

## **The Oregonian**

# **Mayor's Staff Got Protest Intel on Patriot Prayer From Portland Cop Under Fire for Texts With Right-Wing Leader**

*By Maxine Bernstein  
February 20, 2019*

The Mayor's Office has relied on a Portland police lieutenant to keep tabs on right-wing protest leader Joey Gibson, sometimes texting him at all hours to ask about Gibson's whereabouts or plans.

It's the same lieutenant, Jeff Niiya, who has come under fire in the last week from Mayor Ted Wheeler and other city officials.

After Niiya's text messages with the Patriot Prayer leader were made public last week, Wheeler called the lieutenant's messages "disturbing," said they appeared to "cross several boundaries" and "unnecessarily encourage" Gibson. Wheeler, who also serves as the city's police commissioner, has requested an independent investigation to review if police acted with bias in their actions leading up to and during demonstrations involving alt-right and anti-fascist protesters.

The Police Bureau on Wednesday released another batch of Niiya's communications as the bureau's crowd control supervisor, this time with Berk Nelson, Wheeler's senior policy adviser on public health and safety, in response to a public records request from The Oregonian/OregonLive.

The communications start in April 2018 and continue through this month, with Nelson often questioning Niiya before a planned protest about Gibson's plans. They include questions about Gibson and Patriot Prayer in relation to a demonstration outside the federal immigration enforcement building in Southwest Portland, downtown protests and a hearing at City Hall.

Nelson told The Oregonian/OregonLive that he often reached out to Niiya to find out about when and where Gibson and Patriot Prayer protesters would be so the city would be prepared for any violence that might occur. Nelson said he needed to alert the mayor of any potential public safety threats and Patriot Prayer has been "one of those threats over the last two years."

"I knew Jeff was in contact with Joey. I wasn't surprised. I just didn't know to what extent the conversations took place," Nelson said. "Jeff is trying to develop a relationship with Joey...his job is to get as much intelligence as possible, but I didn't know how deep it went."

Nelson added, "I'm not an expert in how police gather information. I leave that up to them," but he said he could understand how jarring Niiya's text messages with Gibson could be to "people who don't understand police tactics."

"To the lay person just seeing those texts at face value are concerning," he said.

The mayor and two other city commissioners have complained that Niiya alerted the Patriot Prayer leader to counter-protester movements and said his texts raised questions about consistency in enforcing arrest warrants. In one text, Niiya informed Gibson that one of his follower's should take care of his outstanding arrest warrant before he came into Portland.

The police commanding officers union has defended Niiya, saying his job is to maintain an open line of communication with all protest organizers and that police regularly informed the Mayor's Office about their tactics.

“Certainly the mayor’s initial comments gave the impression that he was unaware of the communications between Niiya and Gibson,” said Lt. Craig Morgan, president of the Portland Police Commanding Officers Association. “These texts show that not only was his top aide aware of the conversations, but he was requesting specific information about Patriot Prayer and Gibson as situations developed.”

Nelson said the outside investigation that Wheeler is calling for isn’t focused on Niiya’s text messages with Gibson, but a broader look at how police investigations are handled and how rapport is developed between officers and protest leaders.

The communications between Nelson and Niiya show:

--The day before Patriot Prayer members and counter-protesters squared off in downtown Portland last Aug. 4, Niiya sent Nelson a message.

“Heard you are looking for timeline info on Gibson’s movements tomorrow,” Niiya wrote on Aug. 3. “I heard on one of his videos they hope to leave the Fred Meyers in Vancouver with the first bus around 10 am.”

-- Four days before another Patriot Prayer protest planned in downtown Portland, Nelson texted Niiya on Nov. 13, “Any word on the location of the protest yet? Where PP (Patriot Prayer) is going to locate?”

Niiya responded, “They have a permit for Terry Schrunck on Sat. They say no march, so this should stay on the area of the parks.”

Nelson asked Niiya via another text, “But was also checking if you knew what time Gibson was going to show up”

Niiya responded a short time later, “he has not communicated with me about Sat.”

That Saturday, Nov .17, a protest billed as a rally for free speech and campaign event for Gibson, then a Republican candidate for U.S. Senate in Washington state, saw hundreds of his supporters bused in from across the border. Many wore helmets, crash pads and shields decorated with the Confederate battle flag. They were met by counter-protesters from a coalition of organizations on the left including a group called Popular Mobilization, another group dressed up as clowns and self-described antifascist activists.

Police formed barriers along Southwest Naito Parkway early in the day and kept the groups separated. The biggest skirmish came when police in riot gear ordered a group of counter-protesters to disperse around 2 p.m. The group, clustered near the intersection of Southwest Naito Parkway and Southwest Columbia Street, didn’t immediately leave and officers began firing dozens of flash-bang grenades and rushing toward the crowd, shoving some protesters out of the street.

-- Three days before the mayor and City Council were to vote on an ordinance rejecting white nationalism, white supremacy and alt-right hate groups this month, the mayor’s adviser once again reached out to Niiya about Gibson.

“Are you hearing anything on Twittersphere re: Joey Gibson and coming on Thursday?” Nelson wrote in a text message on Feb. 4.

A short time later, Niiya responded, “Quick search and nothing from Joey specifically but Haley Adams and her group look like they will be there.” Adams is a Patriot Prayer supporter.

-- On July 21, as people camped outside the ICE building in Southwest Portland, Nelson texted Niiya, “Lt. any dust up or appearance yet?”

A minute later, Niiya responded, "Joey just showed up with 5 others. Calm right now. Talking with protesters."

-- Last summer, the night before a planned protest at City Hall, Nelson texted Niiya on Aug. 7, "How many people are coming to City Hall?"

Niiya responded three minutes later, "CIU (Criminal Intelligence Division) is believing 30-10. However, Facebook shows 287 going. I could personally see 150ish coming between the 2 protest groups."

The next day, a protest against police use of force turned violent when activists tried to storm Portland City Hall, clobbered one security guard and scuffled with several others. It was the biggest disruption to a Portland City Council meeting in more than a year. Protesters were demonstrating against police crowd control techniques from a demonstration the Saturday before.

The Oregonian/OregonLive also has requested Niiya's communications with counter-protesters or organizers of other rallies, but the police bureau hasn't released them yet.

In an interview Wednesday, Gregory McKelvey, the leader of a series of protests against the election of Donald Trump and police use of force, said Niiya had contacted him in mid-August 2017, but he didn't want to communicate with police about his demonstrations.

McKelvey shared messages Niiya sent him in August 2017 in which Niiya described to McKelvey his role as "reaching out to event organizers to learn more about their events and then providing information to my bosses so they can make decisions if there is a need for police due to public safety concerns." Later, Niiya gave McKelvey information about what actions would draw a police response, such as large groups marching across bridges, entering freeways or impacting mass transit.

"There was no reason for me to establish any communication and many reasons not to," McKelvey said Wednesday. "It doesn't make sense to work with the police in protesting the police, which was a bulk of my protest work. They are one of the targets of our protests so why would I need to communicate?"

Police Chief Danielle Outlaw has scheduled what she called a "listening session" to hear public concerns about the lieutenant's text messages with Gibson from 6 to 8 p.m. Thursday at the Maranatha Church, 4222 N.E. 12th Ave.

An hour before the gathering, the Portland Democratic Socialists of America and several other groups are hosting a rally outside the church, urging police reform and that Wheeler turn control of the police bureau over to City Commissioner Jo Ann Hardesty.

## **The Portland Tribune**

# **Council Gets Earful from Unreinforced Masonry Building Owners**

*By Jim Redden*

*February 20, 2019*

**Those affected by earthquake warning requirements complain about original City Council vote and work by the Portland staff in charge of enforcing it.**

Owners of unreinforced masonry buildings complained about the city's handling of the earthquake warning requirements during a sometimes emotional City Council hearing on delaying and changing them Thursday.

Most of the owners criticized the council for passing the requirements last October. They charged the requirements — which include posting warning signs and filing a letter with the city agreeing to file them with their deeds — would reduce the value of their buildings and result in many of them being demolished for redevelopment.

Many of the owners also faulted the administration of the program by city staff since then. They complained about poor record-keeping, inadequate communication and finger-pointing by Portland employees charged with enforcing the requirements — which includes posting warning signs the buildings could be dangerous in earthquakes.

The ordinance introduced by Commissioner Jo Ann Hardesty would postpone the posting requirement until Nov. 1, 2020, and repealing the filing requirement. She said a committee will be recruited and appointed to review all of the requirements and recommend changes before the proposed new deadline.

Hardesty said business owners know their buildings may not be safe in an earthquake, but cannot afford the cost of bringing them up to current earthquake standards.

"When this URM requirement was passed, we did not do enough to earn the trust of the people who need to do these upgrades," said Hardesty, who was not on the council when the requirements were approved last October.

Commissioner Nick Fish agreed on the need to delay the requirements, saying they could lead to many demolitions.

"I think we will all benefit from a reset and additional time to get it right," said Fish, who was absent when the requirements were approved last year.

Mayor Ted Wheeler, who voted for the requirements last October, said he understands the concerns of the owners, but that something must be done.

"There is a demonstrable public health and safety issue we cannot ignore," Wheeler said.

Many of the owners urged the council to repeal the requirements instead of delaying them. Hardesty said that would remove the pressure on the council to solve the problem of potentially unsafe building, however.

Walter McMoin, president of the Masonry Building Owners of Oregon, faulted the accuracy of the city's current list of more than 1,800 URMs, saying it was not based on inspecting the buildings on it. He said some of the buildings on the list have already been reinforced, including one he owns, while others are not on it.

The council did not act on the ordinance, but a vote could come as early as next week. A federal judge has issued a 60-day injunction preventing the city from enforcing the requirements on commercial buildings scheduled to take effect on March 1. Enforcement now cannot begin until May 1, at the earliest. A hearing in the lawsuit brought by some building owners is scheduled for April 25.

Building owners and supporters rallied outside City Hall before the hearing, including members of the Portland chapter of the NAACP, which believes the requirements would lead to more gentrification in Northeast Portland.

"This action drives the nail in the coffin of gentrification of the African-American community, which is a continued insult to our people," said Rev. E. D. Mondaine, the NAACP chapter president

"It stigmatizes my building," URM building owner Tim Holmes said. "The other thing is, it makes people look at my building, see the placard and then look at the building right next door and think it's perfectly safe when in a 9.2 earthquake, (but) it's not going to be safe."

## **Sources: City Needs More Time to Tackle Thorny Housing Issue**

*By Jim Redden  
February 21, 2019*

**Plus, the new Portland Parks & Recreation director faces funding and planning challenges as she begins her job.**

Are Portland and Multnomah County losing the fight against homelessness and the affordable housing crisis — or just needing a lot more time to win it?

The City Council first declared a State of Housing and Emergency in October 2015. Since then, the city and county have committed hundreds of millions of additional dollars to more homeless services and additional affordable housing, including creating the Joint Office of Homeless Services.

But the council was scheduled to extend the housing state of emergency for the fourth and longest time this week. It was scheduled for one year in 2015 and again in 2016. Then it was extended by 18 months in October 2017. Now it's being extended for two years, until April 2021 — or five and one-half years after the emergency was first declared.

### **Parks director faces challenges**

New Portland Parks & Recreation Director Adena Long started work Tuesday with two challenging priorities.

The first will be to help her boss, Commissioner Nick Fish, figure out how to close a looming \$6.3 million shortfall of the bureau's general fund budget next year. The solution likely will involve a mix of layoffs and fee increases for bureau programs.

Long says she repeatedly dealt with budget issues while working her way up the ranks of the New York Department of Parks & Recreation, where she served as deputy commissioner before taking her new job. Long says she could tell by reading recent PP&R budgets that there were problems before she took it.

The other challenge will be helping Fish launch and manage the first update of PP&R's vision in 18 year at the same time. She is scheduled to talk about the project before the Portland Parks Foundation during an evening panel discussion on the parks owned and operated by the city and Metro on March 11 at Portland Center Stage at The Armory, 128 N.W. 11th Ave.

## **Battle Lines Drawn Over Infill Housing as Hearing Nears**

*By Jim Redden*

*February 21, 2019*

**Supporters, opponents are preparing to testify on rezoning recommendations as they head to the City Council later this year.**

The debate over rezoning almost all of Portland's single-family neighborhoods is heating up.

Newspapers are receiving letters in favor of and opposed to the current recommendations of the Residential Infill Project — called RIP by fans and foes alike. Local websites feature arguments for and against allowing up to four housing units on every lot. Supporters and opponents are preparing testimony for the Planning and Sustainability Commission, which is expected to hold a hearing and forward the recommendations to the City Council on March 12.

The activity is proof of how politicized the issue has become since former Mayor Charlie Hales created the project within the Bureau of Planning and Sustainability in 2015. At the time, the loudest voices were complaining against what they called the "growing epidemic" of residential demolitions and oversized infill projects.

Today, the momentum seems to favor those who would allow more demolitions to create so-called "missing middle housing," including duplexes, triplexes and four-plexes up to 1,500 square feet larger than a single-family house, which would be limited to 2,500 square feet.

As the project proceeded in 2016 and 2017, the concept of allowing more missing middle housing gained support from a broad coalition of environmentalists, businesses, affordable housing organizations, alternative transportation advocates, and even some neighborhood organizations. The 1000 Friends of Oregon land use watchdog organization launched and staffed a project called Portland for Everyone to help organize and coordinate the support during the public outreach portion of the project, including at open houses held in different parts of town.

"It makes no sense when a standard (50 feet by 100 feet) lot within easy walking distance of downtown can't be used for anything more than a single-family house," reads its website.

But by then some of the project's earliest supporters had started questioning the missing middle concept. When the council first proposed adding a missing middle housing policy in the state-required Comprehensive Plan update in April 2016, the board of the Multnomah Neighborhood Association opposed both it and its introduction so late in the planning process.

"This proposed amendment is a radical, last-minute change to the 2035 Comprehensive Plan that is too far-reaching to be incorporated into the plan with a very short time of approximately one month for citizen evaluation to provide reasoned public comment," said the letter, despite the fact that the policy was championed by Steve Novick, the most progressive member of the council at the time.

The grassroots United Neighborhoods for Reform also called the amendment premature. They wanted the issue to first be fully studied by the RIP advisory committee.

"Opening this change to wide areas of the city will make thousands of smaller, viable, older, relatively affordable homes vulnerable to demolition. We question whether even smaller new houses will be as affordable, or as well built, as many currently existing houses," Barbara Strunk, United Neighborhoods for Reform's representative to the committee, wrote in testimony submitted to the council.

The council included the policy in the update anyway, prompting the association to challenge it before the Oregon Department of Land Conservation and Development, which was required to approve it. After the appointed Land Conservation and Development Commission also upheld the update, the association appealed the decisions to the Oregon Court of Appeals, where the case is waiting to be heard.

### **From density along corridors to density everywhere**

The first Residential Infill Project recommendations were consistent with longstanding policies of concentrating density along major transportation corridors, in designated centers and around transit centers. They would have to rezone 60 percent of single-family neighborhoods for missing middle housing. The largest project would be a triplex. Much of the property in East Portland was excluded because it lacks the infrastructure to support such growth.

Although critics already were saying even that was too much, the Planning and Sustainability Commission felt otherwise. In October 2016, the commission encouraged bureau staff to expand the rezoning beyond the "corridors, centers and stations" criteria. One commissioner noted he lives in a four-plex, and wondered why they weren't allowed.

The first economic analysis undertaken for the bureau showed the commission's misgivings were justified. Johnson Economics studied rezoning 60 percent of single-family neighborhoods but limiting all new structures to 2,500 square feet. Its study, dated March 27, 2018, found such changes would produce just 1,680 additional units over the next 20 years, hardly enough to justify the effort.

The commission held its first hearings in May, receiving extensive public testimony on all sides of every issue. After the testimony, it directed the staff to study rezoning far more of the city, and allowing size bonuses for duplexes, triplexes and four-plexes.

Johnson Economics subsequently looked at rezoning 96 percent of single-family neighborhoods and allowing size bonuses of up to 1,500 square feet. Its new study, dated November 2018, concluded that far more housing would be built — 24,000 additional units over 20 years.

The study also concluded that demolitions would increase 8 percent to make way for the new housing, and that most of it would be small rental units costing around \$1,800 per month.

Commission member Eli Spevak, a developer who also served on the Residential Infill Project Stakeholder Advisory Committee, is pleased with the current recommendations.

"Admittedly, it took a lot of time, but we wanted to get it right and I think we have," Spevak said.

Critics are even more alarmed now than they were over the original project draft, however. Some believe developers will figure out how to build more and even larger projects than predicted.

"They don't want to have any limits on where they can build in Portland," said Margaret Davis, an artist who supported the project but who now describes herself as "an embittered activist."

## **Tide turns toward more affordable housing**

Portland architect Rod Merrick, a neighborhood activist who served on the project Stakeholder Advisory Committee, said he is not surprised about how the debate over the Residential Infill Project recommendations evolved.

Merrick, the current chair of the Eastmoreland Neighborhood Association, foresaw the possibility of the project changing direction. In early 2015, before he was appointed to the committee, he wrote and circulated a memo among friends that included a cartoon of the project as a Trojan horse at the door of a castle labeled "Single family code."

"Practically all home building stopped during the Great Recession that began in 2008. When the economy started recovering in 2011 and 2012, a lot of people started moving to Portland because they heard it was a great place to live. Former suburban home builders discovered they could still make a living building infill projects. That's when people started thinking about rezoning single-family neighborhoods for more density," Merrick said.

Madeline Kovacs, former Portland for Everyone executive director, agrees the discussion shifted over time, but for different reasons.

"I do think the conversation has changed, as more and more Portlanders (and Americans) find themselves 'housing insecure,' and less and less of a critical mass are able to find housing that meets their needs under the status quo," Kovacs said in an email to the Portland Tribune.

"The conversation in the last couple of years has thus appropriately shifted away from 'compatibility' and protecting the investments of incumbent homeowners (or rather protection as they perceive it), and toward reducing barriers to housing, and allowing more people to live in places with access to transportation, parks, and services," continued Kovacs, who is now a fellow at the Seattle-based Sightline Institute, which describes itself as a think tank for the region's most significant challenges.

## **What is missing middle housing?**

"Missing middle housing" is a term that is generally defined as relatively small multifamily projects. Those can include a single-family accessory dwelling unit built on a house's lot, as well as duplexes, triplexes, four-plexes, cottage clusters and "garden apartments" built around landscaped courtyards.

## **Mayor Wheeler, Enviros Vow to Block Expanded Oil by Rail Shipments**

*By Steve Law  
February 20, 2019*

**Zenith Energy has the necessary permits to streamline its capacity to handle more oil shipments by train in Northwest Portland industrial district, which are then transferred to ocean-going vessels for export.**

Environmental groups and Mayor Ted Wheeler are seeking to block the expansion of oil shipments by train at the Zenith Energy terminal in Northwest Portland, though it's unclear what legal avenues are available.

As Oregon Public Broadcasting's Tony Schick first reported on Feb. 8, Texas-based Zenith Energy is expanding and upgrading its rail terminal on 5501 N.W. Front Ave., enabling it to

more than double the number of rail trains offloaded on site, where the oil is then transferred onto ocean-going vessels for export. Zenith says it obtained the necessary permits in 2014, two years before the City Council adopted a tough new ordinance sharply restricting the expansion of fossil fuel terminals in the city.

A coalition of environmental groups that lobbied for the fossil fuel terminal ordinance sent a joint letter to the Portland City Council on Feb. 13, asking the city to freeze permits already issued to Zenith and explore other options to halt the expansion of oil shipments.

Wheeler issued a news release Tuesday stating his opposition to expanded oil shipments at the Zenith site, formerly owned by Arc Logistics. "I am committed to undertaking whatever action I am permitted to ensure that there are limits placed on this proposed expansion," Wheeler stated in the release. "I do not support the proposed activity at the Zenith site. The risks associated with running oil trains anywhere, let alone through a major city, are significant, as you might remember from the environmental catastrophe in Mosier, Oregon, three short years ago, when a 96-car oil train derailed."

Wheeler did not elaborate on his position at a Tuesday news conference. On Wednesday, his spokeswoman Eileen Park would only say that Wheeler is "looking into what his options are right now."

Megan Mastal, a spokeswoman for Zenith, issued a statement Wednesday morning saying the company's expansion will make the site safer to operate.

"These improvements include advanced emission-control technology as required by new regulations and upgrades to improve efficiency and environmental protection. Another part of the project is the installation of a state-of-the-art fire suppression/foam system and fire barrier wall along Front Avenue," she wrote.

Mastal said in her emailed statement that Zenith's expansion project complies with the terms of the city's 2016 fossil fuel terminal ordinance.

"Consistent with the 2016 zoning code amendment, we are not adding any storage tank capacity," Mastal wrote.

She pointed out that the ordinance specifically lists the estimated storage capacity of the Arc Logistics terminal at 1,518,000 barrels of asphalt and crude oil. That was used as a baseline to gauge future expansion proposals at the property, as well as other oil and gas terminals affected by the ordinance.

Zenith's facility is part of a cluster of oil and gas terminals in the industrial area north of downtown, on the west bank of the Willamette River, not far from Forest Park. That area is considered highly dangerous in the event of an earthquake, given nearby soil conditions and the presence of so many volatile substances stored in that area.

Mastal declined to answer further questions sent Wednesday by email.

Zenith's expansion is planned to give it the ability to offload 44 train cars at a time, said Dan Serres, conservation director for Columbia Riverkeeper, one of the environmental groups opposing the project. With that expanded capacity, Zenith should be able to handle one full train every day or two, Serres said.

Nichlas Caleb, staff attorney for the Center for Sustainable Economy's Climate Justice Program, conceded that the Zenith expansion might be outside the sphere of the city's fossil fuel terminal ordinance even if it was in force when permits were granted, because the ordinance was based on storage capacity.

And it's unclear if the ordinance is even in effect right now because of legal challenges, Caleb said.

A series of Oregon court rulings upheld the city's constitutional right to enact the ordinance after it was challenged by oil companies, the Portland Business Alliance and other business groups. However, the ordinance was remanded to the city to address procedural rules, Caleb said. Environmentalists have been told the City Council expects to make the required revisions this spring.

"It's probably not in effect right now," Caleb said.

Still, he said Zenith's expansion violates "the spirit" of the city's fossil fuel terminal ordinance and a parallel resolution against further oil trains in the city, adopted by the City Council in November 2015.

Mia Reback, who is doing contract work against fossil fuel expansion for the Sustainable Energy and Environment Network, said the permits for the Zenith project were originally obtained by Arc Logistics for its expansion plans. Zenith plans "a different usage with different risks," Reback said, so it should be required to resubmit for the permits.

Zenith's expansions should enable it to handle a variety of fuels, including Bakken crude oil from North Dakota and Canadian tar sands, Serres said. The oil is so thick that Zenith is heating up each rail car before the oil can be removed and stored in its tank for further processing, he said.

The Center for Sustainable Economy, 350.PDX, the Audubon Society of Portland, Willamette Riverkeeper and Columbia Riverkeeper are pressing the city to do everything in its power to block Zenith from expanding rail shipments of oil here.

"We're really happy that the mayor is looking into that and taking as aggressive a look as possible," Caleb said. "We're not entirely ready to concede there's nothing the city can do."

## **Willamette Week**

### **Portland Police Built a Convincing Case Against Tusitala "Tiny" Toese for a June 2018 Assault. But Prosecutors Didn't Take It to Court.**

*By Katie Shepherd  
February 20, 2019*

**By his own admission, he came to Portland and hit someone in the face.**

For two years, right-wing brawler Tusitala "Tiny" Toese has visited Portland to pick street fights with people who disagree with his politics. He has never spent a night in jail.

Newly obtained documents raise questions about the Multnomah County District Attorney's decision not to prosecute Toese for a violent June assault.

Toese punched a man named Tim Ledwith in the face on a Northeast Portland sidewalk on June 8, 2018. Portland police arrested him less than a month later at a June 30 right-wing rally that turned into a riot. Yet Toese has not faced prosecution for the alleged June 8 assault.

WW reviewed investigatory files from the Multnomah County District Attorney's Office that include police reports, a 911 call, and interviews with the suspects, the victim and a witness.

Despite confessions from Toese and another man, Donovan Flippo, who was with him June 8, prosecutors have not pursued the case.

Toese is the right-wing protester most frequently arrested in Portland. Yet with three arrests and one written citation, he's only been convicted of a crime once.

That's because prosecutors have asked police for more evidence, and police haven't provided it.

Cellphone texts revealed last week by WW between a far-right organizer and a Portland police lieutenant suggest the hesitancy to pursue criminal charges against right-wing extremists—and Toese in particular—should not come as a surprise.

The texts, which WW obtained through Oregon public records law, show Portland Police Lt. Jeff Niiya regularly communicated with far-right organizer Joey Gibson.

The exchanges raised new concerns that Portland police show bias when dealing with far-right activists who belong to extremist groups like the Proud Boys. City officials, including Mayor Ted Wheeler and City Commissioners Jo Ann Hardesty and Chloe Eudaly, have called for an independent investigation of police contact with right-wing groups.

But the most consequential aspect of the texts may be the discussions they contain of Toese—and how to keep him from going to jail.

On Dec. 8, 2017, Niiya texted Gibson with a warning for Toese, then 21, one of Gibson's closest friends.

"BTW, make sure Tiny has his court stuff taken care of," Niiya typed. "I was told on the radio at the Jamison [Square] event he had a warrant. I told them we would not be arresting Tiny right now. So please be sure he's good to go before coming down."

"Shit," Gibson, the Vancouver, Wash., leader of the group Patriot Prayer, responded. "He told me he was good."

"Just make sure he doesn't do anything which may draw our attention," Niiya replied. "If he still has the warrant in the system (I don't run you guys so I don't personally know) the officers could arrest him. I don't see a need to arrest on the warrant unless there is a reason."

Toese gave the police more than one reason. On Dec. 9, 2017, officers arrested the massive, 295-pound Samoan man at the protest and charged him with three new crimes—disorderly conduct, harassment and an attempt to commit a class A misdemeanor—for throwing a punch at an antifascist, or Antifa, protester who gave him the middle finger.

It was Toese's second arrest in Oregon. On Feb. 13, 2018, he pleaded guilty to harassment, a class B misdemeanor related to the clash at the Dec. 9 protest. He agreed to 40 hours of community service and 12 months probation.

Four months after the plea deal, on June 8, Toese showed up in Portland again. Again, by his own admission, he hit someone in the face.

According to his police interview, Toese was cruising June 8 in the passenger seat of a black Dodge Ram pickup belonging to Russell Schultz, a fellow member of the Proud Boys. A third Proud Boy, Donovan Flippo, sat in the back seat. Flippo told police the trio had crossed into Portland to buy a security-guard shirt for Flippo, who was starting a new job as a bouncer at a Vancouver bar.

The truck flew a flag printed with President Donald Trump's face, Toese told police. As Schultz drove down Northeast Broadway, Flippo and Toese shouted, "Go Trump!" according to their police interviews.

Tim Ledwith, who was walking near the Safeway at Broadway and 12th Avenue, recognized Toese from counter-demonstrations he attended in 2017. The three men agree Ledwith taunted Toese about a pair of sandals he had lost after brawling with Antifa at a 2017 rally.

"Hey, Tiny, I got your shoes from the other rally," Ledwith said, according to Toese.

In Toese's police interview, he claims Ledwith spat at the truck, but neither Flippo nor the witness who called 911 corroborated that allegation.

Schultz pulled over. Toese and Flippo hopped out, according to everyone who saw the incident, including both men and the witness who called 911.

Toese "squared up" with Ledwith.

Toese, who is 6-foot-6, told police he punched Ledwith in the face. He split Ledwith's lip and left his nose bleeding.

The witness told an emergency dispatcher Toese and Flippo, who is 6-foot-1 and weighs 280 pounds, stood menacingly over the 5-foot-6 man, who was knocked to the ground by the force of the blow.

"Two large white guys in a Dodge Ram truck from Washington got out and just straight up attacked a guy," the 911 caller said. "One of them was wearing a shirt that said 'Antifa Removal Service.'" (The caller misidentified Toese's race but described his T-shirt accurately.)

Ledwith declined to file a police report right away, but later decided to after hearing allegations of a similar attack by Toese and Flippo against a black teen at a Vancouver mall.

Ledwith says he missed a call from Anna Fuller, the prosecutor assigned to the case, after Toese and Flippo were arrested June 30. He says he called her back twice, but never connected with her.

Prosecutors considered charging the men with assault in the third degree, a class C felony. But to raise the charge from misdemeanor assault to a felony, prosecutors needed to prove both men "aided" in the assault. Instead, in early July, the prosecutor dropped the lesser charges for which the pair had been arrested and directed police to investigate further.

Portland police say they have reached out to Ledwith and a second witness but have not heard back, but the case could be revived if officers hear from the victim and the witness. Ledwith says he has not been contacted by police since the charges were dropped.

Multnomah County District Attorney Rod Underhill declined to comment specifically on Toese's case because the statute of limitations has not yet expired.

"Cases that result from mass demonstrations held in Multnomah County are incredibly complex despite what may seem like an 'open and shut' case to some individuals," says DA spokesman Brent Weisberg. "The Multnomah County District Attorney's Office does not investigate or prosecute individuals based on their ideologies or affiliations with political or nonpolitical organizations."

The lack of consequences for Toese, Flippo and other far-right agitators has irritated activists on the left, who say police and prosecutors treat antifascists more harshly.

Dozens of antifascist protesters have been arrested and prosecuted since mid-2017.

In comparison, very few right-wing protesters have been detained by police at protests.

Meanwhile, Toese shirked the requirements of his Feb. 13, 2018, plea deal and has been involved in other apparent assaults, including one captured on video.

According to court documents, he failed to check in with his probation officer, refused to show up in court, and did not perform a single hour of community service. On Feb. 11, Multnomah County Circuit Judge Katharine von Ter Stegge signed a bench warrant for Toese's arrest.

Portland police have yet to arrest him.

## **How WW Obtained Joey Gibson's Texts With A Portland Police Lieutenant**

*By Katie Shepherd*

*February 20, 2019*

**The Portland Police Bureau took three months to find the texts and charged more than \$262 for them.**

Eleven hours after WW first reported hundreds of text messages between a police lieutenant and Patriot Prayer leader Joey Gibson, the Portland Police Bureau released the records for anyone to examine online.

The time it took WW to obtain them was much longer.

WW filed a records request asking for the texts on Nov. 12, 2018, following several violent demonstrations organized by Patriot Prayer in 2018.

PPB warned that because of a backlog in public records requests, WW should expect a delay of "up to six weeks" before receiving responsive records. The bureau took twice that time to provide responsive records.

On November 27, police records supervisor Tammi Weiss sent WW a cost estimate predicting that the records would cost \$131.74 to produce. WW asked for a public interest fee waiver, but the bureau charged the newspaper anyway without explaining why it did not grant the waiver.

"This estimate is 50 percent of the entire fees. We have another similar request so in order to save both requesters time and expense, I have split the fees between the requesters," Weiss wrote in her estimate.

PPB also charged the Portland Mercury \$131 for the same texts and emails.

WW paid the required 50 percent deposit—\$65—on Nov. 27.

After following up via phone, PPB told WW the request had been assigned to a records division employee on Feb. 4. The bureau sent an invoice for the remaining \$65, which WW paid on Feb. 5. Weiss said in an email the same day that the records would be available "today or tomorrow."

On Feb. 8, WW followed up with the Bureau again. Three days later, PPB finally provided records—but only included texts sent by Lt. Jeff Niiya. WW asked the bureau to provide Gibson's texts as well.

PPB said it had conducted the search for responsive records twice and had not turned up Gibson's texts either time. After the person who handles records requests for the rest of the city

stepped in to help PPB search for the texts, the bureau finally provided all of the responsive texts on Feb. 14, a full 12 weeks after the initial public records request.

WW has requested additional texts between Niiya and other Patriot Prayer members, Proud Boys, antifascist organizers and other activists in Portland.

PPB has not yet responded to that records request.

## **The Portland Mercury**

### **Someone is Posting Fake Anti-Camping Signs in SW Portland**

*By Alex Zielinski  
February 20, 2019*

The latest attempt by the public to self-police Portland's homeless population looks... eerily official.

Last night, a city crew discovered numerous orange signs posted to trees and poles near the intersection of SW Caruthers and 5th. The notices, stamped with an official City of Portland seal, threatened arrest to anyone who camps or loiters in that area. They referenced two city codes, one that bans camping in public right-of-ways and another that prohibits structures in public parks.

But these signs didn't come from the city.

The city's Office of Management and Finance (OMF), which oversees homeless camp notices, did not authorize these signs and has no idea who might be behind them.

When the city chooses to enforce the two codes mentioned on the flyers, it posts its own sign that gives the public at least 48 hours' notice (and a number to call for more information) before swooping in to clean up the site. Here's the city's official posting.

This isn't the first time someone's tried to duplicate the city's illegal campsite notice, but it's certainly the most skillful attempt.

"These are by far the most sophisticated ones that we've seen," said Heather Hafer, OMF spokesperson, in an email to the Mercury. "These are the first flyers we've seen that actually featured the city seal on them, and weren't photocopied and/or had handwritten notes on them."

Based on the city's One Point of Contact system, which tracks recently reported homeless camps, at least three people reported a camp existing at this exact spot in the past week.

### **NAACP-Led Coalition Isn't Satisfied With Proposed Changes to Earthquake-Unsafe Building Rules**

*By Blair Stenvick  
February 20, 2019*

The Portland City Council is considering amending a controversial ordinance that requires owners of unreinforced brick buildings to label them as earthquake-unsafe. But, an NAACP-led

coalition that opposes the ordinance is making it clear that those changes wouldn't be enough to ease their concerns.

At a city council meeting Wednesday morning, commissioners debated an ordinance proposed by Commissioner Jo Ann Hardesty, which would make changes to an original ordinance passed by the council last October. The original ordinance requires owners of unreinforced masonry buildings (URMs) to display a sign declaring them unsafe in the event of an earthquake—and to file an agreement with the county recorder's office, placing a mark on their property titles that could make it difficult for them to receive financing to make structural improvements.

URM owners would be able to remove the placards only after making costly improvements to their buildings. URM owners the Mercury has spoken with have cited estimates for those improvements ranging in the hundreds of thousands for single-story buildings, and up to \$1.5 million for a multi-story building.

"It is my belief that we didn't earn the trust of the people that were required to do these upgrades," Hardesty said at Wednesday's meeting. "It is my belief that we can do better."

Hardesty's suggested changes would eliminate the requirement to file an agreement with the recorder's office, and would push back the enforcement date for privately owned URMs to November 2020 (city-owned URMs are already complying with the ordinance, which was originally slated to go into effect in March). Those changes come a week after a federal judge ordered the city to suspend the ordinance for 60 days, while a lawsuit between a group of URM owners and the city plays out in court.

A coalition including Portland's NAACP chapter, Music Portland, Portland Tenants United, and other local groups held a rally outside city hall while the meeting was in session. Many of Portland's URMs are Black-owned businesses and independently owned music venues. Coalition members said they aren't satisfied with Hardesty's proposed changes, and want to see the URM ordinance overturned altogether.

"We can talk about technical jargon, we can tell you why it's madness," said E.D. Mondaine, president of Portland's NAACP chapter, at the rally. "We can look at the process and prove how unfair it is. But at this junction, at this stage of the game, what's better is that this process is stopped, and we repeal the ordinance."

Inside council chambers, Mayor Ted Wheeler and Commissioner Nick Fish clashed over whether the proposed changes were necessary. Wheeler maintained that the ordinance and agreement as is wouldn't actually place a lien or encumbrance (limitations on a property's title that can devalue property and make financiers wary to lend money) on URMs, while Fish said that real estate experts he's spoken with believe it would.

Both Fish and Commissioner Chloe Eudaly abstained from voting on the original ordinance in October.

"Our current mandate risks leading to significant demolition of historic buildings and significant inequity, changing the very character of our city," Fish said at Wednesday's meeting.

Wheeler said that despite not believing the ordinance would place an encumbrance on URM titles—he called that idea an "urban legend" at a press conference Tuesday—he is open to making Hardesty's proposed changes, and expects the new ordinance will pass a council vote next week.

"What makes this issue so challenging is that it is pitting a life safety threat against other really important values in this community," Wheeler said. "We have to figure out where is this right

balance between acknowledging the importance of those values but understanding that what has changed in recent years is the identification of an actual threat to life and safety.”

Wheeler also brought up House Bill 2208 in the Oregon Legislature, which would set up a fund to help URM owners pay for needed improvements. There are about 10,000 URM in Oregon, and about 1,600 in Portland.

“We need to ensure buildings aren’t just here for today but for future generations,” Wheeler said. “This is when we really, really need you to call your legislator.”

In addition to introducing the new ordinance, Hardesty’s office is setting up a new community committee to discuss URM policy changes. She said she hopes to involve those who would be most affected by the ordinance—URM owners—moving forward.

“An earthquake would be a terrible way to lose your building,” Hardesty said. “No one wants that. But many Portlanders are also worried that they will be displaced by economic forces before the earthquake hits. My goal is to slow down the enforcement placard rules.”

Both Eudaly and Commissioner Amanda Fritz were absent from Wednesday’s meeting. The council will vote on the new ordinance next Wednesday, Feb 27.

## **The Portland Observer**

### **Mitigating Displacement**

*By Danny Peterson*

*February 20, 2019*

#### **Nonprofit breaks ground for second major build**

A new 70 rental-unit affordable housing development in the heart of Portland’s historic African American community began construction Friday, marking continued progress on a longtime housing provider’s effort to mitigate and reverse displacement of primarily the black community, indigenous populations, and other long-term and low-income residents, in partnership with the city of Portland.

Officials with Portland Community Reinvestment Initiatives, Inc. (PCRI), the nonprofit behind the soon-to-be Kings + Parks building on the corner of Northeast Martin Luther King Jr. Boulevard and Rosa Parks Way, said the effort is a part of its Pathway 1000 initiative designed to address a long history of urban renewal and other actions by city government in north and northeast Portland that have historically marginalized and displaced many residents, mostly low income and people of color.

“King Parks is another step in the right direction that seeks to correct the housing issues caused by income disparities in the city of Portland and State of Oregon. Beyond the brick and mortar development, this project, implemented through the Pathway 1000 strategy, also addresses unemployment, under employment, wage disparities and the inequitable treatment that lead to these noted disparate outcomes which hit low income and communities of color especially hard,” PCRI Executive Director Maxine Fitzpatrick said.

Pathway 1000’s aim is to build 100 new affordable housing per year for the next decade, which began coming to fruition in November with the completion of the Beatrice Morrow Cannady building at 3340 N.E. Martin Luther King Jr. Blvd.

Similar to the Beatrice Morrow, the new King + Parks building will be rental units available by application through an innovative city “preference policy” specifically designed to prioritize the formerly displaced residents. It gives preference to those who were pushed out because of an urban renewal action from the city. Adopted by Portland City Council in 2016, the preference policy was designed in part with input from Fitzpatrick, who pioneered the idea with a similar “right to return” initiative within PCRI, in 2014.

After an initial struggle to get the 80-unit Beatrice Morrow building filled—only seven were either moved in or scheduled to move in on Dec. 7—the building is now leased up 94 percent (75 units moved in or scheduled to move in), according to documents PCRI provided the Portland Observer.

The temporary difficulty getting the building filled was resolved after an outside property management company PCRI contracted with to lease up the place was let go and PCRI took over the duties directly, Fitzpatrick told the Portland Observer.

The 70-unit King + Parks building, which is slated to be completed in May 2020, will contain two or more bedrooms for families for 70 percent of the units. One third of the units will be set aside for very low income tenants, making 30 percent or lower of the median family income (MFI), and with a focus on those who are homeless or at risk of homelessness. The majority of the units will be set aside for those making 50 percent MFI, as well as one market rate unit, for a building manager.

## **OPB**

### **Portland Mayor, Police Chief To Meet With Family Of Man Killed By Police**

*By Ericka Cruz Guevarra  
February 20, 2019*

Portland Mayor Ted Wheeler and Police Chief Danielle Outlaw will meet Friday with the family of a black man who suffered from schizophrenia and was shot and killed by a Portland Police officer last month.

The family of Andre Gladen, an African-American man from Sacramento who was in Portland visiting his cousin, will meet with Wheeler and Outlaw in the mayor’s office Friday morning.

The meeting was scheduled after Fonte Gladen, Andre Gladen’s brother, wrote to Wheeler and Outlaw on Feb. 13 requesting a meeting.

“Both of you know and have access to the information about what happened to my brother Andre,” the letter read. “The policing institutions of the City of Portland failed Andre. I implore you not to fail me and the rest of Andre’s family. Please meet with us and answer the questions we have about this tragedy we are trying to deal with.”

Gladen was blind in one eye, struggled with schizophrenia and took medication for bipolar disorder family members told OPB.

Officer Consider Vosu shot Gladen, 36, inside an apartment less than a mile from the front doors of Adventist Medical Center where he was in the hours before he was killed.

Andrew M. Stroth, a Chicago-based civil rights attorney representing the Gladen family, said the family believes Gladen was suffering from a mental health crisis when he was shot on Jan. 6.

The family has said it plans to sue the bureau. Stroth has said his law firm is looking at taking legal action for anyone who bears responsibility for Gladen's death after his firm completes its own investigation into the shooting. Stroth, who also represents the family of a man killed by Portland police inside a Southeast Portland shelter last year, filed a federal civil rights lawsuit against the city and the individual officers involved in that fatal shooting.

Wheeler's meeting with the Gladen family will mark the second time he'll meet with the family of someone shot and killed Portland Police. Wheeler met with the family of 17-year-old Quance Hayes after the family attempted to personally deliver the mayor a letter. Wheeler is commissioner of the Portland Police Bureau.

Eileen Park, the mayor's communications director, said Wheeler agreed to meet with Gladen's family after they reached out.

"They're grieving," Park said. "He wants to hear their concerns because it's important to him."

In their letter to Wheeler and Outlaw, the family said they want to know what happened after Vosu arrived on the scene responding to a call about Gladen.

Stroth said he doesn't think Wheeler or Outlaw will be in any position to speak about specifics of the case because of an ongoing investigation. Still, he thinks their agreeing to meet is "a step in the right direction."

## **Portland City Council Reconsiders Rules For Unreinforced Masonry Buildings**

*By OPB Staff*

*February 20, 2019*

The Portland City Council is having second thoughts about requiring warning signs on old brick buildings that could crumble in an earthquake.

There are thousands of unreinforced masonry buildings across the Northwest, and Portland has the highest concentration of them. Last year, the City Council voted to require building owners to post "conspicuous" placards saying the building "may be unsafe in the event of a major earthquake."

But building owners have balked at the new requirement. They worry the signs will cut into their property values or leave small business owners responsible for repairs they cannot afford.

At a rally outside Portland City Hall on Wednesday, Meara McLaughlin of Music Portland said the signage could lead to demolitions and displacement of affordable housing and art and music venues.

"This law, whether intended or unintended, enables and almost (incentivizes) predatory gentrification," she said.

City commissioners approved the new requirements in October at the urging of Commissioner Dan Saltzman. Since then, he's retired and been replaced by Commissioner Jo Ann Hardesty. She oversees the Portland Fire Bureau, one of several agencies responsible for implementing the requirements. Hardesty announced last month that her employees would not be enforcing them.

Mayor Ted Wheeler voted for the requirements last year. He oversees the Bureau of Development Services, another city department responsible for the signs, and had told his employees to continue with implementation.

But at Wednesday's hearing, Hardesty and Commissioner Nick Fish, who was not in the room for last year's masonry vote, seemed inclined to at least delay the rules until Nov. 1, 2020. In the interim, a work group would seek buy-in on some mix of incentives and deadlines for seismic safety upgrades.

"I think we will all benefit from a reset," Fish said.

Commissioners Amanda Fritz and Chloe Eudaly were absent Wednesday. The full council could vote on changing the unreinforced masonry requirements next week.