

The Oregonian

Water Bureau Proposes Fix for Decades-Old Bill Assistance Program

*By Molly Harbarger
February 13, 2018*

Portland water bureau officials think they have finally solved a brain teaser that has affected more than a thousand renters in Portland: How to help people living in apartment complexes afford their water bills, when those renters aren't individually billed for their water?

The City Council voiced approval for a \$600,000 outlay to established community nonprofits that would allow renters to access funds already set aside to offset water and sewer utility bills.

Water and sewer utilities are managed by the city. For 20 years, low-income renters have had no help with those bills.

Renters in apartments and duplexes have been excluded from using that money for about 20 years. Multiple task forces and committees, commissioners' promises and media attention focused on the lack of equity for renters without producing answers.

But water bureau officials said Tuesday the solution is simple: Just give them cash.

Portland Water Bureau officials want to provide low-income renters with cash who need help with their water and sewer bills.

Portland's longstanding water bill assistance program gives homeowners and renters of single-family homes who make 60 percent or less of median income and who request financial help a almost \$150 discount on each quarterly water and sewer bill. That's about 50 percent of a what a typical low-income household owes, according to a recent audit that pointed out the problem.

But apartment renters were out of luck because the city couldn't figure out how much they owe for water since most apartment buildings have a single water meter and the cost of water is rolled into the price of rent.

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There would no longer be a separate break on water bills just for those who rent or own single-family homes. In addition, the city would give the money to Multnomah County's Home Forward office.

Home Forward already distributes money to various nonprofits that help people with medical bills, a broken car, unexpected job loss or any other emergency pay their bills. The new water bureau funding would add to the pool of cash they could provide individuals in need.

Homeowners and people who rent single-family homes have been able to get a discount on their water bill if they met low-income guidelines, but not people who don't have individual water meters.

The solution wouldn't be broad enough to apply to any low-income family who asked for it. It would target only people on the verge of eviction -- about 1,200 in 2016.

"Our focus is going to be people who are, but for this program, going to be on the street," City Commissioner Nick Fish, who oversees the utility bureaus, said.

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The change to the program would be rolled into upcoming budget discussions, so the council could tweak the dollar amount for the program to make sure assistance is available to more or fewer people.

Fish said water bureau staff conceived the plan in concert with nonprofits and community organizations that work on housing and equity issues.

It would help solve the problem of equitable breaks for renters that City Commissioner Chloe Eudaly called "impossible" during Tuesday's work session.

Renters who live in apartments and duplexes would be eligible for \$500 in water bill assistance if Portland City Council passes a new program in the upcoming budget.

The city's long-standing water bill assistance program is funded by all water ratepayers, to the tune of \$4 million in 2015. That has meant that low-income renters subsidize bills of low-income homeowners, who are likely better-off yet can qualify for the \$142 discounts.

The proposed change to include apartment residents comes at a time when more poor families are moving out of the city because they can't afford rent.

Portland renters are more than twice as likely to be poor as homeowners, according to a Portland State University study. Much of Portland's new and anticipated home development is multifamily, meaning that the number of renters is likely to increase.

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In the past, city committees have suggested that renters of public housing could receive assistance covering the cost of water, at the least. That has still not happened.

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Staff said they created a plan to do better at that, as well.

Right now, Portland uses the state's median income to determine who is eligible for bill assistance. But that is out of sync with the inflated cost of living in the state's biggest city. So, if City Council approves the package, a household of one would qualify if that person makes \$31,380 or less.

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To expand the program, Fish recommended the council fund two additional full-time employees. They would host trainings for community organizations and service providers, collect data about how the program is working and submit policy recommendations to change it as needed.

The Portland Tribune

Sources Say: County Says it Can't Investigate its Board Members

By Jim Redden

February 15, 2018

Also, Mayor Ted Wheeler gets on early start on fundraising for his next campaign and Democratic Congressman Peter DeFazio says he can work with President Donald Trump...sort of.

Multnomah County cannot investigate at least four civil rights complaints against a majority of the commission because they stem from interactions between the commissioners themselves.

At least that's the conclusion reached by county Chief Operating Officer Marissa Madrigal after consulting with the Multnomah County auditor, the county attorney and the chief human resources officer.

She explained the reasoning in a Feb. 1 email to county library employee Amanda Byrd, who filed the first complaint after Chair Deborah Kafoury accused Commissioner Loretta Smith of being a b---ch at a board meeting. Smith was the only commission member not named in the complaint.

"Simply put, this matter is outside the scope of my authority because the behavior described in your complaint is between elected officials — and not the employees under my supervision," Madrigal said. "This does not mean that county elected officials cannot be held accountable for their actions," she said.

"The authority to hold the chair and board of commissioners accountable on any issue rightly rests with the voters, the courts and a limited number of external bodies with the authority to levy penalties against elected officials, such as the Oregon Government Ethics Commission, Secretary of State, and the Department of Justice."

Wheeler gets early start on campaign fundraising

Mayor Ted Wheeler has raised over \$10,000 in campaign contributions so far this year, even though he isn't up for re-election until 2020.

Some of the largest contributions are from developers, including \$1,000 from Jim Mark of Melvin Mark Properties, and \$2,500 each from John Andrews of Melvin Mark Properties and Adam Tyler of Killian Pacific.

Wheeler also has received \$250 from Angus Duncan, president of the Bonneville Environmental Foundation and chairman of the Oregon Global Warming Commission.

Wheeler's biggest expenditure so far this year was \$7,000 to Hilltop Public Solutions, which managed his winning 2017 campaign for mayor.

DeFazio wants to work with Trump against Paul Ryan

Since Donald Trump was elected president, most of Oregon's congressional delegation have shown themselves to be part of the "resistance" by frequently denouncing his statements, policies and nominees. The sole exception has been Democratic 5th District Rep. Kurt Schrader, a moderate from Canby who is known for his independence.

But now Democratic 4th District Rep. Peter DeFazio, D-Springfield, has found a policy he can work with Trump on — sort of.

Appearing on "Morning Edition" on National Public Radio the day Trump announced his \$1.5 trillion infrastructure improvement plan, DeFazio complained that he had proposed increasing the federal gas tax to help pay for such projects, but Republican House Speaker Paul Ryan won't consider it.

When asked if he was willing to work with the unpopular president during an election year, DeFazio tried to avoid answering the question. But when pinned down, he said yes, "If the president can help me roll Paul Ryan."

The Portland Mercury

Hall Monitor: Waffle House

*By Dirk VanderHart
February 14, 2018*

After a Reversal, Has Mayor Ted Wheeler Made Up His Mind on Renter Relocation Fees?

Mayor Ted Wheeler isn't prone to second-guessing himself in public.

From the earliest days of his tenure—amid outraged protests over Trump's presidency and frequent disruptive demonstrations at City Hall—to more recent decisions on how to address homelessness, Wheeler has tended to pick a course and stick with it.

Now there's a glaring exception.

Last week, the mayor formally announced a decision that's rankling some landlords. In an appearance before a volunteer advisory committee on Friday, February 9, Wheeler affirmed what his office told reporters earlier in the week: He'll support doing away with a controversial loophole in Portland's renter relocation policy.

The policy requires landlords to pay between \$2,900 and \$4,500 when they evict a tenant without cause, or if they force tenants to move following a rent increase of 10 percent or more. But since its inception in February 2017, the policy has exempted property owners who only rent a single unit—a provision aimed at protecting the interest of mom-and-pop types who might be especially reliant on rental incomes.

And until last week, that didn't look like it was going to change. While Commissioner Chloe Eudaly and tenant advocacy groups had long argued against the single-unit exemption, Wheeler announced on January 19 that he'd oppose doing away with the exception when City Council makes the relocation fee policy permanent later this month.

In the January announcement, the mayor said he wanted more data on the rental market, and that he'd instructed the Portland Housing Bureau not to change that part of the policy when the law came back before council.

But hints of misgivings emerged almost immediately. The week after Wheeler made the announcement, whispers bubbled out of City Hall that he'd changed his mind, and would soon announce support for killing the exemption. Then there was word that he'd reversed course yet again, and now did want to keep it.

And now we're here. On February 6, Wheeler's deputy chief of staff, Michael Cox, called to say the mayor had a change of heart. Wheeler now plans to support killing the single-unit loophole—while allowing exemptions for property owners who rent ADUs or live in part of a duplex and rent out the other half.

“A couple weeks ago, he did say he was going to refrain from amending the one-unit exemption,” Cox told me. “He also said he had no philosophical objection and that he was going to continue listening to feedback.”

Exactly what feedback proved persuasive is unclear.

Tenant activists had railed against Wheeler's position. Jo Ann Hardesty, the NAACP leader and former lawmaker running for city council, had chided Wheeler and other leaders for inaction. Commissioners' offices had worked on a compromise.

Now, with his mind allegedly made up, Wheeler can expect to face plenty more feedback. The Portland Tribune reported last week that the mayor's reversal had already inspired one landlord representative to resign from a city board.

More fallout is sure to follow—small landlords have never been shy in their hatred of this law. And then we'll find out if Wheeler's decision is final, after all.

Did Prosecutors Go Too Far in Clearing a Cop in a 2014 Killing?

*By Dirk VanderHart
February 14, 2018*

A New Audit of Police Shootings Says Yes

After Kelly Swoboda was killed by Portland police four years ago, news outlets across the country shared the lurid details of his van.

Swoboda, whom local cops confronted in March 2014 after reports that he was acting suspiciously around teenage girls, had outfitted his minivan with chains and ropes. The vehicle contained pornographic movies that emphasized the youth of their actresses. Cops found latex gloves and lubricant.

The New York Daily News—writing of Swoboda's death in a gunfight with a Portland officer, and his earlier attempted kidnapping of a Milwaukie tanning salon employee—dubbed him a “van sicko.” The facts of the case make it hard to disagree.

But how those facts came to light is now a matter of some controversy—one that has ramifications for more recent officer-involved shootings.

In a report released last week, an independent auditor took the Multnomah County District Attorney's Office to task for the way it presented the Swoboda case to the grand jurors who decided whether to charge the cop who killed him, Officer John Romero.

Since 2010, the California-based OIR Group has looked into how the Portland Police Bureau (PPB) handles police shootings. In its latest analysis, the organization extends that scrutiny, arguing prosecutors needlessly—and perhaps unethically—brought the disturbing details of the contents of Swoboda's van before jurors, even though they had little bearing on the reason Romero shot Swoboda.

“The grand jury presentation should have focused on the overwhelming evidence that Officer Romero acted in self-defense when he used deadly force,” OIR’s report found. “Unfortunately, the grand jury proceeding was infected with evidence about Swoboda’s history, character, and presumed intent.”

The Multnomah County District Attorney’s office has disagreed, telling the Mercury (and OIR) that the information it presented to grand jurors “was highly relevant and admissible.”

The debate highlights the influence prosecutors hold when it comes to deciding whether a cop who shoots someone is charged. And it comes as the family of Quanice Hayes, the 17-year-old killed by Portland police in February 2017, has promised a lawsuit against the city, calling the grand jury inquiry into Hayes’ death a farce.

“You have a 17-year-old kid that’s killed by police,” the family’s attorney, Jesse Merrithew, told the Mercury last week. “The only process that’s happened is a grand jury proceeding that—if you look at the transcripts—it’s a joke.”

In Multnomah County, the facts of every officer-involved shooting go before a grand jury, regardless of whether the shooting appears potentially criminal. District Attorney Rod Underhill takes the extraordinary step of releasing the transcripts of grand jury proceedings into fatal police shootings. In most places, the hearings remain secret.

Because of this, Portlanders get rare insight into how prosecutors present cases to grand juries, which don’t receive input from judges or defense attorneys when deciding whether charges are warranted against a potential defendant. The process has often been scrutinized for the sway prosecutors have. As one well-known joke tells it, a prosecutor could convince grand jurors to “indict a ham sandwich.”

“The prosecutor has an amazing amount of control over a grand jury,” says Greg Hurley, an analyst with the National Center for State Courts. “They can signal the grand jury in a lot of different ways in terms of the outcome they’re looking for.”

In the case of Swoboda’s death on March 12, 2014, the OIR report suggests prosecutors went above and beyond to ensure there wasn’t an indictment.

On the day of the incident, police were responding to a report of a man leering at teenage girls from his van near Wilson High School in Southwest Portland. Romero eventually came across Swoboda near a van that matched the report’s description, and ordered him to sit down. Swoboda complied, but then pulled out a gun and shot Romero in the hand and arm. Romero returned fire, killing the man.

Details that emerged after the shooting were chilling. Clackamas County authorities believed Swoboda had recently kidnapped a tanning salon employee near Milwaukie, pistol whipping her and binding her hands and feet with duct tape. The woman told authorities she escaped by jumping from Swoboda’s van as he drove.

Cops also found notes on Swoboda’s body suggesting he’d been following girls in multiple cities, writing down where and when he saw them, and rating them on attractiveness.

And then there was the van, with its chains and porn and latex gloves. It became a brief focal point for prosecutors in the grand jury process, transcripts show.

Chief Deputy District Attorney Don Rees, questioning a Clackamas County detective in the hearing, described the van as a “moveable dungeon or torture chamber.” He called forth details of what appeared to be smears of blood in the vehicle, and paved the way for a narrative in which Swoboda was intent on succeeding in his second attempt to abduct a woman.

“As an investigator,” Rees asked the detective, “looking at chains mounted to the floor, ropes, zip ties, teen pornography, padlock, what are you thinking when you see all of this?”

“I’m thinking exactly that one victim got away, and he wasn’t going to let the next one get away,” the detective, Mary Nunn, responded.

It’s possible Nunn was right. But the OIR Group report says the information still had no place in front of a grand jury, because Romero had no idea of Kelly’s history or the contents of his van when the shooting occurred.

“In the grand jury context, there is no judge to evaluate the probative values versus prejudice of evidence elicited by the prosecutor,” reads the report. “Prosecutors themselves serve as the only check with respect to what evidence is presented.”

The report calls prosecutors’ decision to introduce facts of the kidnapping, descriptions of the porn, and other details “extremely prejudicial and of no real additional probative value,” and suggests the evidence might not have been allowed if Romero were being tried in court.

“It was a clear case,” says Michael Gennaco, one of the report’s authors. “The officer got shot just before he returned fire. So what was the reason for bringing in this prejudicial evidence?”

“This isn’t about putting [Swoboda] on trial,” Gennaco adds. “He’s dead.”

Prosecutors stand by their decision. Brian Davidson, one of the attorneys who presented the case to grand jurors, argues that the detail of Swoboda’s earlier crime had bearing on the shooting.

“It’s perfectly reasonable that people can imagine that Mr. Swoboda would imagine police officers are out there looking for him in that van,” Davidson says, suggesting that could make Swoboda more likely to attack. “The reason that’s germane is to determine whether the officer’s use of force against Mr. Swoboda was justified or not.”

Davidson also argues the information would have been admitted by a judge in an open court setting.

The OIR report’s findings come at an interesting time. The family of 17-year-old Hayes is making very similar arguments.

Merrithew, the family’s attorney, says that prosecutors used a similar strategy in investigating Hayes’ February 9, 2017 death that they did with Swoboda—namely, that in presenting evidence before the grand jury, they included facts that the cop who shot Hayes, Andrew Hearst, didn’t know at the time of the shooting.

On the morning Hayes was killed, police and witnesses have said the teen used drugs and robbed a man using a fake gun, among other things. Cops responding to a call were aware that Hayes could be armed, but none testified to seeing a fake gun on him before Hearst shot him three times (a fake gun was found near his body).

“From a legal perspective, the issue of the reasonableness of Officer Hearst’s use of force depends entirely on what he knew at the time that he used force,” Merrithew argues. “The grand jury got to learn all sorts of things about Quanice that Officer Hearst did not know. The grand jury is being misled from the start about what Hearst knew and when he knew it.”

Prosecutors undoubtedly disagree, but in Hayes’ case there’s a chance a court will decide. The family plans to file suit against the City of Portland and Hearst in coming weeks.