

The Oregonian

Portland City Council Mulls New Protest Limits, To Activists' Fury

*By Gordon Friedman
November 8, 2018*

The Portland City Council heard testimony Thursday on an ordinance that would give Mayor Ted Wheeler vast new powers to regulate protests, an idea that dozens of residents told city officials is wrongheaded.

Wheeler said frequent protests that predictably erupt into brawling fistfights between demonstrators have driven him and Police Chief Danielle Outlaw to seek the new restrictions.

Those protests are bad for Portland's brand and affect business and tourism, the mayor said. Moreover, he said they are dangerous for attendees and police officers who attempt to keep the peace.

"I have watched with increasing dismay what's unfolding on our streets," Wheeler said, calling his proposal a way to "provide one more tool along with enforcing existing laws."

If enacted, it would allow him to dictate, for example, where and when certain groups could rally.

Outlaw said her Police Bureau has had no choice but to react to violence at demonstrations after the fact, rather than to prevent it. "The community is fed up," she added.

It's unclear if Wheeler and Outlaw have enough support from council members to enact the proposal, and the mayor and city commissioners did not vote on it Thursday.

Commissioners Amanda Fritz and Chloe Eudaly have said they will vote no, while Commissioner Dan Saltzman has said he will vote yes. Commissioner Nick Fish, the swing vote, has said he is undecided and did not indicate his stance Thursday.

If adopted, the new limits would allow Wheeler, who is the police commissioner, to set the conditions for public gatherings. He could do so only if three conditions are met: If a group that wants to protest has a history of violence, the safety of participants or bystanders is at risk and there is a substantial probability of violence at the event.

That kind of regulation may not pass constitutional muster, two law professors who are free expression scholars told The Oregonian/OregonLive after reviewing the text of Wheeler's proposal.

Kimberly McCullough, policy director of the American Civil Liberties Union office in Oregon, told the council her organization believes the ordinance is vague, does too much to limit free speech and vests unnecessary power in the mayor.

"With these kinds of regulations, the devil is in the details, and the details are incredibly problematic here," McCullough said.

Wheeler has said he believes the proposal is legal, but acknowledged it would all but certainly be challenged in court.

Almost no one spoke in favor of the mayor's proposal except Andrew Hoan, the Portland chamber of commerce president, and state Rep. Janelle Bynum, a Democrat who represents parts of east Portland.

Instead, dozens of residents, each afforded two-minute slots to testify, delivered critiques of city police officers' behavior at protests as the chief and her deputies sat feet away.

They accused police leaders of bias in favor of right-wing groups and using unnecessary force against peaceful demonstrators. Instead of creating new regulations, the police should enforce existing laws intended to stop bad actors, they said.

Eudaly sided with those speakers, and peppered Outlaw and her top advisors, Deputy Chief Bob Day and Assistant Chief Ryan Lee, with question after question about their officers' conduct during protests.

The officers mostly did not answer Eudaly, citing pending lawsuits, audits and internal reviews against their Police Bureau.

Affordable Housing Development for Displaced Residents Opens in NE Portland

*By Elliot Njus
November 8, 2018*

Dozens of longtime Portlanders whose families were displaced by city-sponsored urban renewal in North and Northeast Portland will soon move into the Beatrice Morrow Cannady building, which opened Thursday.

The \$26.7 million building, at 3368 N.E. Martin Luther King Jr. Blvd., is the first affordable housing development to open under the city's preference policy. The policy is intended to provide housing for people with historical ties to the predominantly black neighborhoods targeted for urban renewal in the beginning in the 1960s.

Its 80 apartments, most of them with two or more bedrooms, will be rented to families making no more than 60 percent of the area's median income -- \$49,000 for a family of four in 2018.

Demand far exceeded the building's capacity, city officials said. They received more than 1,500 applications over the course of two weeks for the building and a second project, the 51-unit Charlotte B. Rutherford Place under construction on North Interstate Avenue.

"The units we've built here, they're beautiful," said Bishop Steven Holt, who chairs a committee overseeing the city's affordable housing plan in North and Northeast Portland. "But they have to be just the beginning."

The Beatrice Morrow Cannady building -- named for an African American journalist and civil rights activist in Portland -- sits on land turned over to the affordable housing nonprofit Portland Community Reinvestment Initiatives Inc. as an olive branch from the city shortly after the 2013 dustup over a proposed Trader Joe's a few blocks north.

The Trader Joe's proposal became public when the Portland Development Commission voted to sell a nearly 2-acre site at Northeast Martin Luther King Boulevard and Alberta Street to Majestic Realty Co. of California for just over \$500,000 -- \$2.4 million less than the site's appraised value -- for the grocery store.

A few weeks later, the previously little-known nonprofit Portland African American Leadership Forum released an open letter accusing the city's development commission of promoting gentrification while failing to address the displacement of black and low-income residents.

The ensuing blowup made national news, and protests prompted Trader Joe's to pull out. The project eventually moved forward with Natural Grocers as the anchor tenant at the site, and the city committed \$20 million -- later increased to \$96 million -- to create affordable housing in North and Northeast Portland.

Meanwhile, Portland Community Reinvestment Initiatives Inc. has embarked on an effort to build 1,000 homes for displaced residents of North and Northeast Portland, most of which would be for purchase rather than rental.

"This is being done in an effort to prevent historic community residents from the volatility of displacement, which this community has experienced more of than any other place I'm aware of," said Maxine Fitzpatrick, the affordable housing nonprofit's executive director.

Beatrice Morrow Cannady building went up on the former Grant Warehouse site, once home to a private stash of improperly stored chemicals that cost more than \$1 million to remove. The city acquired the property in 2004.

It sat empty until 2015, when Portland Mayor Charlie Hales and Commissioner Dan Saltzman announced the city was turning the site over to Portland Community Reinvestment Initiatives. The announcement came as the city finalized the deal for the Natural Grocers development.

The Portland development firm Gerding Edlen was a development consultant for the building, which was designed by Carleton Hart Architects and built by Colas Construction. Nearly a third of the construction work went to minority and woman-owned businesses, according to Portland Community Reinvestment Initiatives.

The Portland Tribune

Appeal Seeks to Overturn City Protections for Mobile Home Owners

*By Steve Law
November 8, 2018*

Owner of small East Portland park files notice of appeal of Portland's rezoning of 56 manufactured housing and mobile home parks, which prevents 3,000 households from being displaced due to redevelopments.

The Portland City Council's August decision to protect 56 manufactured housing and mobile home parks from being redeveloped into other uses is being appealed by the owner of one of the parks.

Sahand LLC, which owns the Stark Firs mobile home park in East Portland, filed a notice of intent to appeal with the Oregon Land Use Board of Appeals on Sept. 12, challenging the city's August 22 decision to create a new manufactured housing and mobile home park zone. The city's rezoning was designed to prevent owners of such parks from redeveloping them for other purposes, such as apartments.

Four Portland mobile home and manufactured home parks have been redeveloped for other purposes in the past two years. Those moves often leave owners of manufactured and mobile homes who rent spaces in the parks in the lurch, with no place to move their properties. Some owners, who often are low-income or senior citizens on fixed incomes, wind up losing tens of thousands of dollars when they have to sell their homes at a loss.

"This zone change provides dignity, stability and peace of mind for over 3,000 households in Portland who live in manufactured housing communities, including large numbers of elders and people living with disabilities," said Cameron Herrington, the anti-displacement program coordinator for Living Cully, the advocacy group that lobbied the City Council to adopt the ordinance.

"The ordinance was adopted unanimously by City Council in response to mobile home residents' desire to preserve their homes," Herrington said. "Living Cully strongly supports the city's efforts to defend this ordinance, which is an essential measure for preserving affordable housing in Portland."

Stark Firs, which has 33 mobile home park spaces, is located on 10852 S.E. Stark St. The densely packed complex consists mostly of single-wide mobile homes built several decades ago.

The property also includes a mini-mart facing Stark Street, a house and two duplexes. A relatively new apartment building is located a couple doors down Stark Street.

Forty-two of the 56 manufactured and mobile home parks rezoned by the city are in East Portland, and several others are in the Cully neighborhood of Northeast Portland. Many of them are decades old, filled with older, single-wide mobile homes like Stark Firs.

It's unclear what Sahand hopes to achieve from its action, as it hasn't yet filed a formal appeal.

Tom Armstrong, the city's supervising planner in charge of the manufactured housing and mobile home rezoning project, said the city is putting together a record of evidence to justify its zone change on appeal, while it separately engages in talks with Sahand to see what it hopes to achieve.

"We're not sure what their challenge will be based on," Armstrong said, though the city believes the company is trying to restore its prior residential zoning.

"We are proceeding as if it's a threat to the entire ordinance," he said.

On Oct. 23, the city of Portland filed a petition with the Land Use Board of Appeals — usually referred to as LUBA — to put the appeal on hold while it pursues talks with Sahand. Sahand agreed to put the appeal on abeyance, according to the city's filing with LUBA.

Advocacy groups Verde and 1000 Friends of Oregon joined the legal appeal on the city's side as intervenors.

Sahand's lawyer, Carrie Richter, said she couldn't speak for the company and referred calls to Sahand. The company's listed representative, Bahram Adrangi, did not return a phone call Thursday requesting comment.

No other manufactured or mobile home park owners appealed the City Council's emergency ordinance, which took effect immediately after passage of the new zoning on August 22 to prevent the loss of more of the parks. "No other park owners filed to intervene or join the appeal" submitted by Sahand, Armstrong said. The deadline to file further appeals to LUBA has passed, he said.

In the meantime, the city ordinance remains in effect.

Under Oregon land use law, appeals of city and county zoning and related decisions must be filed with LUBA. LUBA rulings may be appealed to the Oregon Court of Appeals.

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Willamette Week

City Council Will Not Vote On Protest Ordinance Today After Mayor Drops Emergency Clause

By Katie Shepherd

November 8, 2018

The emergency clause would have allowed the policy to go into effect immediately after a vote, but that vote would have had to be unanimous.

Portland City Council will not vote today on Mayor Ted Wheeler's proposed ordinance that would give Portland police more power to control protests when demonstrators have a history of violence.

Commissioner Nick Fish said on Twitter that the emergency clause will be cut from the proposal. The clause would have allowed the policy to go into effect immediately after a vote, but that vote would have had to be unanimous.

Instead, the ordinance will receive a first hearing at City Hall this afternoon. Council will debate the proposed rule, which civil rights organizations have criticized as unconstitutional.

Commissioner Chloe Eudaly and Commissioner Amanda Fritz are opposed to the ordinance. Commissioner Dan Saltzman offered his support shortly after the mayor proposed the plan. That leaves the deciding vote to Fish, who has not yet taken a position.

The ordinance has Portland police chief Danielle Outlaw's full backing. Wheeler and Outlaw say the change would give the police bureau a tool to prevent violence, rather than just responding to it.

After the first hearing, Council could vote on the ordinance as early as next week. If it passed, the new rule will take effect 30 days later.

The next protest where far-right and antifascist demonstrators may clash is scheduled for Nov. 17.

Portland Commissioner-Elect Jo Ann Hardesty Tells Mayor: Protest Restrictions Are Likely to Be Unequally Enforced

By Katie Shepherd

November 8, 2018

“We see how police show up when white women protest and when people of color protest.”

On Tuesday, Jo Ann Hardesty became the first black woman elected to Portland City Council. Today, she arrived in City Hall—to tell Mayor Ted Wheeler that his plan to restrict warring protesters runs the risk of being unequally enforced against people of color.

"I believe the ordinance is premature," Hardesty tells WW. She says the city should wait for the results of an investigation into why police deployed riot control agents, including flash-bang explosives, into a crowd of antifascist protesters on Aug. 4, injuring at least two people.

"Of course I'm very, very concerned about restricting anybody's free speech rights," she says. "I will remind the city council we have a legacy of aggressive police action in some communities," she says. "We see how police show up when white women protest and when people of color protest."

Wheeler ordinance is designed to quash the rolling street brawls between right-wing marchers and antifascists. It has the backing of Police Chief Danielle Outlaw, who says it will prevent officers from having to use force on protesters who fight. Civil rights watchdogs like the American Civil Liberties Union say it's unconstitutional.

Read our cover story on Chief Outlaw and the mayor's plan to control protests.

Hardesty will be testifying before the council to voice her reservations about the proposal. Oregon Public Broadcasting first reported on her arrival to testify.

Hardesty points to the differences in the police presence at the Women's March and Portland's Resistance marches that occurred around the same time in January 2017.

"Police showed up in riot gear versus showing up in pussy hats," she says. "It's a totally different presence."

UPDATE, 4 pm: Hardesty pulled no punches in her testimony to City Council. As Outlaw and other police command staff looked on, Hardesty said that police had not told the truth about why they used force on antifascist protesters on Aug. 4.

"We don't all experience the police the same way," Hardesty said. "We cannot have a police force for white people, and then a police force for everybody else."

Hardesty expressed faith in Outlaw—the first black woman to run the Police Bureau—but warned that giving police greater control over protests was a mistake.

"I want you to know that I trust Chief Outlaw," she said. "I believe she has built a good team. But she is absolutely mistaken that we should give the police chief the power to decide who protests and how."

Commissioner Chloe Eudaly Asked Portland Police A Series of Questions About Past Protests. They Declined to Answer Most of Them.

*By Katie Shepherd
November 8, 2018*

The commissioner said she found some of the answers “alarming.”

In the midst of a tense City Hall meeting over a proposal to restrict Portland's warring protesters, Commissioner Chloe Eudaly pursued an aggressive line of questioning about past police actions at protests.

She said she would be giving the Police Bureau a list of even more questions from her, constituents and advocacy groups. She plans to share the answers with the public.

Eudaly's questions came amid a contentious debate over a plan by Mayor Ted Wheeler to give police more power to restrict protests. They presented a remarkable sight: A sitting city commissioner articulating the frustrations voiced for more than a year by left-wing activists.

As right-wing agitator Joey Gibson has led crews of right-wing marchers into Portland looking for fights, they've been met by masked antifascists. Those leftists feel they've been treated more harshly by police.

Eudaly's questions—at times prosecutorial—traced that narrative.

First, Eudaly asked: How many lawsuits is the city fighting related to police use of force against demonstrators, and how much money has defending these suits cost Portland?

Deputy City Attorney Robert Taylor answered: Thirteen, but the suits don't cost anything to defend because the city has staff attorneys. (Eudaly replied that the lawyers could be spending their time on other things if these lawsuits hadn't been filed.)

That was the last clear answer she would get. She continued to ask a series of questions to the Police Bureau and City Attorney's Office—but police command staff said they didn't have that information or were barred from answering by legal actions.

She asked why the police bureau treats protesters who do not obey dispersal orders, but are not engaged in violence, as "fair game" for riot cops to shoot with exploding munitions and pepper spray.

Assistant Chief Ryan Lee replied that when people ignore a dispersal order, they break the law.

Then Eudaly asked if it was true that police always ordered left-wing counter-demonstrators to disperse rather than issuing that order to right-wing groups like Patriot Prayer. Deputy Chief Bob Day replied that he could not speak to whether that "always" happens.

Eudaly asked whether any members of Patriot Prayer had ever been severely injured by police munitions, like antifascist protesters were on Aug. 4. Day replied that he didn't have that information on hand.

She asked why some members of the bureau told investigators at the Independent Police Review that far-right extremists seemed "more mainstream" than their left-wing opponents. The bureau did not offer an explanation.

She said she did not understand, more than a year later and after a city review, why police had kettled and photographed the IDs of more than 300 counterprotesters on June 4, 2017. Taylor said the city could not comment because that incident was the subject of an ongoing legal battle. (The American Civil Liberties Union of Oregon sued the city on behalf of several protesters and a legal observer who was kettled.)

Finally, she asked why police had not intervened when officers found four right-wing Patriot Prayer supporters on the roof of a parking garage with what Mayor Ted Wheeler described as a "cache of firearms."

Lee said the men had permits for the guns, and they were not breaking any laws that would allow officers to confiscate the weapons or detain the individuals.

Eudaly, visibly shocked, said she found that answer "alarming."

City Council won't vote on the mayor's proposed ordinance until next week. Eudaly said tonight that she would vote no.

The Portland Mercury

Hundreds Gather to Protest Trump's Latest Threats to the Mueller Investigation

*By Blair Stenvick
November 8, 2018*

Hundreds of people gathered at the downtown Portland waterfront tonight to protest Donald Trump's firing of Attorney General Jeff Sessions, his hiring of acting Attorney General Matthew G. Whitaker, and the possibility that Special Investigator Robert Mueller might soon be fired, effectively ending the federal investigation into Russian interference in the 2016 presidential election.

Chanting phrases like "No one is above the law" and "Hands off Robert Mueller," the crowd lined the sidewalk as passing cars honked in support.

The protest was organized by Indivisible Portland and Nasty Women Get Stuff Done PDX. The groups were prepared to quickly organize a rally in the event that Mueller's investigation seemed at risk.

"When this happened yesterday, people started mobilizing very quickly," said Margaret Foley, the communications director for Nasty Women Get Shit Done PDX. "We think it's important that people come out and make their viewpoints known."

Several people spoke at the rally, including a rousing speech by Senator Ron Wyden.

"The [midterm] election results had barely come in, and Donald Trump railroaded his attorney general into resigning" Wyden said. "That shows how terrified he is about Bob Mueller's work."

"We've got something wonderful in this country; it's called the Constitution," Wyden added. "No one is above the law in America."

There were no signs of Patriot Prayer, a Vancouver-based right-wing extremist group that often incites violence in an attempt to "troll the left" at Portland protests—or any other counter-protesters. As protestors gathered on the waterfront, the Portland City Council was discussing a

proposed ordinance that would give Mayor Ted Wheeler more power in determining which groups would be allowed to protest in Portland.

When asked what next steps were should Trump fire Mueller, Foley answered, "We do the same thing. But bigger."

City Council Race Shows Impact—and Limits—Of City's New Campaign Finance Rules

*By Blair Stenvick
November 8, 2018*

In the final days of her campaign for Portland city commissioner, Loretta Smith received two donations worth \$20,000 each. One was from the Keep Portland Safe, the police union's political action committee (PAC). The other was from the Equitable Housing PAC, a landlord lobbying group.

Smith lost to her opponent, Jo Ann Hardesty, despite out-fundraising her by an almost two-to-one margin. As Portland voters chose Hardesty, seen as the more independent, progressive candidate, they also voted to reform campaign finance law, passing Measure 26-200.

Measure 26-200 will place limits on how much individuals and corporations, including PACS, can donate to city-level campaigns. Individual donors will only be allowed to donate up to \$500, while corporations will be limited to \$10,000 not be allowed to make campaign donations. That means Smith's last-minute \$20,000 donations from two PACs wouldn't have flown.

Correction: We previously reported that corporations will be able to make campaign contributions up to \$10,000 under the new rule; that is not the case. That \$10,000 limit applies to independent expenditures, not direct campaign donations. The new rules will not allow corporations to make any direct campaign contributions.

"We're changing the culture of big-money donations in our city," said Jason Kafoury, one of the people behind the measure, the day after it passed.

It's worth noting that there is a way fundraising PACs could still make donations under the measure: by donating as a "small donor committee," essentially parceling together individual contributions of no more than \$100 per person. The new city rule will require organizations explain exactly where that money is coming from.

The folks behind Measure 26-200 say that if their \$500 individual donation limits had been in place during this election cycle, the script in the Smith-Hardesty race would have been flipped. Because a large amount of Smith's individual donations were in excess of \$500, her fundraising would have been limited to about \$100,000, rather than the \$700,000 she did raise.

The measure's rules would have had a much smaller impact on Hardesty, who relied more on small individual contributions. Her roughly \$300,000 in campaign contributions would have been reduced to about \$230,000.

"Of course, having \$500 limits will change the behavior of some donors," said Dan Meek, another of the measure's architects. "For example, if a person now gives \$1,000 to a city council candidate, in the future that person might give \$500, with her or his spouse also giving \$500. So the measure's effect will not be as dramatic [as our projections]."

The Measure 26-200 team also was behind a similar measure limiting campaign finance at the county level, passed by Multnomah County voters in 2016. The constitutionality of that measure is currently being debated in court, but Kafoury said he intends to continue to push campaign finance reform around the state.

Looking further into the future, Kafoury would like to see Portland adopt a model like Seattle's, where each resident receives a \$100 "democracy voucher" that they can donate to the political campaign of their choice, or choose to not donate at all. That system has resulted in more young people, women and people of color donating to campaigns than ever before.

"This is just the beginning," Kafoury said.

Mayor Wheeler's Protest Ordinance Heads to a Council Vote

*By Alex Zielinski
November 8, 2018*

Update, 10:40 AM:

According to Commissioner Nick Fish, the emergency ordinance will not be voted on today after public testimony. Instead, it will head to next week's city council session for a non-emergency vote.

That's probably because both commissioners Amanda Fritz and Chloe Eudaly have said they don't support the ordinance—and an emergency ordinance requires an unanimous vote from the council. A city council vote on a regular ordinance simply needs three votes to pass. It's still unclear if Mayor Wheeler has those votes—only himself and Commissioner Dan Saltzman have publicly supported the ordinance. That leaves Commissioner Nick Fish, who has yet to pick a side, to break the tie.

Original story:

On Thursday, members of the public will have their first—and, perhaps, only—opportunity to comment on Mayor Ted Wheeler's emergency ordinance meant to restrict potentially violent protests.

The ordinance, a clear response to recent clashes between right-wing and left-wing protesters in downtown Portland, would broaden the city's ability to apply time and location restrictions to any protest that the police commissioner (who, at the moment, is Wheeler) predicts will turn violent. These restrictions would only apply to protests that occur without their organizers receiving a city-issued permit to protest first.

The city council is scheduled to hear public testimony on the ordinance starting at 2:15 this afternoon. Following testimony, Wheeler's expected to hold a council vote to pass the emergency ordinance.

While the Portland City Attorney's office has pointed to several national and statewide legal cases that support this ordinance's general purpose, constitutional lawyers say there is no legal precedent that sufficiently backs Wheeler's restrictions. While cities like Seattle have instituted these so-called "time, place, and manner" restrictions in the past, they've always occurred after a protest turns violent—not based on the presumption a demonstration may become violent.

Mat dos Santos, legal director of the ACLU of Oregon, believes the new rules would give unbridled power to Wheeler and the Portland Police Bureau (PPB) to stifle free speech.

"There are reasonable, legal solutions to address violence on the streets—this ordinance is not one of them," said dos Santos in a press statement. "The ordinance hands law enforcement and the mayor far too much power, and risks undermining people's ability to practice their constitutionally-protected right to speech and assembly."

Both Wheeler and PPB Chief Danielle Outlaw say the police bureau's current tactics to curb violent protests aren't effective enough. During Portland's past protests, these police tactics look like arrests, loudspeaker calls to disperse, using pepper spray or flash bang grenades against protesters, or rounding up groups to mass detain (called "kettling").

"The tools and ordinances we already have all call for a reactionary response," Outlaw told the Mercury in an afternoon interview. "We need a more strategic and proactive way to get ahead of violence before it occurs. When we're interjecting once the violence has already begun, we're already too late."

In past protests, specifically involving Vancouver's right-wing Patriot Prayer group and Portland's anti-fascist (antifa) groups, protesters have sustained injuries from counter-protesters. But often, protesters leave with injuries sustained from officers. In an August 4 clash between these two factions, an event that Wheeler said inspired him to pen this ordinance, one man suffered a traumatic brain injury from a flash-bang grenade tossed by a police officer. He's now suing the police bureau.

Outlaw argued that this preemptive ordinance could prevent officers from inflicting kind of violence against protesters.

"The less resources we have increases the likelihood of us using force, and we don't want to use force," said Outlaw. "That puts everyone involved at risk."

It's still hazy how the police commissioner will determine if a protest will turn violent before the protest takes place. In an interview with the Mercury, Wheeler said the evidence must be "rock solid."

An example, according to Wheeler: "If someone on social media specifically calls out, 'I'm going to commit violence on someone in Portland Oregon.'"

Wheeler said the ordinance currently does not include a mechanism for groups to appeal the city's preemptive decision to restrict their protest. Yet, he added that the public will be able—"in most circumstances"—to weigh in on the police commissioner's decision to apply these restrictions on a protest before it takes place. It's unclear how that will be orchestrated.

In a press statement, dos Santos compared Wheeler's proposal to the Trump administration's recent plans to restrict protesting near the White House and on the National Mall.

"Does the mayor want to follow the president's lead on this one, or define a more democratic, constitutional path for the city?" dos Santos asked.

Portland Copwatch's Dan Handelman also evoked the president in his criticism of the ordinance.

"The impulse to 'do something' without a deep look at how it will affect democracy is the hallmark of a certain other elected leader who now sits in the White House," wrote Handelman in an emailed statement. "Portland can do better than this, and we must."

OPB

Portland Commissioners Push Back Mayor's Protest Restriction Plan

*By Amelia Templeton
November 8, 2018*

Portland Mayor Ted Wheeler and Police Chief Danielle Outlaw made their case to the City Council on Thursday that the police commissioner needs the authority to regulate unpermitted protests in Portland to keep the city safe.

They pushed the Council to adopt an ordinance that gives the police commissioner, a role held by Wheeler, the ability to issue a written order regulating the time and location of protests that involve two or more groups with a history of violent clashes.

Protesters that violate the proposed order could be arrested, charged with a misdemeanor, and fined.

The mayor and the police chief came to the hearing armed with stories and facts. Outlaw noted that since 2016, the city has spent \$2,945,327 on police overtime for officers keeping order at protests that might turn violent, and \$441,685 in protest-related overtime in 2018.

“We’ve become a magnet for folks who are either coming from outside the community or elsewhere, with either a history of — or an expressed intent — to come to our community to commit acts of violence,” Wheeler said. “It’s bad for the reputation of the city and the brand of the city ... More importantly it makes people feel less safe in the community.”

But two powerful women in City Hall had a different take.

Commissioner Chloe Eudaly and Commissioner-elect Jo Ann Hardesty used the hearing to challenge Wheeler and Outlaw’s narrative that confrontations between groups like the Vancouver, Washington-based Patriot Prayer and counter-protesters, including antifa, have turned violent because police lack the authority they need to control the situation and intervene.

Instead, Hardesty and Eudaly raised questions about the tactics police have used on protesters, and the perception among some in the community that the bureau has taken a more permissive approach when dealing with right-wing groups.

In her first public appearance since Election Night, Hardesty, a longtime civil rights activist in the city, was invited by the mayor to testify on a panel alongside other critics of the ordinance, including the Oregon chapter of the ACLU.

“I want you to know, I trust Chief Outlaw, but she is absolutely mistaken to think that we should give the police chief power to decide who protests, when, where and how,” Hardesty said.

Hardesty urged her colleagues on the Council to delay their vote on the ordinance until she takes office in January — a request the mayor is unlikely to entertain, given that Commissioner Dan Saltzman, who is retiring, is Wheeler’s only certain vote in favor of the measure.

Hardesty called herself a child of the Civil Rights Era and noted that people who looked like her would never have won the right to vote without protests and a willingness to break unjust laws.

She will be the only military veteran serving on the City Council. Hardesty said that for the first time in her life, the rise of white nationalism has made her feel apprehensive when she sees a truck with an American flag on it.

Sitting just a few feet from the police chief, Hardesty accused the bureau of “escorting” far-right groups that protest in the city, and using excessive force against counter-protesters.

“I have been extremely disappointed in watching how the Portland Police Bureau has responded to out of town hate groups who show up and take over our downtown streets,” Hardesty said.

Eudaly, who has confirmed that she will not support the ordinance, used the hearing to grill Outlaw and other city officials on the police bureau’s response to right-wing extremism. She also asked about policing tactics, including the use of force, during protests.

Eudaly came prepared with a list of 46 questions, compiled by her staff with input from constituents and advocacy groups.

She noted that the most serious injuries during protests in the last year appear to have been to counter-protesters injured by police officers Aug. 4.

“These injuries appear to include third-degree chemical burns, open wounds, and at least one traumatic brain injury,” Eudaly said.

“One of the goals of the ordinance is to try to manage these events in advance so the police do not have to manage them the day of,” Deputy City Attorney Robert Taylor answered. “Aug. 4 is a good example of things that did not go well for anybody.”

Eudaly drilled down in particular on the perception that police, she said, favor right-wing extremist groups like the Proud Boys and Patriot Prayer over left-wing counter-protesters.

She asked if counter-demonstrators were always the group the police ordered to disperse.

Deputy Chief Robert Day said he wasn’t sure.

“I can’t speak to every event that’s occurred. We can go back and look and provide you more information,” Day said.

Eudaly noted that counter-protesters were frequently injured by police use of force during protests, and asked if any members of the Proud Boys or Patriot Prayer had ever been injured by police in Portland.

“How do you explain this unequal application of force?” Eudaly asked.

“I can’t speak to who has or has not been injured,” Day said, and again offered to try to get her more information later.

Concluding, Eudaly made her own position clear.

“I know that our policies have to be content neutral, but I don’t have to be content neutral,” she said. “I’m just going to say right-wing extremists pose a greater threat to our security and to our city than ISIS, let alone left-wing counter-protesters.”

Eudaly then asked Outlaw a pointed question.

“Can the Portland Police Bureau explicitly and unequivocally state that Patriot Prayer, Proud Boys, and similar right-wing extremist organizations are the real threat to our public safety?” Eudaly said.

Outlaw said it was not her place to answer.

“You’re in a position as an elected official to do that. Given that I am not, and the Portland Police Bureau — we are not a political body — we are not in a position to do that. We focus on behaviors,” Outlaw said.

With Eudaly a clear “no” vote and commissioner Amanda Fritz also indicating opposition, it’s not clear whether Wheeler has enough votes to pass the ordinance when it moves to a second reading next week.

Commissioner Nick Fish is the swing vote the mayor needs. On Thursday, it was clear the mayor has reworked the measure in an effort to address criticism that it is unconstitutional and vulnerable to a legal challenge.

Portland Police Chief Danielle Outlaw at a City Council hearing on Mayor Ted Wheeler's proposed ordinance giving him the power to dictate the location and duration of some protests in town, Thursday, Nov. 8, 2018, Portland, Oregon.

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In an exchange with the deputy city attorney, Fish noted the latest version of the ordinance, introduced as a substitute measure on Thursday, allows the mayor to invoke his powers to designate the time and place of protests in a more limited set of circumstances.

“There must be a history of violence between groups, and the safety of participants and bystanders is at risk. And third, there is a substantial likelihood of violence based on statements or conduct of those groups,” said Taylor.

Fish said that was a significant change from the way the ordinance was originally written, which allowed the police commissioner to issue regulations for a protest that met any one of those three conditions.

“That’s an important change,” Taylor confirmed. “There was a concern about wanting to clearly limit the authority of the police commissioner.”

Fish also introduced three amendments to the ordinance, all of which passed unanimously.

Fish’s amendments require the police commissioner to issue a public written report after he issues any order pursuant to the ordinance, sets the ordinance to expire June 30, 2019 unless the Council renews it with a vote, and directs the city attorney to report back to the Council in January 2019 on other legal strategies that could be used to address violent demonstrations.