexander, former president and chief executive director of the Urban League of Portland.

Three community panels will interview the six candidates on July 19 and 20. The panelists, who the mayor's office declined to identify, will then recommend their top choices to Wheeler.

The panels include people from "communities of color, the mental health community, the disabilities community, older adults, LGBTQ, youth, business, police, neighborhood associations and city bureaus," said Michelle Plambeck, a mayor's spokeswoman.

Wheeler will interview the finalists the first week of August and is expected to make an offer by the end of August.

Portland police Capt. Bob Day, an assistant chief until he was demoted to captain when Marshman took the chief's job in June 2016, had applied but he received an email from the city that he was disqualified.

"They just said I didn't meet one of the qualifications, demonstrating an understanding of 21<sup>st</sup> century policing," said Day, who has more than 27 years with the Police Bureau and leads the training division. "I was disappointed I didn't have the opportunity to compete."

City officials declined to explain the decision.

Marshman said he was interviewed by Skype as other candidates were and questioned about the concept of 21<sup>st</sup> century policing, police management and community engagement, he said.

Former President Barack Obama created a Task Force on "21<sup>st</sup> Century Policing," seeking experts' recommendations to help communities and law enforcement agencies across the country collaborate to strengthen trust while working to reduce crime.

Marshman has worked for the bureau since April 25, 1991 after working two years for the San Diego Police Department. He's served as public information officer, a lieutenant in Central Precinct and as former Chief Mike Reese's executive assistant. Before being named chief, he was the bureau's federal justice compliance coordinator, responsible for ensuring the bureau adopted reforms required under its settlement agreement with the U.S. Department of Justice. The agreement stems from a 2012 federal investigation that found Portland police used excessive force against people with mental illness. Marshman obtained a bachelor's degree from Portland State University in 1987.

The city earlier this year scrapped a plan to hire an outside firm to run the national search after only one agency put in a bid. The city opened recruitment in mid-May, seeking a "highly qualified and transformative" leader who has served as a chief or assistant chief in a large metropolitan law enforcement agency.

The successful person, according to the job description, must have the "capacity and commitment" to improve relationships with members of minority communities, "ensuring that equity is a bedrock of policing." The description said Portland has a history of "legally sanctioned systemic racism with legally enforced exclusionary practices."

The salary range is \$143,312 to \$205,379 a year.

Marshman said he's working on hiring more officers, helping to draft a strategic plan for the police force and considering asking the City Council for permission to hire beyond the bureau's authorized strength to prepare for anticipated retirements as he seeks to hold onto the chief's job.

"It's a little unsettling. I'm just trying to do what I think is best for the agency and for the city without knowing what my status will be," Marshman said. "Some days I feel confident. Some days I don't."

## **Right 2 Dream Too, homeless 'rest stop,' opens to public at new spot**

*By Molly Harbarger  
July 10, 2017*

In the morning, the 11 full-time residents of Right 2 Dream Too can hear birds chirping outside their 8-by-8-foot tiny houses. Some walk to the edge of the parking lot, tucked between the Moda Center and the Willamette River, to do yoga as the sun rises.

Jonathon Reed woke up Monday and still marveled at how quiet and peaceful his new home is.

That might change as Right 2 Dream Too opens to the public for the first time since it moved from its home of nearly 6 years next to the Old Town Chinatown gate.

But Reed is excited. He asked to staff the front desk later in the day when the chain-link gates open to welcome any person who needs a good night's rest and safety.

### **Specs**

On a usual night, Right 2 Dream Too used to fit about 55 people comfortably, plus the full-time residents. The new site brought more room for fire safety with space left over to expand the number of people who could sleep side-by-side.

Right 2 Dream Too used to comfortably sleeps:

- 10 couples
- 33 single men
- 12 single women

Right 2 Dream Too now comfortably sleeps:

- 15 to 16 couples
- 35 single men
- 20 single women

"I love it, it's beautiful," Reed said. "There's no gravel, no rats. It's going to be a lot warmer in the winter and it's cooler in the summer."

He also likes that it's not on a busy street in the middle of the social services epicenter, which attracted people to set up camp around the perimeter of the old Right 2 Dream Too and bothered Reed with the trash left behind.

Right 2 Dream Too's new spot opens to the public after six weeks of moving over the river and reforming with oversight by the city. Like the old site, this one is designed for homeless people to stop and sleep for 12 hours at a time.

What's new: The set-up sleeps dozens more people, with more space for emergency exits -- and breathing room -- between the sections designated for single women, single men and couples.

The triangular camp -- a parking lot among two other parking lots, train tracks and in the shadow of grain silos next to the Steel Bridge -- is paved, something that the handful of people who live there year-round and run the community gush about.

It was always a pain to push wheelchairs and walkers over the gravel of the old space, said Sarah Chandler, one of the 11 permanent residents and organizers. They spent too much time trying to rake it out and keep it level.

The platform tents for group sleeping are made of wood and white tarps, screwed together and raised off the ground. The floors are covered in half-inch thick gray mats for padding with blue tarps laid on top for easy cleaning.

Just like at the old site, anyone who shows up will be assigned a sleeping bag that they can throw on those blue tarps and lie down without fear of harassment by passersby or having to

move for police. If they're harassed, people like Chandler and other residents make sure the troublemakers are removed.

That process might be easier now, too. Neighbors who live and own businesses in the Lloyd District initially hesitated to welcome their new homeless neighbors. They felt they hadn't been properly consulted when Mayor Ted Wheeler's office announced the new home in an 11th-hour deal that kept Right 2 Dream Too from being torn down.

After more than five years of negotiating with the city for a new home, it took a lawsuit from the developer of a hotel next to the old site to cause the landlord to evict Right 2 Dream Too. City officials came forward with the parking lot next to the Moda Center, near the MAX Yellow Line and North Interstate Avenue, and the members of Right 2 Dream Too agreed.

As they started moving, and moving to the new one, volunteers from business and neighborhood associations stepped in to help. Chandler sits on the two boards and talks frequently with Moda Center representatives and security staff.

"It happened way too fast," Chandler said of the announcement and move. "But it did resolve well. I think without the Lloyd District being so accepting of us, it wouldn't have gone as well."

Right 2 Dream Too is allowed to stay there until October 2018. Then the "homeless rest stop," as it's called, will either need an extension or a new home.

Chandler and other organizers meet with the mayor's office every other week to discuss issues with the current location and plan for the next move. She's optimistic that, despite Wheeler's views that he wants to move away from outdoor sleeping altogether, his staff members have shown they're good partners.

"They've worked really hard to get us this place and sometimes things go slow and don't go as planned," Chandler said. "I feel they have the intentions for us."

Chandler, her dark brown pitbull Ryker and Gordon Bergquist, one of Right 2 Dream Too's first residents, sat in the early afternoon shade thrown by the check-in station. It's one of the downsides of the new place -- there are few trees or tall buildings to shade the parking lot.

Bergquist doubted many people would show up Monday night for the big opening. Summers are slower than the winter, when the rest stop is packed. It used to hold about 75 people, and now can fit in about 20 more.

They hung up fliers downtown announcing the new location and opening date. They contacted local media and set off the word-of-mouth phone tree. But the new place is still a hike over the Steel Bridge's pedestrian path and many people likely don't know where it is or when they could start coming.

Bergquist is optimistic. The old Right 2 Dream Too was getting a little scary, he said, wedged between buildings that would crush his old tarp and plywood shack in an earthquake. Now, he has views of the river and a tiny house with neighbors who don't yell rude comments as they pass.

Plus, the site has had electricity for the last two weeks so he doesn't have to fire up a generator to make coffee.

"You've got to have coffee," Bergquist said.

# The Portland Tribune

## Portland learns how to be a smarter city

By Lyndsey Hewitt

July 11, 2017

### **City adopts open data policy and plans a number of technology projects as part of 'Smart City' initiative. Hop Fastpass rolls out this month.**

When Stephen Weber jumps from using the MAX to the Portland Streetcar or to a bus, he no longer has to worry about buying separate tickets. He just taps his Hop Fastpass, which he's been beta testing for TriMet since March, and jumps on board.

The release of the card this month eliminates the need for paper tickets. Eventually, as testing continues, Portlanders will be able to use a smartphone to access transit.

Residents, no doubt, have noticed some of their city's efforts to move its way into the 21st century.

For several years, folks with smartphones have had the option to ditch physical cash and use an app to buy a TriMet bus ticket, and more recently were given the option to use another app — with the face of a cat, called Parking Kitty — to secure a parking space in metered areas of the city.

It's also looking at driverless cars, electric vehicles, and a number of other tech projects. These are all part of Portland's efforts to become what's called a "Smart City," — which the city defines as one where "data and technology improves people's lives, particularly those in historically underserved communities." It recently has adopted policy around this initiative.

According to the Pew Research Center, with nearly nine out of 10 Americans connected to the internet and 77 percent of them with a smartphone, it has become more of a priority for local governments to catch up with the technology its citizens are increasingly dependent upon to get around and function. Some tech groups estimate that there will be 50 billion devices connected to the internet by 2020.

In other words, technology is moving much, much faster than it used to.

"Government has to move much faster if you think about it," says Bob Youakim, CEO of Passport Inc., the developer behind the Portland Bureau of Transportation's Parking Kitty app. "It took 40 years for telephones to get to 40 percent adoption, while smartphones took 10 years to get to ubiquity."

He says now, it's about smartphones and data generated from them.

"It's become a bare necessity of life — food, shelter, clothing and data," he says.

### **Data collection**

Data collection is likely going to be a large part of the city's understanding of how people are getting around town and using its infrastructure going forward.

In May, the Portland City Council adopted an open data ordinance and policy that aims to share any data generated by city bureaus, private-sector companies, nonprofit organizations, universities and others that may be working on behalf of the city.

According to Kevin Martin, tech services and Smart cities manager with the Bureau of Planning and Sustainability, some of the benefits of data access include helping the city solve problems, and giving entrepreneurs data sets so they can build products for other cities.

But what does that mean?

While Portland continues work on many transit tech-related projects, Skip Newberry, president and CEO of the Technology Association of Oregon, says down-the-road impacts could be monumental.

"One example, would be the ability to provide people with real-time data on their commutes," he says. For instance, someone who is concerned about carbon dioxide impact could look up their transit route on their phone and figure out the healthiest option at that particular moment.

Meanwhile, someone who's looking to maximize physical exercise could look at the most active way to get from point A to point B.

"So arming people with that information potentially results in a lot of large-scale behavior change that has benefits to the entire population," Newberry says.

"It's thinking about cities like living organisms. The extent we're able to collect data in real time, planners will really be able to understand what the problems are and then what the solutions look like."

Portland is planning to install sensors in coming months to collect data about air quality.

### **Moving forward**

Portland is keeping pace somewhat as cities all over the nation vie for federal funding, which many are dependent on to get a start on techcentric projects.

"There's only so many resources to go around. As more and more cities jump into this — as they will, problems are shared with cities all over the world — so it's a little bit of a race that's going on," Newberry says.

In 2016, the city applied for the U.S. Department of Transportation's Smart Cities Challenge grant, and out of 78 applicants, was one of seven finalists that contended for \$50 million to develop intelligent transportation systems.

Portland ultimately lost out to Columbus, Ohio, but nonetheless has been pushing forward with the initiative.

"We moped around for a few months, and realized we have this great proposal — let's see how we can continue to move this forward," Martin told the Tribune during a break while attending a Smart Cities conference in Austin, Texas.

Mayor Ted Wheeler then appointed Martin and that bureau with conducting a citywide assessment of what it means to put in a more formal governance around smart cities and coordination.

Most recently, Portland established an internal Smart City steering committee in June to further develop ideas and help conduct public engagement around some of these projects.

"Technology is affecting how and where we live, how we get around, and even what kind of work we do," Martin told the City Council in June.

### **Minimizing disruption**

Martin says that, compared to other cities, local government has been focusing on implementing policy to minimize disruption.

Disruptive technology is defined as technology that significantly disrupts and changes an existing market.

Portland learned that after Uber, a tech company that allows users to hail a driver through their phone, came to Portland. The company used software to evade regulation before being approved to operate in the city, resulting in contention between Portland and the company.

"It's become a bare necessity of life — food, shelter, clothing and data."

— Bob Youakim, CEO of Passport Inc., the developer behind the Portland Bureau of Transportation's Parking Kitty app

Martin says that although Portland lost out to Columbus for the U.S. Department of Transportation grant that "Portland is actually probably ahead of most, if not all cities in the United States in terms of trying to get some policies in place before these technologies appear."

But that means things could move slower. USA Today didn't mention Portland in a recent story about cities leading the way for driverless technology, for instance.

There has been little public engagement around some of these projects so far, too, something the city is trying to change.

Martin says the city plans to build a website that will centralize information about many of these Smart City projects, and start engaging the community about what its needs are. They're hoping to have the website live by September.

"I think a lot of these conversations are technical and wonky," Martin says, explaining why there's been minimal public engagement, and particularly about implementation of autonomous vehicles. "But I think we need to, because it's going to be such a disruptive technology."

Here's a look at some projects already available or on the horizon:

### **Smart Autonomous Vehicles Initiative**

Portland announced its Smart Autonomous Vehicles Initiative in April so that it can prepare for the introduction of driverless cars to its market.

The city has put out a request for information from companies to submit ideas for autonomous vehicle pilot projects in the city while it has put in place some administrative rules until formal policy can be passed.

Martin says that policy for the "disruptive technology" will go before the City Council in early 2018. He says that they're "really trying to get the autonomous vehicle house in order," and that even though it's another decade before they will be ubiquitous, they are expected on the streets in the next two to three years.

The pros include reduction of crashes and cost of owning a private vehicle, while the cons include increasing traffic congestion and climate pollution.

Find out more: [portlandoregon.gov/transportation/73493](http://portlandoregon.gov/transportation/73493)

### **TriMet, 'MOD Sandbox'**

Last year, TriMet was awarded \$678,000 from the U.S. Department of Transportation to expand its Open Trip Planner platform and "build out its mobility." Currently it's a web-based app where people can plan a bus or train trip, and integrate walking or biking. TriMet is working on

the project with Moovel, a tech company based in Portland, and other partners to integrate public transit with other ride-sharing options, including Lyft, Uber, Car2Go and Biketown for a more seamless journey, rather than only using one mode.

The grant is helping the agency update their data and maps, which are open to other developers to use for projects. It's a two- year undertaking, through 2019.

MOD stands for Mobility on Demand and is part of a larger Federal Transit Administration initiative aimed to help cities nation- wide combine the latest technology with their public transit services.

Whatever TriMet develops, it has to be replicable in other cities, according to Tim McHugh, chief technology officer at TriMet.

"Everything we're doing isn't hard and fast for Portland. It has to be able to be done in other places," he says.

Find out more: [trimet.org/mod](http://trimet.org/mod)

### **Hop Fastpass**

While Moovel takes pride in its TriMet ticketing app, which has around 250,000 active users and processes "several million in ticket sales" every month, according to

CEO Nat Parker, it's also rolling out another large development with TriMet this month: Hop Fastpass. Hop Fastpass is an electronic fare program, similar to what's already being used in many other large cities. It's a card preloaded with money online so users can just tap and ride any TriMet bus, C-TRAN or Portland Streetcar without spending time buying a paper ticket or using physical cash. Moovel also is working on developing a way to simplify the process beyond the fare card, so riders can just scan using their smartphones. While e-fare cards are used in many cities, being able to use a smartphone for transit is unique, according to Parker.

"This would be the very first city where you could literally tap your phone as your ticket; it hasn't happened before in the industry," Parker says. He wasn't able to divulge when that development would be available for use.

Find out more: [myhopcard.com](http://myhopcard.com)

### **Fare evasion application**

Fare evaders beware, Moovel is in a testing mode with TriMet to release an inspector application that transit police could use to validate that people have paid to ride. They would be able to ask a rider for their Hop Fastpass, tap the card against the inspector's smartphone, and observe the balance as a way to eliminate pervasive fare evasion, according to Parker. TriMet confirms this will roll out on the heels of Hop Fastpass.

### **Parking Kitty**

PBOT turned heads this spring when it rolled out its new parking app, Parking Kitty, which uses a cat on a pink logo as a mascot.

It was the first time the bureau had done a major technological improvement since it introduced digital pay stations in 2003, according to Malisa McCreedy, division manager of parking operations at PBOT.

"We hadn't done a lot of tech since then, this was really the first step," she says.



The app gives the 93 percent of users who pay for metered parking in Portland with a credit card another option than the process of going up to the meter to pay and then walking back to place the paper ticket in the car window.

PBOT's 61 parking enforcement of officers, who issued 222,487 parking tickets last year, have been adjusting to the new way of enforcement, in which they look up a car's license plate number that then tells them whether a person paid through Parking Kitty. If they don't show up in the system nor have a physical ticket in the window, then they will issue a parking ticket.

McCreedy and Passport Inc.'s Youakim both said the application could expand for people to purchase other things besides time in a parking space, such as permits.

When asked if they'll eventually transition to a coinless system, McCreedy said that there are still people who like to pay with physical money, but that "it might be a different conversation five years from now the way technology keeps improving. If that trend continues to 99 percent, will we still provide that coin option? I don't know, but since we're a public institution, we still like to provide that option for all users."

Find out more: [parkingkitty.com](http://parkingkitty.com)

### **Sensor deployments**

According to Martin, the city is partnering with AT&T, General Electric and Intel on sensor deployment along Southeast Division Street, Southeast Hawthorne Boulevard and Southeast 122nd Avenue that will collect real-time information about how pedestrians are using city infrastructure.

"We have a pretty good idea of where cars and bikes are, but very little idea where pedestrians are and how they're using crossings."

The second set of sensors connected to the internet will study air quality "at a more granular level." They will be located at the intersections of Southeast 28th Avenue and Powell Boulevard, and Southeast 122nd Avenue and Division Street.

The projects will deploy some- time between November and February, he says.

### **Interactive kiosks**

Folks involved with the Smart Cities initiative have mentioned the building of interactive kiosks throughout town that would provide free public Wi-Fi and connectivity. Screens would provide people access to city services.

It would be modeled after New York City's effort to replace more than 7,500 old pay phones with similar kiosks they call "Links." They provide free Wi-Fi, phone calls, device charging and a tablet for access to city services, maps and directions.

Martin says a pilot project would be small, starting with around 100 kiosks downtown and on TriMet platforms.

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### *Data privacy*

In May, Portland adopted an open data policy, in which it will make all data generated by city bureaus and any outside agencies affiliated with them open for sharing.

As there's been more data available in the world with the rise in smartphone use, there's been growing concern over loss of privacy and exposure of personal information, or even data being

sold to third parties. But data through the city isn't specific to individuals and they aren't selling to third parties, according to Martin.

"Existing city policies regarding access to personally identifiable information will inform this work, and we will avoid releasing information that could be combined with other data sources to identify, say, public individuals," he says. Martin says it's possible that in the future, "companies might pay the city to prioritize creation and release data that is of use to them, data that we would then make publicly available."

Data, like where streetlights and traffic signals are located, could be useful to wireless carriers as they plan cellular networks, he says.

He adds that "many other cities" have policies and practices around open data that Portland can build on and are working with them through networks like Bloomberg Philanthropies' "What Works Cities" program that helps cities manage and use data.

As far as something like payment information, such as in Parking Kitty, McCreedy says that the city has to follow the Payment Card Industry Data security standard. Each year an outside auditor conducts an audit to make sure they're ensuring data security.

Newberry says while government gets more involved with data "and tech generally, what's helpful is to kind of set expectations beforehand. What are we comfortable with in giving up some data? What can they do with it, and toward what end? Those are all things cities are going to have to grapple with," Newberry says.

He says that it gets more complicated when governments enter more public-private partnerships.

"Whether you're talking about public records laws, privacy laws that apply regarding public sector versus private — all of those things are going to have to be reconciled," he says. "I think what's going to be an important part of this, is governments communicating and engaging with residents."

## **City Hall Update: Gang violence stats continue to drop for month, year**

*By Jim Redden*

*July 11, 2017*

### **Plus, the Portland Affordable Housing Bond Oversight Committee holds its first meeting and city announces anti-hate crime grants**

Incidents of gang violence dropped slightly in June from the previous month, helping to keep the total investigated by the Gang Enforcement Team below last year's pace.

According to the newest statistics, GET investigated 12 incidents in June, down two from the 14 investigated in May. By the end of last month, the Portland Police Bureau team had investigated 55 incidents of gang violence, well below the 79 investigated by the end of June 2016.

The 2017 total also is well below the 81 investigated by the end of June 2015, the year that set the official record for gang incidents with a total of 193 investigations. The number dropped to 159 in 2016 and is still on track to drop again this year.

### **Affordable housing bond group meets**

The Portland Affordable Housing Bond Oversight Committee held its first meeting Thursday. The five-member committee is charged with ensuring the \$258.4 million bond is spent according to the framework currently being developed by a 21-member Stakeholder Advisory Group.

Committee members were told a draft version of the framework should be released for public comment by mid-August and then be approved by the City Council in October. Framework elements being considered include a commitment to equity and construction opportunities for women-owned and emerging small businesses.

The goal is for the Portland Housing Bureau to begin submitting projects for council approval in November, one year after the bond was approved. It was designed to preserve or build 1,300 units of affordable housing, but the exact mix of projects has not yet been determined.

### **Anti-hate crime grants available**

Following a recent increase in racist incidents, the Office of Neighborhood Involvement began accepting grant applications from community groups to track and respond to hate crimes. The City Council included \$350,000 for the first-time grant program in the new budget that took effect July 1.

The grants are available to community groups and will be distributed through the ONI-sponsored Portland United Against Hate coalition. Applicants must explain how they will accept complaints, support victims, and compile hate crime data.

The deadline for applying is 5 p.m. Aug. 15. More information can be found at: [portlandoregon.gov/brfs/71081](http://portlandoregon.gov/brfs/71081)

## **The Daily Journal of Commerce**

### **Transitional housing headaches**

*By Chuck Slothower*

*July 6, 2017*

Village transitional housing developments like Kenton Women's Village can face challenges due to zoning and land use restrictions.

When **Clackamas County** sought a site for a transitional housing project, officials chose a parcel on the far reaches of the Portland-metro area: on Southeast 115th Avenue, along a stretch of distribution warehouses for companies such as **Fred Meyer, Bob's Red Mill** and **Dave's Killer Bread**.

The property in an unincorporated area is owned by the county and zoned for industrial uses.

The site is far from ideal for transitional housing for a number of reasons. It's remote from social services and employment centers, and poorly served by public transit.

Yet for local governments looking for somewhere to establish a site for homeless individuals, the options are few. In addition to frequent objections from neighbors, zoning and land use regulations are common obstacles.

Zoning schemes meant to separate industrial areas and residential neighborhoods, or apartments and single-family homes, make it difficult to find a home for the homeless.

“Traditional zoning approaches aren’t always set up for dealing with houselessness, so sometimes it takes some creativity in developing new tools,” said Andrew Yaden, a Clackamas County planner.

To accommodate a homeless camp consisting of 30 sleeping pods, Clackamas County’s Board of Commissioners on June 27 approved a zoning ordinance amendment to allow for transitional housing.

“The county’s current land use regulations do not provide a clear pathway for organizations that would like to develop a transitional shelter community for houseless people,” county staff members wrote in a memo to commissioners.

Clackamas County is looking to house veterans at the site. The facility will be equipped with a community kitchen, showers, restrooms, a community room and a work shed. **Catholic Charities** will operate the site. Officials with the nonprofit are looking into what issues the location could present.

“We’re looking into that right now to see what challenges that’s going to pose to us in terms of managing the community,” spokesman Heli Del Moral said.

The county will bring plumbing and electricity to the 2-acre lot, clear blackberries and erect a new fence.

Yaden said the improvements are “pretty minimal because the site is realistically ready to go.” The changes also will give the county more flexibility if the site is ever sold.

“These are improvements that will make the site more marketable in the future,” Yaden said.

Fifteen sleeping pods will be ready to accommodate people by December. The remaining 15 pods will be built on-site by residents, who will gain basic carpentry skill, county spokesman Scott Anderson stated in a news release. The pods will be weather resistant and fully insulated and ventilated.

The sleeping-pod camp is just one response to houselessness, Yaden said. Clackamas County has formed a policy group of elected officials and department heads to examine other options.

“We’re trying to take a holistic approach, and this particular zoning amendment is hopefully just one of the tools we’ll be able to employ,” Yaden said. “We don’t think of this as the only site or only solution or only answer.”

The sleeping-pod camp is a similar approach to an existing facility for homeless women in Portland’s Kenton neighborhood. That facility at 2221 N. Argyle St. is also managed by Catholic Charities. The parcel is zoned R1 for medium-density residential use.

Oregon City officials are also considering building a pod for the homeless in a church parking lot.

“Everyone’s doing it a little bit differently, but this village approach is something that seems to be a common theme throughout the different projects that are finding success,” Yaden said. “There’s neat stuff going on up and down the West Coast.”

New proposals often come into conflict with decades-old land-use regulations.

The broad outlines of Oregon’s land-use system date to 1973, when Senate Bill 100 was signed into law. That legislation was led by Sen. Hector McPherson, a dairy farmer who was concerned about losing agricultural land to suburbanization.

“It’s certainly time to look at this again in a modern context,” said Jennifer Bragar, a Portland land-use attorney.

Existing land-use regulations are often a poor fit for innovative approaches to housing, Bragar said.

“The tiny homes example is one where it’s such a new form of housing that most codes haven’t caught up,” she said. “Are they manufactured homes? Those kinds of models don’t yet exist for tiny homes, so you’re looking at a new kind of use where you’re having to think about the residential infrastructure needed to house them.”

Zoning quashed an attempt by the city of Portland last year to move the **Right 2 Dream Too** camp from a lot on West Burnside Street to a city-owned parcel in the Central Eastside. The **Central Eastside Industrial Council** successfully argued the camp is similar in use to a mass shelter, and is prohibited by industrial zoning that is meant to create an industrial sanctuary within the city.

The **Land Use Board of Appeals** ruled against the city, reasoning that residential uses are generally prohibited in industrial zones such as the IG1 zone proposed for the R2DToo site. The collection of tents used by R2DToo is legally indistinguishable from a mass shelter structure, according to **LUBA**.

“In our view, it cannot possibly be consistent with the purpose and policy of protecting industrial sanctuaries from residential and similar uses incompatible with those sanctuaries, to categorize as an outright permitted use a use that is functionally similar, if not functionally identical, to a use that is prohibited outright in the city’s industrial zones because of its quasi-residential character,” the appeals board explained in its ruling.

The ruling, Bragar said, was a result of the city trying to adapt existing zoning for a use for which it was never designed.

“The City Council was trying to get pretty creative when the code was pretty clear,” she said. “The code says you can’t have this kind of living, so you can’t just call it something else and try to get away with it.”

R2DToo has since moved to another site near the Moda Center.

In Clackamas County’s case, commissioners are attempting to bring land-use regulations in line with the 115th Avenue parcel’s proposed use. The goal is to be the first fully permitted site of its kind, Yaden said.

## **OP-ED: Don’t land in hot water by engaging in ‘textual harassment’**

*By Rich Meneghello*

*July 6, 2017*

In what appears to be a first-of-its kind decision, the National Labor Relations Board recently determined that an employer committed an unfair labor practice when one of its managers asked an employee a pointed question via text message about whether his loyalties lie with the company or with the union. While most employers know – or quickly learn – that they should avoid interrogating their employees about union matters, this decision demonstrates that the

NLRB could take a very broad approach when determining the contours of the law, and serves as an important lesson for management personnel dealing with a union drive.

### **Manager uses texts to question worker's loyalty**

RHCG Safety Corp. is engaged in the general construction trade in New York City. The company, also known as Redhook, found itself embroiled in an organizing campaign when a construction union commenced efforts to convince employees to vote in favor of union representation. At the same time, one of the employees – Claudio Anderson – needed to take time off to travel to Panama to visit his ailing mother. Anderson's direct supervisor, David Scherrer, granted the request for an extended leave of absence.

Before Anderson was scheduled to leave for Panama, he stopped by the union offices and signed an authorization card indicating his support for a union election. Several other Redhook employees were also present when this occurred.

Anderson's mother must have taken a turn for the better because she informed him that he didn't need to return to Panama to visit her. Anderson immediately reached out to Scherrer to let him know he would not need to take the extended leave of absence and was ready to come back to work. The manager texted back: "What's going on with u? U working for Redhook or u working in the union?" Anderson ducked the question and instead texted Scherrer a few more times asking if he could return to work, and a few days later the manager texted back: "Not right now! I filled your spot."

Anderson then visited the jobsite in person and Scherrer again told him there was no work for him. The union filed an unfair labor practice charge against the company for the way it treated Anderson, and an administrative law judge concluded that Redhook violated the National Labor Relations Act because of Scherrer's text messages. The NLRB reviewed the case and issued an opinion affirming the judge's ruling on June 7.

### **Here's a tip: avoid TIPS**

Section 8(a)(1) of the NLRA makes it an unfair labor practice for an employer "to interfere with, restrain or coerce employees" in the exercise of their protected rights. Although numerous restrictions prevent management from interfering with a union organizing drive, labor lawyers often reduce their advice to employers to the following four-letter acronym: TIPS.

T – An employer cannot **threaten** its workers.

I – An employer cannot **interrogate** its workers.

P – An employer cannot **promise** its workers something of value in exchange for them voting against the union.

S – An employer cannot **surveil** or **spy** on its workers during an election campaign.

In regard to the "I" it is well-settled that management is prohibited from interrogating its workers about their support of the union, or asking them to reveal details about how their co-workers are leaning. Prohibited behavior under the NLRA includes asking them for names of co-workers who attended union organizing meetings, asking if they have signed an authorization card, and directly asking them how they plan to vote.

### **NLRB to employer: "U R in trouble"**

The NLRB's three-member panel ruled in the union's favor and agreed that Redhook committed an unfair labor practice when Scherrer sent him the text message that read: "U working for Redhook or u working in the union?" The text was sent in direct response to the employee's

inquiry about whether he should return to work, which seemed to place inappropriate pressure on Anderson to disavow support for the union. “By juxtaposing working with Redhook with working in the union, Scherrer’s text strongly suggested that the two were incompatible,” the panel found. When Anderson failed to pledge his loyalty to the company, he was fired, which was the final nail in the coffin for the NLRB.

What puts this case in the first-of-its-kind category is the fact that the company’s inappropriate interrogation was carried out by text message. The company argued before the NLRB that a text message cannot constitute an unlawful interrogation. But the NLRB pointed out that its prior decisions demonstrated that interrogations need not be face-to-face in order to violate the NLRA. It cited a 1980 case wherein an unfair labor practice was upheld based on coercive writings and a 1981 case involving a phone call. Applying these same principles to a 21st-century method of communication, the NLRB found “no reason why [there should be] a safe harbor for coercive employer interrogations via text messages.”

### **Conclusion**

This decision should not be all that surprising to employers. With the prevalence of text messages among workers and supervisors, it is in fact somewhat surprising that such a decision was not reached several years ago. It serves as a valuable lesson for employers, however, to ensure proper training of managers regarding their conduct during union election campaigns.

Also managers should treat text messages to employees with caution, recognizing they might be more casual in style but still create a permanent record of communication that can serve as admissible evidence in a legal proceeding. Some employers prohibit their supervisors from texting their workers about company business altogether, which is a policy that others may want to consider adopting to avoid a similar fate.