

The Oregonian

Portland Police Commander Announces Retirement, Won't Address Complaint

*By Maxine Bernstein
December 15, 2017*

Police Cmdr. Robert King announced Friday that he plans to retire Jan. 4, ending a nearly 28-year career with the Portland bureau.

He said he plans to spend more time with his family and travel, but he didn't mention he was the subject of a recent internal affairs complaint.

The complaint alleges that he accessed the police database and gave the name and telephone number of a hit-and-run victim to a local pastor.

Pastor J.W. Matt Hennessee had contacted King about the crash on behalf of the driver, the daughter of a member of his church, Vancouver Avenue First Baptist Church. Hennessee apparently wanted to offer to settle the case with the victim.

It's unclear when the crash occurred or if the driver who fled the scene was ever cited.

Hennessee confirmed that he contacted police on behalf of the driver and contacted the victim.

King, who previously served as president of the police union and a bureau spokesman, was promoted to the rank of commander in December 2016 and has led North Precinct for the past year. The patrol precinct covers parts of North and Northeast Portland and is one of the bureau's most high-profile public jobs.

Asked about the complaint, King, 53, said, "I don't have anything to say about any of that."

It's unclear if the city's Independent Police Review Division is handling the complaint. The agency, part of the Portland auditor's office, is responsible for investigations of police supervisors with the rank of captain or higher.

Division Director Constantin Severe didn't return phone messages or an email Friday.

Police spokesman Sgt. Pete Simpson said he couldn't comment on a personnel matter on the advice of the city attorney's office.

The Portland Tribune

Neighbors Express Concern over Homeless Shelter on SE Foster

*By Jim Redden
December 17, 2017*

Comments are overwhelmingly negative on the website operated by the Foster-Powell Neighborhood Association when an invitation to a Monday night meeting to discuss the shelter was posted.

Opposition has surfaced to a new homeless shelter planned by Portland and Multnomah County ahead of a Monday night community meeting called to discuss it.

The city-county Joint Office of Homeless Services has invited those in the area to a meeting on the evening of Dec. 18, to discuss the 100-bed shelter planned to open early next year in a vacant grocery at 6144 S.E. Foster Blvd.

Early comments about the shelter were largely positive on the website operated by the Foster-Powell Neighborhood Association.

"I'm really pleased to hear that the people in our neighborhood who currently sleep on the sidewalk next to Powell Boulevard, or under the overhang at the public library, will have a better alternative starting next year," a commenter identified as Eavan said on Dec. 12

But all of the more recent comments have been negative. Although most say a homeless shelter is needed in the area, many question its proposed location in a commercial storefront near an alternative high school, day care center and several bars.

"Even if the city was great at managing the homeless situation, this would be a TERRIBLE location for it. It's LACKING: police presence, mass transit, and medical facilities. It does, however, have a YMCA, alternative school, tons of bars (including a new brew pub on the way), a residential area, and plenty of local businesses that are only continuing to make the area an even nicer place to live. Especially given the YMCA and the school, I'm not even sure how this is legal," said one commenter identified as Addy on Dec. 12.

"The proposed location for the homeless shelter is an incredibly poor location because of the 160 students that attend Mount Scott Learning Center that is directly across the street. The safety of the students is a great concern as many frequent the 7-11 convenience store throughout the day. I strongly oppose this location," Brenda Peterson said on Dec. 14.

Some commenters also question holding the meeting during the holiday season.

"An informational meeting!?! Planned during the holidays and with no time to respond appropriately before the City rams another brainless idea down our throats. Next year is less than two weeks away! Its a cheap move straight outta the playbook of our country's current administration," said a commenter identified as 9 Year Resident and Loving Neighbor.

The invitation to the meeting was posted on the website on Nov. 9 it said that Mayor Ted Wheeler, County Chair Deborah Kafoury, County Commissioner Jessica Vega Pederson and JOHS director Marc Jolin are scheduled to attend the meeting, which is set for 7 p.m. on Monday, Dec. 18, at the offices of Service Employees International Union Local 503, 6401 S.E. Foster Rd.

"By next year, we plan to convert the space into a high-quality shelter with room for roughly 100 people, along with offices, showers, laundry facilities and other amenities that will help participants better connect with services. The shelter would be managed by an experienced, proven operator and would run on a reservation-based system to avoid queueing outside," said the invitation, signed by Wheeler and Kafoury.

The invitation also said the planned shelter will be one of several emergency shelters the city and county have opened in recent years in response to the homeless crisis. Another recent shelter cited in the invitation is in the Westmoreland neighborhood.

"Those new beds mean people who might otherwise have camped outside, in tents or on sidewalks, have a warm, safe place to go instead. Those beds allow folks to come in with their pets, or with their partners, and store belongings during the day. It's working. We counted more people sleeping in shelter than outside last winter," the invitation says.

The county has also filed paperwork to open a 200-bed shelter in a vacant warehouse in the Old Town/Chinatown neighborhood.

You can read the invitation and comments on the Foster-Powell Neighborhood Association Facebook page at [fosterpowell.com/general-info/community-meeting-to-discuss-planned-shelter-at-6144-se-foster-road/](https://www.facebook.com/fosterpowell.com/general-info/community-meeting-to-discuss-planned-shelter-at-6144-se-foster-road/)

Council Expected to Pay \$10 million to Settle Utility Suit Wednesday

*By Jim Redden
December 15, 2017*

City Council will consider settlement on Dec. 20, calls it a fair resolution to lengthy lawsuit that charged illegal water and sewer fund spending.

The City Council will pay \$10 million to settle a long-running lawsuit that claimed it had illegally misspent water and sewer funds.

In a settlement announced Friday, Portland agreed to repay the water and sewer funds \$7 million. Lawyers representing several ratepayers will receive \$3 million.

The settlement was announced by Mayor Ted Wheeler, Water Commissioner Nick Fish, and ratepayer attorney John DiLorenzo. It will be formally considered by the council as an ordinance on Wednesday, Dec. 20.

The settlement requires the council to repay the water fund \$5.54 million and the sewer fund \$1.46 million with general fund dollars by Dec. 29. The Davis Wright Tremaine law firm where DiLorenzo works will be paid \$3 million.

The city does not admit any wrongdoing in the settlement. Nor is it obligated to accept an early ruling by Multnomah County Circuit Court Judge Stephen Bushong that the City Charter requires ratepayer spending to be "reasonably related" to the missions of the Portland Water Bureau and the Bureau of Environmental Service, which operates the city sewer system and stormwater management programs.

City attorneys had argued the charter gives the council more flexibility in deciding how to spend utility ratepayer funds. Ratepayer attorneys had sought a stricter standard.

"I applaud Commissioner Fish, our City Attorneys, and all parties for ending a years-long dispute by arriving at a fair settlement," Wheeler said in a prepared statement.

City Attorney Tracy Reeve said the settlement is a fair resolution after years of active litigation.

"While the City continues to respectfully disagree with some of the court's rulings in this matter, I am satisfied that this settlement is fair and equitable to the City and its ratepayers. I also believe that there is substantial value in resolving this matter without the inherent risk and time commitment of an appeal."

DiLorenzo said, "This settlement is fair for the ratepayers. It brings to a conclusion a 6-year effort to protect dedicated ratepayer funds. I thank Mayor Wheeler and Commissioner Fish for their good faith and take this as a sign that future City Councils will be circumspect when they approve expenditures from those dedicated funds, and will consider the spirit of Judge Bushong's rulings during the 6-year course of this case."

The suit charged the council was illegal using the water and sewer fund for pet projects and unrelated programs. Examples ranged from partial financing for the now-defunct Voter Owned Elections public campaign funding program to over \$50 million already paid by BES to help study pollution in the Portland Harbor Superfund site.

On June 22 of this year, Bushong ruled that approximately 90 percent of the challenged spending was legal. However, he ordered the council to repay the two bureaus more than \$17 million for ratepayer funds spent on several projects in violation of the charter.

The largest amount was over \$5.5 million spend on a reservoir project in Powell Butte not related to the reservoir itself. It included over \$1.2 million spent on a visitors center.

Other notable expenditures included a little more than \$2.5 million in pass-through funds for Portland Parks & Recreation, over \$2 million spent renovating Dodge Park in Clackamas County, and nearly \$1.3 million spent on the public toilets known as Portland Loos.

Bushong also awarded bureau overhead charges for the disputed projects and 4 percent interest.

"I'm pleased that the Court upheld the vast majority of the City's investments — including on the Portland Harbor Superfund site — and that this settlement brings an end to years of expensive litigation. My top priority continues to be providing basic services at a fair price, and investing ratepayer dollars wisely," said Fish, who is in charge of both the water and environmental services bureau.

During the course of the suit, the council resolved a number of challenged expenditures. Among other things, it sold the so-called Water House that had been built with water funds as a demonstration project and reversed a land swap between the water bureau and Portland Parks & recreation that supported a new home for the Portland Rose Festival in Tom McCall Waterfront Park.

You can read the settlement agreement [here](#).

Downtown Clean and Safe - Moving the Needle

By Jim Redden and Joseph Gallivan

December 15, 2017

Annual Clean & Safe report documents increase in concern about cleanliness, however.

Despite the controversy over whether homeless people are bad for downtown businesses, a recently released annual survey found employment is up in the urban core and most retailers say they feel safe.

A growing percentage says cleanliness is a problem that needs to be addressed, however.

The annual survey was conducted and released by Downtown Clean & Safe, an affiliate of the Portland Business Alliance that works to improve downtown livability. Among other things, the survey found downtown employment increased by 2 percent between 2015 and 2016.

The 2016 Downtown Business Census & Survey also found wages in the downtown area increased 6 percent and the number of downtown businesses increased 4 percent.

"The continued growth in jobs and wages is great news for downtown Portland," said Peter Andrews, chair of the Downtown Clean & Safe board and a broker at Melvin Mark Companies. "Similar to past years, we saw employment increase in the technology sector, a booming industry in Portland."

Columbia Sportswear CEO Tim Boyle and other business owners have recently complained that their employees have been harassed by homeless people. Boyle even threatened to move his company's Sorel office out of downtown, prompting Mayor Ted Wheeler to designate a high-pedestrian zone around it — commonly called a no-sit zone. That prompted a protest in front of Columbia Sportswear's nearby flagship store on Saturday.

But when asked about safety in downtown, 95 percent of respondents said they feel downtown is safe. Despite that, Andrews praised Wheeler for his response.

"While this progress indicates that employment in downtown is thriving, we continue to work on Portland's livability issues. It is encouraging that Mayor Wheeler is addressing these concerns by announcing the city will implement additional tools to impact Portland's livability issues, such as high-pedestrian zones and expanded police walking patrols," Andrews said.

At the same time, when asked about cleanliness downtown, half of respondents said it needs improvement. The need for improved cleanliness has increased from 29 percent in 2014 to 50 percent in 2016.

Andrews said the Clean & Safe program is responding to those concerns.

"The Clean & Safe board recently made a number of investments to immediately address downtown cleanliness, including a 30 percent increase in staffing for mobile cleaning units, which are staffed by formerly homeless individuals contracted through Central City Concern's employment programs. Also, by summer 2018, we will have installed more garbage cans downtown, with the city providing more frequent collection. We look forward to continuing our work with the mayor and other elected leaders to ensure downtown is welcoming for business owners, employees and visitors alike," Andrews said.

Needles

The Business Tribune talked to some people working in downtown businesses recently. All related downtown's safety and cleanliness issues exclusively to homeless people, public substance abusers and "street kids."

Suzanne Losch owns Urban Fauna at 939 S.W. 10th Avenue. "Portland has failed. I used to feel Portland was one of the cleanest cities. Not anymore."

Most of the mess she saw was related to campers congregating around the freeways and their ramps.

"It's just dirty all over, it's just trash," she said of her commute from Scappoose. "I remember coming in from the airport and seeing all this trash on the side of the road, especially by Lloyd Center, and you think tourists are seeing all this garbage? It just looks horrible."

Losch said she doesn't see it as much downtown. In terms of safety, she is worried. She has lost business to people who won't bring their pets in for grooming or day care from the suburbs because they think it is dangerous. And Losch can see their point. "It's usually street people. My brother was walking with his five-year-old son and my brother got punched in the face for no reason. I had a customer get off the MAX and was hit in the head, she came in here to recover. No warning, no provocation."

Losch came from San Francisco 25 years ago and has had Urban Fauna in this location for six years. Her car has been broken into four times in the supervised lot behind the store, and all her staff have had theirs broken into. "I see it all from in here. People start disrobing in the street when they get high. I saw one woman take her top off and she had a big knife hanging off her."

She said she had no idea what drugs they were on but there were "needles everywhere."

That point was echoed by a downtown bike store manager who preferred not to be identified.

He said he had filled out Downtown Clean and Safe's business owner surveys for four years but skipped the last one, as they appeared to be making no difference.

"I haven't seen a reduction in graffiti or crime or transient activity, in fact it's gotten worse. It's just for them to have some numbers to say their vendors downtown are disappointed, but it doesn't help me. What's the point of having a survey if there's no change? I can't see it and I'm here every day. "

Safety has not gotten better in the five years he has been at the store. The amount of police activity has stayed the same. "We see rampant drug use in the bus stops or sitting out on the street, we see petty theft, people getting hassled as they're walking to the food carts, people yelling at them, primarily in front of the library area."

More needles

He sees the Clean and Safe people cleaning up frequently, but he is bothered by the number of needles, caps and shattered syringes. "We'll see folks getting drunk out here until they can't stand up, it's a regular thing. You can't arrest them but certainly it's affecting people wanting to be downtown and shopping."

He worries about how much PSU students are getting hassled by street kids in the Park Blocks.

"And if I call the police non-emergency lines, I get 'We're too busy, it'll take two hours... But there's only so many police and they have to prioritize the calls."

He says he is not sure if it has hurt his business. "My business is down but that's a national trend in this industry, I don't know if it has to do with people feeling safe down here." He says bike retail is down because the Baby Boomer generation, a big demographic, are ageing out, and the younger bike consumers have other sports such as paddling, and running and then there is competition from online shopping. "Plus, bike shop density in Portland is three times higher than there rest of the country. But I have 10 people working for me and I want them to feel safe. When I don't feel safe myself walking to get some tacos, it makes me nervous."

"With the protests, when you see trucks with riot police and tear gas going down the street—that's it I'm done. I sent my people home early," he said.

Mental health issues

Lydell Cole, assistant manager at Bait, a sneaker and designer toy store at 811 S.W. Broadway, told the Business Tribune, "I feel the streets are clean but not as safe as they used to be. We've had some crazy people come in here. I know a couple of other places have had the same issues, people walking in just out of their mind."

Dealing with them can be difficult.

"Some are easy to get out, then there are the ones who are just out of their minds, they're not right in their heads. It could be drugs, it could be mental. There's just some people around here that shouldn't be on the street."

Cole says he is wary walking the streets downtown, but wary only of street people. "I've seen people threatening people for no reason, and it's by a street person. So, I think they need to focus on that a bit more."

Warming rooms

At the St. Honoré Bakery at 501 S.W. Broadway, customer service manager Emily Jeziorski said she felt safety was less of a concern than cleanliness on their block. "It's not so much what I'm seeing but what I'm smelling. In the summertime, especially it smells really badly of urine throughout the entire city." And she doesn't mean dog pee. "There's some street cleaning that needs to be done."

"I've been in the food service since I was 16. I'm trying to give customers a good experience." She moved here from upstate New York a year and a half ago.

If there is someone causing trouble, Jeziorski deals with it. "I don't scare easily. I recently had Clean and Safe add us to more of their sweeps. Since it's gotten colder people are lingering more. I try not to be heartless but I do have a business to run."

This is a good block, and with the bank across Southwest Washington Street, she sees more police patrols. "I've never felt unsafe. I just make sure everyone has a good `experience."

Street view

Bike messenger Tim Keller is downtown 8 a.m. to 5 p.m. every day. "It's got its rough spots for cleanliness. Downtown is not the prettiest place on earth. You get a little bit more towards the river, that's when it starts popping up a bit. A lot of junkies, a lot of methadone. They leave piles all over the places. The needles are pretty spooky."

What about safety?

"As a man, it doesn't seem too bad. But I do see a lot of overzealous people in the homeless community, people who want to start screaming. If you're not used to it, it can be frightening. But I don't see a lot of attacks, just a lot of puffing up, people trying to get them out of their space."

He thinks nervous suburbanites should worry less. "I think they don't know how to react. It's a lot of mental health. Without the proper outreach people are going to act out, without the correct medication. If you're not from here and you visit it's definitely jarring."

Key findings of the survey

Employment in the downtown area grew from 97,281 to 99,031 jobs between 2015 and 2016.

Total wages increased from \$6,843,920,476 to \$7,251,758,831.6 from 2015 to 2016.

Businesses in downtown increased from 4,770 to 4,958 between 2015 and 2016.

Sectors with the most notable employee increases include Finance and Insurance, Professional Scientific and Technical Services, as well as Educational Services, and Accommodation and Food Services.

Sectors with the most notable increase in the number of businesses downtown include Information, as well as Professional Scientific and Technical Services.

Top factors influencing businesses locating or staying in downtown include: 1) central location; 2) proximity to other businesses; and 3) access to public transportation.

Areas identified that need to be addressed include 1) transients, 2) panhandlers, and 3) parking.

The number of people taking public transportation continues to drop, while driving alone is rising; currently 53 percent of downtown workers drive.

The number of bike commuters remains unchanged from 2015 at 5 percent.

The Downtown Clean & Safe District conducts the Business Census & Survey each year, surveying employers within the I-405/I-5 loop. The district partners with Prosper Portland on employment data provided by the state of Oregon. Other survey data is collected using mailed questionnaires, personal follow-up and block-by-block canvassing to obtain a statistically significant survey sample. Survey data was gathered from October 2015 to October 2016.

You can read the most recent and previous surveys at:

<http://cleanandsafepdx.com/research/business-census-survey.html>

Willamette Week

City of Portland Reaches \$10 Million Settlement on Long-Running Litigation Over Water Bureau Spending

By Nigel Jaquiss

December 15, 2017

Lawsuit challenged the use of ratepayer dollars for general city expenditures.

Today marks the end of Portland's water war.

The city of Portland and John DiLorenzo, a lawyer representing water and sewer ratepayers, today announced the \$10 million settlement of a long-running lawsuit against the city.

In 2011, ratepayers, led by the late Lloyd Anderson, a former city commissioner, sued the city, alleging officials had inappropriately used dedicated water and sewer funds for a variety of expenditures, including the construction of parks and assistance to the city of New Orleans after Hurricane Katrina, that should have been paid for from the city's general fund.

The underlying issue was the segregation of city funds: water and sewer customers pay directly to the city for services provided by the Water Bureau and Bureau of Environmental Services. Those ratepayer dollars are legally dedicated to the operations of those bureaus. The city's general operations, such as providing police, fire and parks to city residents are paid for by the city's general fund, which comes from property and various business taxes.

The city and ratepayers battled in court between 2012 and 2016 over a long list of expenditures that ratepayers challenged. The peak of that battle came in May 2014, when the ratepayer group put a measure on the ballot that would have created an independent water district, effectively taking that function away from the city. The measure failed by nearly a three-to-one margin.

"I'm pleased that the Court upheld the vast majority of the City's investments – including on the Portland Harbor Superfund site – and that this settlement brings an end to years of expensive litigation," said Nick Fish, the city commissioner who oversees the Water Bureau and BES. "My top priority continues to be providing basic services at a fair price, and investing ratepayer dollars wisely."

DiLorenzo, whose firm will receive \$3 million of the \$10 million settlement for legal fees, also cheered the resolution of the case.

"This settlement is fair for the ratepayers," DiLorenzo said. "It brings to a conclusion a 6-year effort to protect dedicated ratepayer funds. I thank Mayor Wheeler and Commissioner Fish for

their good faith and take this as a sign that future city councils will be circumspect when they approve expenditures from those dedicated funds."

City Council will formally vote on the settlement on Dec. 20.

The Daily Journal of Commerce

Central Eastside Businesses Taking Charge

By Chuck Slothower

December 15, 2017

Fed up with trash, excrement and complaints from office tenants, Central Eastside businesses are uniting to clean up the district.

The Central Eastside Industrial Council (CEIC) is forming an enhanced services district, said Brad Malsin, the council's president. The district, similar to Clean & Safe (downtown Portland) and Go Lloyd, will pay for workers to remove litter, refer homeless individuals to social services and provide a watchful eye on the area.

The effort comes amid a surge of office development in the Central Eastside. As businesses such as Autodesk, Simple and Viewpoint Construction Services have opened large offices in the area, they've found an uneasy coexistence with the district's homeless population.

"It hasn't been pervasive, but it has been very disturbing that people are being accosted on the street, that their cars are being broken into," said Brad Malsin, president of the CEIC and principal at Beam Development. "There's excrement on the sidewalk and on doorsteps. That's why we're doing this enhanced services district. That's why we're going to try to take control."

The district will be funded by assessments on property owners and by a share of revenue from new parking meters. Officials expect to launch the district in 2018.

Workers will patrol the district to clean up trash and watch for misbehavior, Malsin said. The district will provide portable toilets to improve sanitation, and there are ongoing discussions with Central City Concern to connect homeless individuals to supportive services.

"We obviously can't eliminate homelessness overnight as much as we would love to – and we would love to not have people sleeping outside," Malsin said. "We realize it's a process."

Portland's homeless population has grown while the Central Eastside has transformed into a hip enclave for tech businesses and the services that follow. Where there were once warehouses and old-school industrial manufacturers, office workers can now get bison and Wagyu beef burgers at Stacked Sandwiches, and single-origin coffees at Water Avenue.

The juxtaposition has made for some strange encounters. One Central Eastside business, OMFG Co., battled a repeat offender who relieved himself on the windowsills. Eventually, the man was caught in the act and arrested, said Ashley Hildreth, studio manager at the branding consulting firm.

Hildreth said the office at the foot of the Burnside Bridge has also been the target of graffiti and detrimental window etching. At times, walking on the sidewalk can be impossible because of tents and tarps erected by homeless people camped there, Hildreth said.

"It's just kind of a sketchy area," she said. "The fact that it's getting developed, though, in the next five years, this whole area will probably feel a whole lot different."

The Central Eastside's struggles with homelessness are not unique in Portland. The city and surrounding suburbs are experimenting with various approaches to reducing homelessness, from erecting "tiny houses" to expanding the budget for supportive services.

The sense of alarm seems to be increasing. Columbia Sportswear CEO Tim Boyle submitted an op-ed piece that The Oregonian published Nov. 10. He stated he was considering moving the apparel company's downtown office after threatening incidents, thefts and problems with garbage and human waste. He suggested the city should hire more police officers.

Malsin said he moved forward with the enhanced services district after a meeting with Mayor Ted Wheeler made it clear the city does not have the resources to clean up the Central Eastside on its own. Malsin compared Portland to Seattle, which has a far larger police force, and New York City, which provides extensive emergency shelter.

In New York, Malsin said, "it costs them close to \$1 billion a year, but nobody sleeps on the street. You get picked up, they take you to an apartment and you're housed. I think that's what we need. If we had the resources, we could do that."

Malsin serves on the board of A Home for Everyone, and said he has tried to be part of the solution. Each night, 100 to 120 homeless people take shelter in Malsin's ex-Shleifer Furniture building. Beam Development has plans to transform the building into a boutique hotel, but for now, it functions as a shelter.

Malsin believes more resources are needed.

"The question is how much are we willing to sacrifice and pay to make sure people aren't sleeping on the street?" he said.

Companies continue to come to the Central Eastside despite the homelessness problem. Autodesk, a design software company, revealed in May that it had agreed to lease 108,750 square feet in the renovated Towne Storage building. Autodesk will move more than 200 employees to the Burnside bridgehead location.

Strong job growth has helped fuel demand for creative-office space throughout central Portland. In the Central Eastside, developers have responded, with 369,706 square feet of office space under construction during the third quarter, according to Jones Lange LaSalle. Average asking rents rose to \$32.02.

"They're convinced this is where they need to be," Malsin said. "They want to be amongst the creative firms, the grit and the energy in the district."

The CEIC has advocated for zoning that encourages industrial office space and sets strict limits on housing and retail operations in the area. The new zoning is included in the city's 2035 Comprehensive Plan.

Malsin, who was involved in the early stages of the Central Eastside's transformation, said more changes are forthcoming.

"In this iteration of the Central Eastside, I think it's still at the very beginning," he said. "It's at that nascent moment."

Many former warehouses and factories have been purchased by developers and converted to creative-office space. But the area has the potential for much greater density, Malsin said.

"The density in the district is really on the minimal side," he said. "With the new 2035 plan and the Southeast Quadrant plan, we have the opportunity to create a lot more of this kind of workspace. It's going to take years to unfold, but I think the table's been set."

Another new effort coming to the district is the Innovation Quadrant, which seeks to bring educational institutions together with businesses.

Backers are trying to join Oregon Health & Science University, Portland State University, the Oregon Museum of Science and Industry and Portland Community College with companies such as Intel and Nike to advocate for workforce development.

The Innovation Quadrant will have a small office in the Towne Storage building, Malsin said.

“What we’re trying to do is connect the institutions to the businesses to the creative people in the district,” Malsin said. “There’s a strong desire to collaborate, and I think the Innovation Quadrant is about collaboration.”

OPB

Portland Settles Utility Lawsuit Alleging Improper Spending For \$10 Million

*By Amelia Templeton
December 15, 2017*

The city of Portland has reached a settlement with attorney John DiLorenzo and three plaintiffs in a long-running lawsuit alleging misspending of ratepayer dollars by the city’s Water Bureau and Bureau of Environmental Services.

Under the terms of the \$10 million settlement, the city will transfer \$7 million from its general fund to the utility funds — essentially reimbursing two agencies that rely on ratepayers to pay the bills — and will pay \$3 million to the plaintiffs for legal bills.

The settlement will be formally considered by the City Council on Wednesday, Dec. 20.

According to the terms of the agreement, Davis Wright Tremaine will receive its \$3 million payment no later than Dec. 29 this year.

The city has until Sept. 30, 2019, to transfer the money to the utilities, giving the Portland City Council time to blunt the impact on other discretionary spending, staff say.

The reimbursement to the utility bureaus is a symbolic victory for the plaintiffs, but one that will likely have little immediate impact on water and sewer rates. The \$7 million the utilities will receive represents less than 1 percent of their combined annual budget, which was approximately \$960 million in 2017.

Earlier in the course of the lawsuit, city leaders agreed to reimburse the utility accounts for \$2.6 million in spending they did not wish to defend in court.

“We hope this serves as a prophylactic against future abuse of Portland’s restricted water and sewer funds,” said Kent Craford. His group, Citizens for Water Accountability, provided seed funding in the early days of the lawsuit, and his sister, Paige Craford, was one of the plaintiffs.

“Money collected from water and sewer bills should go to water and sewer uses,” he said.

The lawsuit challenged a wide range of expenditures by the Water Bureau and the Bureau of Environmental Services between 1998 and the early-2000s, arguing that the spending had little to do with the utilities’ missions and violated the city’s charter.

It alleged illegal spending on several projects pursued by former Portland Commissioner Randy Leonard, who oversaw the utility bureaus and challenged the city's spending on top environmental priorities, including green infrastructure and pollution cleanup.

The disputed expenses ranged from \$618,000 the Water Bureau spent at Leonard's direction on the Portland Loo, an innovative public bathroom, to more than \$50 million the Bureau of Environmental Services spent related to clean up of the Portland Harbor superfund site.

In a press release, Mayor Ted Wheeler welcomed the settlement.

"I am particularly glad that this settlement affirms the good work the City has done on the Portland Harbor Superfund site, and am optimistic that we can continue to move forward to clean up that portion of the Willamette River," he said.

The EPA is in the process of putting together a plan for how it will assess pollution at the harbor superfund site and assign responsibility for who pays for the cleanup.

"I'm pleased that the Court upheld the vast majority of the City's investments — including on the Portland Harbor Superfund site — and that this settlement brings an end to years of expensive litigation," said Commissioner Nick Fish, who now oversees both the water and sewer bureaus. "My top priority continues to be providing basic services at a fair price, and investing ratepayer dollars wisely."

The case has spanned six years and three mayors: Sam Adams, Charlie Hales and now Wheeler. The settlement closes a chapter in Portland utility politics that began with investigative reporting into questionable spending and included a brief effort, in 2014, to wrest control of the Bull Run Watershed from the city and create an independent board to manage the utilities.

For the city, the settlement deal has clear benefits: Earlier this year, Circuit Court Judge Stephen K. Bushong ruled that the city must reimburse the utility bureaus \$17 million for inappropriate expenditures, according to the standard that utility bureaus can only spend money on projects that are reasonably related to water, sewer or stormwater services.

Those unreasonable expenditures included assistance to the City of New Orleans' damaged water system after Hurricane Katrina under a mutual aid agreement, contributions to finance political campaigns, construction of the Portland Loos and several payments to the Parks Bureau.

The city disagreed with the legal standard Bushong applied and had planned to appeal the case.

By avoiding a final judgement and settling, the city has limited the amount it has to transfer from the general fund to \$10 million.

Attorneys on both sides of the case said that because it never reached a final judgement, the city has avoided being bound by an ironclad legal precedent that limits how the utility bureaus can spend ratepayer dollars. But the attorneys agreed that as a practical matter, Bushong's opinion will likely inform future spending decisions by the bureaus.

"As long as this decision is within their historic memory, the city will be very circumspect about what they spend. If they disregard the decision, I'm sure other ratepayers will seek to do the same thing that we did," said John DiLorenzo, the lead attorney for the plaintiffs.

Deputy city attorney Karen Moynahan agreed that the judge's ruling remains relevant, if not binding.

"If somebody else brought a similar lawsuit, Judge Bushong is a very well respected jurist. Another judge would look to his opinion," she said.

For the plaintiffs, settling meant avoiding a lengthy appeal of Bushong's opinion.

"It would likely have taken years," DiLorenzo said.

The case also means a hefty payout from the city's taxpayer-supported general fund to the firm that represented the plaintiffs, Davis Wright Tremaine.

Moynahan characterized the payment, which amounts to 30 percent of the award, as a typical attorney's fee.

"It's the common fund doctrine. When you bring a suit that will benefit others, it's similar to a class action, where the attorney gets paid through the award itself," she said.

DiLorenzo said the \$3 million covers the cost of eight lawyers who worked on the case, off and on, for five years. Their hourly rates varied.

"Some of us are at \$600 an hour, some of us are at \$400, some are at \$350 depending on what functions are taken on by lawyers," he said.

DiLorenzo said the attorney's fees are as necessary incentive to do work in the public interest.

"We had a lot of risk involved in taking on the case. Frankly, if you don't compensate attorneys for taking on these kinds of cases when they win, when ratepayers have real concerns, no one will represent them," he said.

DiLorenzo credited reporters at The Oregonian/OregonLive and the Portland Tribune for making the lawsuit possible.

"Much of the early portion of this lawsuit was based directly on Brad Schmidt and Jim Redden's reporting," he said. "At least in some respects, what they uncovered was vindicated."