

The Oregonian

Community members blast mayor's idea for new community police engagement commission

By Maxine Bernstein

August 3, 2017

Activists involved in pushing for Portland police reforms Thursday blasted the mayor's plan to create a new commission, intended to promote better relationships between police and the community, that would meet behind closed doors twice a month.

They argued that the proposed Portland Commission on Community-Engaged Policing, to be made up of five to 9 members selected by the mayor, would cut the public out of meaningful police oversight, reduce representation from a diverse group of representatives, further diminish public trust in the city's efforts to reform the Police Bureau and run counter to the goal of the city's settlement agreement with the U.S. Department of Justice.

The settlement stemmed from a 2012 federal investigation that found police engaged in a pattern of using excessive force against people with mental illness, and required a wide range of changes to police policies, training and oversight.

Though Mayor Ted Wheeler's plan also calls for the commission to hold quarterly town hall meetings, members of the Albina Ministerial Alliance, the National Lawyers Guild, Disability Rights Oregon, the NAACP of Portland, Mental Health Association of Portland, Portland Copwatch and other local activists said that would still be woefully inadequate.

Having only the mayor, who also serves as police commissioner, oversee the new commission could politicize the group and its actions, and unfairly cuts the rest of the council out from an important role, many speakers said.

Jo Ann Hardesty, president of the NAACP's Portland chapter, called the plan "a smack in the face to community members who want accountability, who want justice." Hardesty said it appears as if the proposed commission would serve as a "PR group to gather to sell to the community what a great job PPB is doing."

Kathleen Saadat, who resigned as a moderator for the now-defunct Community Oversight Advisory Board that was set up under the settlement agreement, also criticized the proposed replacement plan.

In a letter submitted to council, Saadat wrote that the new commission would not meet the intent of the settlement, which she said was to facilitate community input into the drafting and review of Police Bureau policies that were the subject of the settlement.

"The city could hire a consultant to hold quarterly round tables and get input and recommendations from the community, if that is all the city wants from the community," Saadat wrote. "I want the community to be involved in shaping community concerns and community recommendations into policy."

The Rev. T. Allen Bethel, chair of the Albina Ministerial Alliance, said the proposed structure of the new commission limits transparency and public oversight.

"Closing the door is not fixing the problem," Bethel said.

Jan Friedman, a lawyer with Disability Rights Oregon, picked up on the same theme. "How is that including the community? Maybe it's messy. It's more difficult. To require that sort of engagement, that's more challenging," Friedman said, adding that adequate community involvement is essential. "Slow down and allow adequate community involvement. You can't just handpick five to seven people and think that's community involvement."

Wheeler defended the plan, calling the city's experiment with the Community Oversight Advisory Board a failure, noting its meetings often devolved into shouting matches with members feeling harassed or threatened. He said his proposed commission "will turn what was previously chaos into credibility." Members of the new commission will get the training they need, and responses to their questions or recommendations that they deserve from the chief or mayor.

"We can quibble about it being a public body or not being a public body," the mayor said. "This is specifically done so it will have public engagement at least once a quarter, which is consistent with many other boards."

Nicole Grant, the mayor's senior policy advisor, said the commission's mission would be two-fold: Recommend strategies for better community engagement and serve as a liaison between the public and the Police Bureau.

Commissioner Chloe Eudaly offered amendments: Increase the commission to between 9 and 11 members. Allow other city commissioners to be involved in selecting the members. Ensure the group's agendas and meeting minutes are published on a website within 30 days of a meeting.

A second proposed ordinance also received criticism. The ordinance calls on the city to approve a policy that would require the Police Bureau to compel officers who use deadly force to talk to internal affairs investigators as soon as practical, preferably in less than 48 hours after a shooting. But the police would not go into effect until a court could validate it as constitutional.

Lindsey Burrows, an attorney with the National Lawyers Guild, urged the city to put the policy in place immediately instead, and either wait for someone to challenge it in court or simultaneously seek a court ruling to validate it.

"Let's compel testimony and seek a court ruling and not wait around," she said, considering how infrequently officers are indicted for using deadly force.

Constantin Severe, director of the city's Independent Police Review, said he's embarrassed that the officer who fatally shot Terrell K. Johnson on May 10 was not interviewed by an internal affairs investigator until six weeks later, based on the Multnomah County district attorney's advice for the Police Bureau to hold off compelling such statements until a criminal inquiry is completed.

"That is something I am ashamed of as a city employee," Severe said.

In a March memo to police, Underhill said he's concerned that forcing an officer to give an internal affairs statement in a policy review of the shooting while a criminal investigation is ongoing could result in the officer being granted immunity from prosecution. He asked that internal affairs not compel any officers' statements in deadly force cases until he gives the go-ahead and until after a criminal investigation is done.

The six-week delay in obtaining an officer's statement in the Johnson shooting is in stark contrast to the compelled statement obtained from the officer who fatally shot 17-year-old

Quanice Hayes earlier this year, which internal affairs obtained within 26 hours of the encounter, Severe said. The speed taken to compel the officer's statement is what drew Underhill's heightened concerns. That led to a meeting with Oregon's U.S. attorney, federal Justice officials, city lawyers, and resulted in the Police Bureau's revamped approach based on Underhill's advice.

Thursday night's hearing lasted nearly five hours, with the mayor's invited panels of speakers taking up the first two hours. The balcony of council chambers was closed to the public, but two overflow rooms in City Hall were opened with live feeds from the hearing. City officials had extra security, including several deputy U.S. Marshals, standing in council chambers and in the corridors of City Hall.

The police-related ordinances will go before council for a second reading at 1 p.m. next Wednesday.

-Written testimony from ACLU

-Written input from Kathleen Saadat

8 things to know about Portland's new water treatment plan

By Beth Nakamura

August 3, 2017

Portland commissioners have decided to build an expensive plant to treat the city's water supply. That's a first. Portland's famous Bull Run water historically has undergone almost no treatment.

1. Why is this happening now?

The Portland Water Bureau found more cryptosporidium parasite in Bull Run water this year than is allowed by a state treatment exemption. The city must now treat its water to comply with federal law.

2. How will filtration make Portland's water safer?

A filtration plant will reduce health risks by removing parasites and sediment. It could also help protect against lead and manganese.

3. Will I get sick in the meantime?

Unlikely. Multnomah County Health Officer Paul Lewis said there is no immediate health risk. The county actually saw fewer cryptosporidium-caused illnesses than average this year.

4. How much will building a filtration treatment plant cost?

The Water Bureau estimates it will cost \$350 million to \$500 million. City estimates show homeowners are expected to pay an average of \$10 more per month over the next 16 years.

5. When will my water bill increase?

Rates are projected to go up in July 2018, according to water bureau spokeswoman Jaymee Cuti.

6. What if I can't afford the increase?

Water Commissioner Nick Fish promised to work with Commissioner Chloe Eudaly to keep rates down for low-income customers.

7. When will the plant get built?

Water officials estimated the plant could take 10 to 12 years to build. The timeline will be finalized when they submit a plan and schedule to the state health authority.

8. When will the city finalize its plans?

Portland must submit a plan and schedule to build the plant by October 11.

The Portland City Council detailed its thinking about treating Portland's water before voting Wednesday to go with filtration.

The Daily Journal of Commerce

Portland City Council vows to fight fossil fuel ruling

By Garrett Andrews

August 4, 2017

The city of Portland will fight a legal decision that its 2016 ban on fossil fuel terminals is unconstitutional.

The **Portland City Council** on Wednesday voted to appeal a July decision of the Oregon Land Use Board of Appeals (**LUBA**) to strike down the city's ban, which attempted to create a new land use category for fossil fuel terminals and limit their proliferation in Portland.

Commissioner Dan Saltzman said cities must fight harder these days to protect the environment because there's no leadership on climate change in the White House.

"This is an appeal that needs to be taken forward," he said.

The council passed the policy in January 2016, after dozens of interested residents packed City Hall to testify in favor. Then four parties, including the **Columbia Pacific Building Trades Council**, appealed it to LUBA, which agreed that the city had unfairly affected interstate commerce by preventing petroleum from passing through city limits.

Willy Myers, executive director of the building trades council, is strongly against the city's position. The law would hurt the entire state, he said in a note to the DJC, because nearly all fossil fuels consumed in Oregon pass through Portland.

"Disallowing new infrastructure could create an energy bottleneck in meeting the needs of businesses and households across the state, lead to increased costs if supply is constrained and hamper economic growth," he wrote.

Chief Deputy City Attorney Linly Rees said it's unusual for the city to appeal a LUBA ruling, but in this case, the city attorney's office believes there's a reasonable basis for asking the Oregon Court of Appeals to reconsider. That's partly because, in this case, two of three LUBA members recused themselves, leaving only one to issue the ruling.

At this point in Rees' testimony to the City Council on Wednesday, Mayor Ted Wheeler cut in.

"I would like to add the hilarious footnote that that was referred to in the press as a 'unanimous decision,'" he said, indicating air quotes. "They could have said 'unilateral.'"

The council's vote was unanimous, 5-0.

Commissioners were concerned the ruling could set a precedent impacting other ambitious policies intended to address climate change.

“It’s certainly possible that all three members of LUBA could get it wrong, from our point of view,” Commissioner Nick Fish said. “But I do think that what makes this case unique is that we’re talking about a fundamental constitutional question decided by a single member of LUBA which could in the future significantly limit our ability to move forward with climate-related legislation.”

The Portland Business Journal

\$500M water treatment plant gets Portland go-ahead

By Andy Giegerich

August 3, 2017

Portland looks like it's poised to add a pricey water treatment system.

As Oregon Public Broadcasting reports, Portland city commissioners unanimously voted Wednesday to proceed with a plan to design a plant that would treat drinking water for the parasite cryptosporidium. The plant could cost up to \$500 million.

The city will spend the next 60 days mapping out a plan for the plant.

The Oregonian projected the plant could boost homeowners' water bills by at least \$10 a month.

Portland had been granted a variance that allowed it to provide untreated water. The Environmental Protection Agency revoked that variance earlier this year after cryptosporidium was detected several times, OPB reported.

Commissioners decided on the more-expensive option over a \$105 million ultraviolet light treatment plant because the higher cost-plan could provide a longer-term fix.

The city gets its water from the Bull Run reservoir, near Mt. Hood.

The issue has come before the Council several times in the recent past.

The Skanner

Wheeler Down to Final Four Chief Candidates

By Christen McCurdy

August 3, 2017

Portland Mayor Ted Wheeler is expected to announce early this month who will serve as Portland’s next police chief. He’s down to four candidates after a nationwide search drew 33 applications.

Mike Marshman, who was appointed as interim chief last summer, is one of the four. The city has confirmed the identity of one other candidate, assistant Pittsburgh police chief Larry Sciroto, but has said the other two have requested their names remain confidential.

Portland's Resistance, an activist group formed after the election of President Donald Trump, announced Monday it would pursue an effort to recall Mayor Wheeler if Marshman is selected for the position.

Marshman was appointed in June of 2016 following the retirement of Larry O'Dea. He was placed on administrative leave in March of this year after accusations of falsifying training records, and reappointed to his post in April when colleagues changed their story. Just weeks after Marshman was appointed, *The Oregonian* reported he had been investigated for a 2002 incident involving violence against his stepson, who was then 16. More recently, Marshman has come under fire for his department's handling of large protests, which have increased since the Presidential election.

Public input

The final four candidates were whittled down from six who were interviewed by a panel of city-selected volunteers affiliated with some community organizations. The job opening was posted in May.

One of the six who apparently didn't make the cut is Charles Moose, 63, who led the Portland Police Bureau from 1993 to 1999, serving as the city's first African American police chief. *The Oregonian* reported last week that Moose had been seen downtown wearing a suit during the week candidates were being interviewed, and later quoted a Facebook post from Moose's wife, Sandy, saying he had been eliminated from the search.

A community panelist who spoke with *The Skanner* said the majority of the six candidates – including Sciroto, who is bi-racial – were people of color, as were the majority of those serving on the panels. During the interview process, the group of 15 volunteers was broken into three groups, and all had an hour to speak with each candidate. A city staff member provided them with questions to ask – based on the posted job description and survey results – and collected their notes and feedback at the end.

E.D. Mondaine, first vice president of the NAACP Portland Branch and one of the community panelists, said he was impressed with the breadth of experience his fellow panelists brought to the interview process. Other panelists included Nkenge Harmon-Johnson, president of the Urban League of Portland, Dr. T. Allen Bethel of the Albina Ministerial Alliance Coalition, Patricia Day TenEyck, executive director of the National Alliance on Mental Illness (NAMI) of Multnomah County and Sandi McDonough, President and CEO of the Portland Business Alliance.

"We'll of course know at the outcome of the process how our input was put to use," Mondaine told *The Skanner*.

"I was pleasantly surprised to see a lot of communities of color represented on the panel, indicating that the city recognized that these are the communities impacted by police interactions in our communities," said panelist Melissa Chavez, who was contacted about serving on the panel after going through a Disability Leadership Academy training presented by the city's Office of Neighborhood Involvement.

Portland's Resistance has been publicly critical of the hiring process so far, and has asked the city to hold a public forum to interview chief candidates.

"We didn't even know who was on the community panel to interview the finalists until (we filed a) public records request and we have no idea how people were chosen to be on this panel," Gregory McKelvey, an organizer with the group, told *The Skanner*.

In a July 18 Medium post, the organization notes Wheeler had previously stated he wanted the public to be involved in vetting the finalists. It includes this quote from a Jan. 6 interview with Oregon Public Broadcasting: “When we get down to the top few finalists, let’s say three today as a marker, I’d like to have an opportunity for the public to be able to vet the finalists.”

Cox said the mayor’s office selected the community panel by reaching out to stakeholder organizations. They wanted to include experts on policing as well as representative groups.

He also said that as the hiring process has progressed, the mayor’s office has become more aware of the importance of respecting candidates’ requests for confidentiality.

“There has been one other case, not with the police bureau but with another bureau in the city, where a finalist has dropped out rather than be named publicly, and we do not want that to happen here,” Cox told The Skanner.

‘A misguided endeavor’

One of the panelists, Daryl Turner, is president of the Portland Police Association, which represents the police bureau’s rank and file. In April the PPA issued a press release calling Wheeler’s nationwide search for a new police chief – a promise he campaigned on last spring -- a “misguided endeavor.”

The press release included the results of a survey of union members, saying 90 percent of respondents believe morale is higher than it was under Marshman’s predecessor, Larry O’Dea. O’Dea retired in June 2016 amid a criminal investigation regarding the off-duty shooting of his friend during an eastern Oregon camping trip that spring.

This spring the city posted a community survey asking members of the public what the city should seek in a new police chief, and released the results in June.

The three most common personal characteristics survey respondents sought, in order of their popularity, were “honesty/integrity,” “community oriented” and “equity, racial and social-justice focused.” The most common responses to a question about professional experience and background were: community policing experience, knowledge of Portland’s history of racism and knowledge of de-escalation strategies and crowd control.

Survey respondents were 83 percent White and a majority (62 percent) were women. Just 2.4 percent of respondents identified as Black or African American, and a single respondent identified as African.

If Marshman is replaced, the new chief would be Portland’s fourth in 10 years (not counting Donna Henderson, who served as interim chief briefly last summer). Larry O’Dea was appointed in 2015, replacing Mike Reese, who retired from his role in 2010, but now serves as Multnomah County Sheriff. Rosie Sizer was Portland’s police chief from 2006 to 2010.