

The Oregonian

Burst Pipe That Flooded Homes Was Unfortunate but Unforeseeable, Portland Water Chief Says

*By Gordon Friedman
May 16, 2019*

Michael Stuhr, the Portland Water Bureau director, said Thursday his agency feels badly that a 30-inch water main burst and flooded Northeast Portland homes in March, but said the rupture was unforeseeable.

About a dozen homeowners whose homes suffered water damage from the catastrophic pipe failure on March 16 have since had damage payment claims denied by insurers and the city. They've been stuck with repair bills that, for some, have exceeded \$50,000.

Dramatic pipe breaks like the one in question, which at its peak gushed 40,000 gallons a minute into neighborhoods around Northeast 23rd Avenue and Skidmore Street, are exceedingly rare, Stuhr said.

And this one, he said, was impossible to see coming: The circa-1915 cast iron pipe that failed had shown no signs of breakage and had not reached even half its 230-year lifespan, he said.

“Water is a powerful thing and it can be terribly destructive,” Stuhr said during an interview at his downtown office. “This was a big deal,” he added.

In his 15 years at the Water Bureau – as head of maintenance and construction, engineering and, today, its director – there has never been a worse water main failure, Stuhr said. He called it “a 25- or 30-year event.”

Such ruptures are unavoidable as Portland’s vast drinking water infrastructure ages, he said, but the Water Bureau assesses its pipes for likely failures and takes action accordingly.

To illustrate the difficulty monitoring the city’s more than 2,200 miles of water pipes, Stuhr approached his office window and pointed down. There, beneath the street, lie a crisscross of water mains, sewer pipes, gas lines and fiber optic cables, he said.

The obvious challenge, Stuhr said, is “you can't see it.”

Cameras snaked through Portland’s water pipes for inspections don’t help, he said, because the pipes are pressurized and a biofilm forms on pipe walls. “You can’t see squat” he said.

Still, Stuhr repeated a motto three times Thursday: “Portland is a good place to be a pipe.”

The soil is not especially corrosive. The ground does not freeze much in winter. And pipes are buried close to the surface to avoid undue stress from the weight of the soil above.

Portland’s rate of broken water mains – about nine per 100 miles of pipe per year – is less than the national average of 14, Stuhr said. And the vast majority of those are on much smaller lines, not the 30-inch transmission main that ruptured March 16.

Large pipes like the transmission main are buried throughout Portland, and about 25 percent of those pipes, or 42 miles, are cast iron, according to Water Bureau data.

The bureau replaces about seven miles of all kinds of pipe each year, based on its risk assessments and actual main breaks, of which there about 200 in an average year, Stuhr said.

“I think we’re in good shape,” he said.

Yet the question remains of what happened to the pipe in Northeast Portland.

“It’s a common question. People want to say, ‘Why? Why, why, why?’” said Ty Kovatch, the Water Bureau’s head of maintenance and construction.

“It could have been an underlying weakness that worked on itself for a long time,” Kovatch said. “Any choice that we make about why it happened would be pure speculation.”

And the evidence of what caused a burst pipe often washes away with the water it spews, Stuhr said.

For its part, the city’s damage claims office said the rupture was “spontaneous.”

Stuhr said he has a “hard time” with that explanation but accepts it. “I leave that to the risk management department and the city attorney’s office,” he said.

“I don’t care what you do,” Stuhr said, “You’re going to have main breaks.”

Portland Escalates Fight with Airbnb over Illegal Listings

By Elliot Njus

May 17, 2019

After years of playing nice with vacation rental website Airbnb, Portland is gearing up to play hardball.

Mayor Ted Wheeler’s office is readying an ordinance that would ban Airbnb and similar platforms from advertising or receiving a fee from unpermitted vacation rentals.

The ordinance would turn up the heat on Airbnb after years of back-and-forth over whether Airbnb should turn over its list of hosts.

Regulators say as many as 70% of those hosts haven’t secured a permit to run a vacation rental in Portland. The city wants Airbnb’s list to help it track down scofflaws.

Airbnb already collects local lodging taxes on behalf of its Portland hosts. The city’s main concern is that illegal rentals in residential areas might eat up housing that could otherwise go to long-term residents, pushing the city’s housing prices even higher.

The city has been negotiating with Airbnb for more than a year on a framework for sharing its list. But the talks have come to an impasse, according to a resolution prepared by the mayor’s office. The company’s latest offer was a step backward, the resolution says.

The ordinance proposed would require Airbnb to limit its Portland listings to those included on a public registry of permitted short-term rentals, or else agree to provide the city with information on all its hosts.

In a statement, Airbnb didn’t directly address the ordinance or the city’s allegation that the company walked back from a deal: “Portland’s registration process continues to be difficult and so we appreciate the city’s efforts to try and streamline the process and remain committed to working closely with officials to make this happen.”

The approach replicates that of Santa Monica, California, which survived a legal challenge in federal court earlier this year.

Host2Host, an association of 250 homeowners who operate short-term rentals in Portland, generally supports the measure, saying hosts who aren't playing by the rules reflect poorly on the rest.

What's more, said Rob Hertert, a founder of the organization, they undercut the city's efforts to limit the effect of short-term rentals on housing costs.

"The regulations in Portland minimize that, but they have to be able to enforce it," Hertert said. "We're to the point now where it's hard to see how the policies can be enforced."

Portland has maintained a relatively friendly relationship with Airbnb even as the city sparred with the company's competitors.

Airbnb in 2014 announced plans to open an office with hundreds of employees in Portland's Old Town Chinatown, with then-Mayor Charlie Hales highlighting the move in his state of the city address.

Later that year, the Portland City Council legalized Airbnb's business model, for the first time allowing short-term rentals in private homes.

Soon after, the city signed an agreement with Airbnb for the company to collect and pay lodging taxes on its behalf of its hosts. Both hailed the agreements a model of cooperation.

In 2015, the city started trading lawsuits with Airbnb's biggest competitor, HomeAway, which declined to collect lodging taxes for its customers.

But a 2018 settlement with HomeAway appears to have put city's relationship with Airbnb on the rocks.

HomeAway agreed to share its roster of hosts with the city to aid in collecting taxes and ensuring the rentals are permitted, but only when Airbnb did the same.

That set off a year of negotiations with Airbnb, which the city says have proved fruitless. The company has declined to remove unpermitted listings and insisted on limiting what the user data can be used for, according to the resolution prepared by Wheeler's office.

Even as it's enjoyed a cordial relationship with Portland's city government, Airbnb has clashed with cities around the globe over strict short-term rental policies. The company sued Boston last year over the city's regulations requiring the company to police its own listings and share information about its users with the city. This year, Paris said it would sue Airbnb over hundreds of illegal listings.

Airbnb, headquartered in San Francisco, has a potentially pivotal year ahead. The company's chief executive has said it's preparing for an initial public offering.

Selling shares on the stock market could make its founders, early employees and investors a lot of money — but it could also expose the company to much greater public scrutiny, both in the lead-up to the offering and in subsequent regulatory disclosures.

Portland Council Overturns Chief, Finds that Officer Cited Woman for Jaywalking in Retaliation for her Filming Police

By Maxine Bernstein

May 16, 2019

Portland's City Council on Thursday voted 3-1 to adopt a citizen committee's finding that a Portland officer cited a woman for jaywalking outside North Precinct in retaliation for exercising her legal right to photograph police.

Mayor Ted Wheeler, who serves as police commissioner, was the lone council member to back Chief Danielle Outlaw's decision that Kristin Bowling's complaint wasn't proven or "not sustained." Commissioner Nick Fish wasn't present.

The vote marked the first time the council has overturned a Police Bureau finding on a complaint and then upheld the allegation, according to Rachel Mortimore, assistant program manager for the Independent Police Review, the intake center for complaints against police.

The decision came nearly two years to the date that the officer issued the jaywalking citation.

Wheeler, immediately recognizing that he was on the losing end of the vote, criticized the process.

He said it didn't seem fair that a simple majority of the council could overturn decisions of the chief and the police commissioner on what he called a personnel discipline matter.

Commissioners Jo Ann Hardesty, Chloe Eudaly and Amanda Fritz voted to overturn the bureau's finding and uphold the retaliation complaint against Officer Neil Parker.

"It's amazing," Bowling said after the vote. She thanked the chair and vice chair of the Citizen Review Committee, which hears appeals of bureau findings on complaints made by the public against officers.

About 5:15 p.m. on May 15, 2017, Bowling said she crossed Northeast Emerson Street while taking photos of armored vehicles entering the North Precinct parking lot, across from the Blazers Boys & Girls Club. She said she was concerned by the demonstration of police power as parents were picking up children from the club.

Parker told investigators he was driving the Special Emergency Reaction Team's armored truck, known as the Bear, into the precinct's lot and noticed a woman on Northeast Sixth Avenue who seemed very interested in the truck.

"She had a lot of disgust on her face, pulled out her phone and started following us down Sixth and onto NE Emerson. I watched in the passenger side mirror as the female walked out into Emerson Street to take photos or video of us," Parker told investigators, according to a summary report.

Citing a concern about a spike in police ambushes and vandalism to police property and cars, the officer said he decided to identify the woman and cite her for being in the road.

"It's just one of those, you know, she had made it so overt to me," Parker said. "It caught my attention enough, you know ... I don't care about people recording me but something about this whole event had spurred me on to at least want to go talk to her. And so, I was going to write her a citation for the improper placement on the highway."

Kristin Malone, who chairs the all-volunteer Citizen Review Committee, told the council at a prior hearing that the committee found the officer ticketed Bowling because she had been taking photos of police and appeared to be disdainful of the police tactical unit and its truck. She urged commissioners to consider the record before them and Parker's own statements.

Hardesty said overturning the chief's finding was the "only reasonable choice."

Eudaly said it was clear Bowling had committed a minor violation of pedestrian law, yet others were doing the same and weren't cited that day.

Fritz said she usually finds Outlaw's positions reasonable, but in this case, the commissioner said she couldn't based on Parker's own explanations to investigators about why he had stopped and cited Bowling.

Wheeler said he respected his colleagues but disagreed and then cited all the reasons he supported the chief's findings: The officer had noted there had been recent vandalism of police cars outside North Precinct. The officer observed a violation and had discretion to stop her. A judge had found the jaywalking citation lawful. The officer involved said he wasn't retaliating, Wheeler noted. And, a police commander, the chief, the director of the Independent Police Review all found the allegation couldn't be proven, he said.

The Police Bureau now must adopt the retaliation finding against Parker. But it's unclear if he'll face discipline for it.

Under the bureau's discipline guide, retaliation by an officer would draw discipline ranging from a two-day to three-week suspension without pay if it's the officer's first violation and there's no aggravating circumstances.

"I'm very eager to see what actually happens," Bowling said.

Officer Daryl Turner, who represents the officer as president of the Portland Police Association, said he couldn't comment, because the case will now go back before the chief to determine any discipline.

Willamette Week

City Commissioner Jo Ann Hardesty Signals Portland Mayor's Budget May Pass Without Her Changes

By Rachel Monahan

May 16, 2019

Hardesty's efforts to push for changes to the mayor's budget may not find support.

At a Portland City Council budget hearing Tuesday, City Commissioner Jo Ann Hardesty signaled that she believes her critiques of the mayor's budget may have little chance of passage.

"I understand maybe there was an agreement before I got here," said Hardesty, as she outlined her budget priorities, which include eliminating cuts to the parks budgets and transferring the police bureau's gun violence reduction team to patrol units. "But nobody told me about it,"

In a break from the usual practice at City Hall, Hardesty has critiqued the mayor's budget offering her recommendations, including eliminating funding for a possible ferry. And her

comment that the budget had been settled through private negotiations with the other commissioners was equally unusual.

At the hearing, City Commissioner Chloe Eudaly dismissed the idea that the budget had been decided in advance.

"I want to assure Commissioner Hardesty there was no agreement in advance on the budget," said Eudaly. "And if there was, I was certainly left out of that conversation. ...A few of us were left out."

Regardless, Hardesty's comments may be an indication that her proposals are unlikely to gain traction. But Hardesty dismissed the idea that the office had given up on pushing for changes to the budget.

"The budget is a moral document and I would be remiss if I did not offer this recommendation to move our budget closer towards reflecting our values as a city," she said in a statement. "I'm committed to working with my colleagues and their staff to find a way forward with my proposal."

The Portland Mercury

Should Portland Defund Its Controversial Gun Violence Team?

*By Alex Zielinski
May 16, 2019*

It's uncommon for city commissioners to introduce their own counter-proposals to a mayor's proposed city budget. Usually, commissioners' qualms with how the mayor divvies out city dollars are brought up behind closed doors or during a council work session—and ultimately reflected in the budget's final draft.

So when Commissioner Jo Ann Hardesty went public with a list of specific tweaks to Mayor Ted Wheeler's proposed budget earlier this month, City Hall raised its collective eyebrow.

But, after holding a community budget hearing dominated by public support of Hardesty's pitch, Wheeler added a few of Hardesty's suggestions to his budget, like flagging \$250,000 for community outreach in preparation for the 2020 Census and setting aside \$270,000 for anti-displacement work in East Portland.

There's one particularly contentious request, however, that Wheeler has refused to consider: Defunding the Portland Police Bureau's (PPB) Gun Violence Reduction Team (GVRT).

This particular department, previously called the Gang Enforcement Team (GET), faced harsh scrutiny in March 2018, after a city audit revealed GET officers disproportionately pull over Black drivers because "most gang shootings in Portland [are] committed by African American gangs." This open admittance to racial profiling enraged police accountability advocates, like Hardesty, who frequently referenced the audit during her city council campaign.

"There's a difference between community groups that work with young people to give them positive activities to be engaged and involved in and hiring 28 police officers who... ride around all day looking for gang members," Hardesty told the Mercury last week.

Hardesty suggests cutting the entire program and placing its officers on general patrol, where they can respond to the city's skyrocketing 911 calls and provide backup to other officers.

This is despite the city's attempt to redesign the controversial GET program in October 2018. According to PPB spokesperson Brad Yakots, the renamed Gun Violence Reduction Team (GVRT) has a new mission "to investigate and reduce all shootings regardless of the presence of a gang nexus." This transition expanded the 28-person team to 34. Since October, the number of monthly shootings in Portland have steadily declined.

In an email to the Mercury, Yakots said the new team relies heavily on analyzing forensic data pulled from firearms and bullets used in a crime, and focuses on all types of gun-related crimes, not just gang violence. But GVRT officers still conducts traffic stops. Yakots did not answer whether or not the GVRT has taken steps to reduce any potential biases regarding which drivers they chose to pull over and interrogate.

"Although this project has experienced some early success," Yakots said, "it is still considered relatively new."

In the past week, PPB Chief Danielle Outlaw and US Attorney for the District of Oregon Billy Williams have issued press releases arguing that the GVRT plays a critical role in Portland policing. Neither leader has addressed the main bias issue driving Hardesty's distrust of the program.

Royal Harris, a Multnomah County health employee and former gang outreach contractor with the city, says that data should resolve Hardesty's issues with the GVRT.

"Police were pulling over more Black people because 80 percent of the city's shootings were being committed by Black people," said Harris, an African American man who's been pulled over by the GET in the past. "We can't cherry pick data to change major policies."

While he saw issues with the way the city made generalizations about gang-involved youth in the past, Harris says he's hopeful that the GVRT will improve how PPB addresses gun violence—and improve public safety along the way. Harris says the name change is an important start.

"Language is important. Getting rid of the word 'gang' says we're moving away from identity-based policing to behavior-based policing," says Harris. "We're focusing on the behavior of gun violence, not racial profiling or suspected association with a gang. It's data-driven."

City Council will vote on Wheeler's proposed budget—with or without GVRT—on Wednesday, May 22 at 2 pm.

Lawyers Request New Trial for Protester Injured By Cop

*By Alex Zielinski
May 16, 2019*

Peggy Zebroski's not done with the Portland Police Bureau (PPB).

In April, the 68-year-old woman lost her case against the City of Portland for her injuries—both physical and emotional—sustained by a PPB officer during a 2017 rally against police brutality.

But Zebroski's lawyers are now arguing that the jury's verdict was legally flawed, and have requested a new trial.

Zebroski was injured during a February 20, 2017 protest against the fatal officer shooting of Quanice Hayes. After refusing to move out of SW Third Ave, where she and fellow demonstrators held a "Don't Shoot PDX" banner, Zebroski was grabbed by PPB Officer Adi Ramic and placed facedown on the street. Ramic used his knee to press her head into the cement, breaking Zebroski's nose in the process.

In court, Ramic said he grabbed Zebroski because he believed she was trying to pull an armored officer off a male protester to stop his arrest. Ramic said he didn't intend to hurt her.

Zebroski, however, said she was only trying to help her elderly friend who had fallen down. Zebroski requested \$200,000 from the City of Portland for the traumatic incident. The jury denied that request.

Zebroski's lawyer Michael Willes believes that the jury's verdict wasn't based on the trial's central question: Whether or not Ramic used excessive force against Zebroski. To explain this argument, Willes points to the verdict form jurors were asked to fill out, which poses these questions:

1. Did the use of force by police constitute a battery?
2. If yes, was the force excessive?
3. If yes, what were Peggy's damages?

The jury ruled that Ramic's use of force wasn't a battery, meaning they didn't even get to consider whether or not his force was excessive.

But, Willes argues, it's legally indisputable that Ramic's conduct was considered battery, which is defined as "intentionally touching or contacting a person in a way that is harmful or offensive."

Willes blames the city's attorneys for misleading jurors on the battery question by arguing that Ramic didn't mean to hurt Zebroski.

"The City argued throughout the trial that police never intended to harm Peggy," reads Willes' motion for a new trial, filed May 13. "But that was not the question before the jury. Rather, the question of battery concerned whether the police intended to contact Peggy in a way that was harmful or offensive. The undisputed evidence at trial established that the City did so."

The City of Portland has until next week to respond to Willes' motion. Circuit Judge Judith Matarazzo has already agreed to hold a hearing on Friday, May 31, to consider granting Zebroski a new trial.

Willes is one of three lawyers—with the Portland firm Tonkon Torp—representing Zebroski on the behalf of the ACLU of Oregon. Mat dos Santos, the ACLU of Oregon's legal director, says that Zebroski is eager to see her case through to the very end.

"From day one, Peggy has been fundamentally interested in the police being held accountable," dos Santos says. "Which is exactly what this new motion tries to accomplish."

Zebroski's case is only one of six cases the ACLU has filed accusing PPB of assaulted a protester. Her case is the first to be tried in court. Dos Santos expects the others to go to trial by the end of 2019.

"We want to demonstrate to the city and to the public that this treatment by police officers is a trend," he says. "It's not going away."

OPB

City Council Considers Proposal For Portland Harbor Cleanup Fund

*By Erin Ross
May 16, 2019*

Portland City Council is considering a new agreement with the state of Oregon to clean up the Portland Harbor Superfund site. In a meeting Wednesday, city commissioners were presented with the plan, which will provide a fund to start planning and designing cleanup projects.

The Portland Harbor Superfund site is a 10-mile stretch of the Willamette River, from Sauvie Island to the Broadway Bridge. Sediment at the bottom of the river is contaminated with pollutants from over 100 years of industrial use.

Over 150 groups, including the City of Portland, are considered responsible for the pollutants in the site. Rather than have each party enter into their own agreement with the EPA and the city, Portland and Oregon will each contribute \$12 million toward a fund that the groups involved can then draw from to create cleanup designs.

Under the agreement, that money cannot be used for administrative costs, or even to clean up the harbor: responsible parties will need to pay for that themselves.

The hope is that creating this fund will reduce administrative costs, while also allowing individual groups to customize their cleanup design plans based on the current and future use of their respective areas.

This agreement is designed to help Portland comply with the EPA's timeline, which has said that the city and groups responsible for cleanup efforts need to begin negotiating with the EPA by June 30, 2019. By setting up this fund, Portland and Oregon have made it less likely that the EPA will take enforcement actions against them for this phase of work.

"This is ... a creative and unique partnership, one we believe will propel forward the cleanup of the Portland Harbor Superfund Site," Nik Blosser, chief of staff for Oregon Gov. Kate Brown, said during the meeting. "It reflects our commitments toward making real progress to get the harbor cleaned up as soon as practicable."

The project got conditional support from at least one of the lead environmental groups watching the Superfund process in Portland.

"We're very excited that the city and the state are moving forward and taking a leadership role," said Bob Sallinger, the conservation director for the Audubon Society of Portland, who testified and tentatively supported the proposal. "We've been waiting 20 years to get to clean up."

The total cleanup project is expected to take 30 years and cost over \$1 billion. The Portland City Council is expected to look at the proposal again next week and likely vote on it then.