

The Oregonian

City-hired overseers find Portland police in ‘substantial compliance’ with DOJ settlement; community activists scoff at findings

By Maxine Bernstein

October 8, 2019

A team of Chicago-based academics hired by Portland to oversee the city’s settlement agreement with the U.S. Department of Justice on police reforms has found the Police Bureau in “substantial compliance” with every paragraph of the agreement, from changes to its use of force policy, response to people in mental health crisis and community oversight.

A judge approved the settlement in 2014, after a federal Justice investigation found police engaged in excessive force against people with mental illness and fired multiple cycles of Taser gun shocks unnecessarily.

According to Dennis Rosenbaum and his team, their rating of “substantial compliance” means the city and police have adopted systems of review and organizational changes to address problem trends, with new approaches to auditing and training.

Rosenbaum, of Rosenbaum & Associates, will present the report at a town hall forum on Oct. 22 at 5:30 p.m. at the New Song Community Church in Northeast Portland. The quarterly report covers from July to Oct. 2.

U.S. District Judge Michael H. Simon will make the final ruling when all parties to the case return to his court Feb. 25. The court retains oversight until a judge finds that the city has substantially complied with the agreement for one year.

In June, Simon said he wanted some assurances that the city’s new community group charged with overseeing police reforms is effective.

Rosenbaum found that the Portland Committee on Community-Engaged Policing “is functioning as a legitimate body for community engagement,” despite its sparse attendance. The group has spent much of its first months adopting bylaws and setting up subcommittees, filling vacancies from resignations and offering recommendations for a police bureau plan on how police can better connect with the public it serves.

It has created subcommittees on mental illness, race and ethnicity, youth and the settlement agreement. Last week, the City Council adopted a police “Community Engagement Plan,” that the chief and committee co-chair Lakayana Drury presented to council, a requirement of the settlement.

“In sum, we believe this group is engaging effectively with the community and PPB and has the authority to hold the PPB accountable for tactics and strategies linked to public trust,” Rosenbaum wrote.

The bureau’s new community engagement plan calls for increasing opportunities for public involvement with police, expanding and improving police communication with the public, ensuring the public can easily assess the bureau, particularly those who don’t speak English or have physical disabilities, and improving training to help police and diverse communities build trust with one another.

While Mayor Ted Wheeler, who serves as police commissioner, and Chief Danielle Outlaw praised the plan, Commissioner Jo Ann Hardesty criticized how long it took to draft one, noting it was a requirement of the 2014 settlement agreement.

“It was mandated by the DOJ. It took us a very, very, very long time to get a draft,” she said. “Once again, I’m concerned it was led by the police, not the community.”

Dan Handelman, of the police watchdog group Portland Copwatch, said Rosenbaum’s report suggests that “compliance is more about ‘did the City check the box,’ than it is about ‘did it produce the desired outcomes in a sustainable way.’”

Since the settlement agreement, the reforms to the bureau’s deadly force policy and training haven’t resulted in a decrease in police shootings of people in mental health crisis, Handelman said.

The adoption of a community engagement plan “is not the same as one that lends to community trust,” he said.

Amanda J. Marshall, an Oregon City lawyer who sits on the new community group’s subcommittee on mental illness, said the subcommittee believes there are some parts of the settlement that haven’t been fully met.

In particular, the settlement called on coordinated care health organizations to “immediately create addictions and mental health-focused subcommittee(s),” with input from Portland police, firefighters and dispatchers to “pursue immediate and long-term improvements to the behavioral health care system,” but that hasn’t occurred, its members say.

Some other highlights from Rosenbaum’s report:

--About 3% of all police custodies result in the application of force. Custodies include arrests, protective custodies, juvenile detentions, citations and encounters with juveniles or “non-competent” individuals who are returned to a parent, guardian or special facility, the report said.

--People with mental illness who have had contacts with police at least three times in a month and were referred for services to the bureau’s Behavioral Health Unit were becoming the subject of a new police call again within 60 days after that referral, the report said. To help reduce those contacts, a Behavioral Health Team officer and mental health responder focused on re-connecting with these clients to help prevent another police encounter.

From June through August, the bureau referred 66 people to the bureau’s Behavioral Health Unit. A new police Behavioral Health Response team is now assigned solely to connect with homeless people.

--The bureau has about 130 Enhanced Crisis Intervention Officers, patrol officers specially trained to deal with people in mental health crisis. In April, Enhanced Crisis Intervention officers responded to 75 percent of calls that met the criteria for dispatch of these officers.

The ECIT officers weren’t available to respond to six percent of these calls. Other times, a sergeant may have called off the specially trained officer from responding, the call was resolved prior to the officer arriving, or a patrol officer couldn’t locate a subject of a call, said Tom Christof, who is on Rosenbaum’s team.

The 75 percent response, Rosenbaum said, is consistent with other police agencies that have such a specialized response.

Enhanced Crisis Intervention Team officers are sent to calls when someone is in mental health crisis and is violent toward others, has a weapon or threatens he or she possesses one, is

threatening, or attempting suicide. They also respond to calls from a mental health facility, when a patrol officer requests the ECIT officer or a caller asks for one.

--Portland's Bureau of Emergency Communications revised its training of 911 dispatchers to reinforce the notion that "when in doubt, send them out," to a call.

Calls for Enhanced Crisis Intervention Team officers increased from 1,578 between April and August 2018 to 1,891 during the same period this year. It's still a small proportion of the total police calls for service, representing 1.6 percent of all calls for service in 2019.

The bureau found that one officer who hadn't completed training as an Enhanced Crisis Intervention officer, after missing half of a class, was still listed among those specially trained officers available to respond to calls. The problem was an isolated one and corrected, Rosenbaum's report said.

- The bureau's fall annual refresher training for officers included a refresher course on police response to mental health crises, with instructors discussing relevant police directives, de-escalation and disengagement, with role-playing scenarios.

The bureau, Rosenbaum found, has designed and offered a training curriculum that "should strengthen officers' procedural justice skills, especially during encounters that run the risk of escalating to force applications." Scenarios were realistic and officers received constructive feedback, the report said.

-- The bureau has an approximate 5 officers to 1 sergeant ratio across the three precincts, an acceptable span of control.

-Though the co-chair of the new community-engaged policing committee and leaders of the city's Mental Health Alliance have urged the bureau's Behavioral Health Unit Advisory Committee to hold meetings in public, Rosenbaum said it's not required. He urged the behavioral health group, though, to put "non-confidential" minutes of its meetings on its website as soon as possible and suggested the group "seek avenues for additional community member participation."

"While we were provided the meeting minutes in PPB's supporting documents, we note that they do not appear on the (Behavioral Health Unit Advisory Committee) website," Rosenbaum's report said.

As of Tuesday, the most recent monthly meeting minutes on its website were from June. In those minutes, it was reported that roughly 9 percent of police calls include a mental health component, and the average weekly caseload for the Behavioral Health Unit is around 45 to 55 referrals, but that seems to be increasing.

--While there hasn't been the increase in community-based mental health facilities as called for under the settlement agreement, such as rapid-access clinics or drop-off centers, Rosenbaum's report said the Police Bureau can't be penalized for the lapses.

Commuting horror stories: Public masturbation, stolen cars, nudity and distracted drivers galore

By Andrew Theen

October 9, 2019

Last October, I was riding my bike home past the east side of the Moda Center when a man walked out of the brush near a homeless encampment on the right side of the road abutting Interstate 5.

I saw him moving in my peripheral vision, and when I looked up into the spitting rain as I pedaled uphill, he was standing in the bike lane and had a handgun trained at my face from mere feet away.

I screamed and tried to turn left.

He pulled the trigger.

I still don't know whether it was a BB gun or an Airsoft model or what. I was not physically injured, aside from a welt on my neck. I tweeted about the experience but decided against writing about it. It was a one-off random incident, a scary one, but there are so many more terrible things that happen to people who live outside on a daily basis, or to other Portlanders.

The police responded and checked it out. I couldn't properly identify the guy.

Since then, I've become hyper-aware of what's going on around me when I bike to and from work. And I've seen it all: men masturbating in public; people driving while smoking pot, and people embroiled in all manners of distress.

Is it any wonder I've memorized Portland's non-emergency hotline phone number?

I'm conflicted by the whole development. Most of my calls, I assume but cannot definitely confirm, are related to people experiencing homelessness.

During the past year, I've often wondered if I should be calling 911, the non-emergency number, a social service agency, 411, or if I should do nothing at all and just go about my day. Every time I see something on my commute that rings the proverbial alarm bell, for myself or what I assume is a person living on the streets, I do a quick mental calculus: Is this worth a call? And to whom?

I often don't know what to do.

In conversations with friends, colleagues, emergency officials, police representatives and social service advocates, it's clear I'm not alone. A peek at the dispatch records make that clear, too. So far this year, 365,721 calls were made to 911. Another 285,687 calls were placed to the non-emergency line. In 2018, there were 376,673 such calls, 11% more than the previous year.

As Willamette Week reported this February, calls to 911 involving "unwanted persons" have jumped more than 60% since 2013. The

city's formal definition of an unwanted person is where "the subject is refusing to leave or is impeding access to a location," but officials confirmed a large number of those calls involve people experiencing homelessness.

"We have this huge gap in our response system that we have to really fight," said Kaia Sand, executive director of Street Roots.

It's why Sand, Commissioner Jo Ann Hardesty, Mayor Ted Wheeler and other public and private leaders hope a new effort to help divert calls about homelessness from police to a new Street Response Team will pay big dividends. More on that in a bit.

But I've wondered why it is I keep calling. Is this this just part and parcel of being a father of two young children who has a newfound concern about basically everything around him?

Is this a byproduct of my privileged relationship with law enforcement as a white man, where I assume officers will respond to my calls in the first place and I'm more trusting of the potential ramifications for whomever is involved if and when they do show up?

Is it because of our dueling housing and homelessness crisis, our degraded mental health system, a lack of focus on traffic enforcement or my decision to ride a bike that I've suddenly been in a position where calling the authorities is a common thing?

Or am I this guy now this just because I keep unwillingly witnessing men masturbating in Waterfront Park?

I've had many reasons in the past year to take out my phone and call. Most of these situations have toed the line, in my internal estimation, on being an emergent situation.

So, I've opted, largely for the non-emergency line (503-823-3333).

On at least two occasions in the past year, I've called 911 on my way home. I've struggled with whether that was the right decision, too. I don't want to make things worse for anyone.

According to my paper's own reporting, 52% of Portland police arrests in 2017 were of homeless folks. The vast majority (86%) were for nonviolent crimes and most were for property, drug or low-level crimes.

Then there was the day, a few months later, when I saw a dude smoking a joint and driving erratically on North Interstate Avenue while on his phone. I called 911 this time and described the vehicle and the location. I soon got a call back, thanking me that the car was reported stolen. I don't know what happened with that call.

During the past several months I've repeatedly seen men openly masturbating on Waterfront Park near the Steel Bridge. It's sad on so many levels. Change your route, you say? I saw another man on the esplanade doing the same thing a few weeks later. I called the non-emergency line twice in those instances.

Then last Wednesday, again in Waterfront Park as I rode north, I saw a woman sitting with no pants or underwear against a wall, sprawled out with legs into the multi-use path.

I called the non-emergency line again, one of the more than quarter-million calls to that 10-digit number this year.

I asked Lt. Brad Yakots, a Portland Police spokesman, whether I was doing the right thing. "Yes, those would be a non-emergency type of call," he said. "We don't have any resources, regarding trying to abate that type of activity, as of now."

I asked Yakots if I made the right call by dialing 911 after the gun scare. "Lord, yes you did."

"There are many reasons to call 911," he said. "The common theme is a situation involving a serious threat to life or property AND it is occurring now. We understand that the situation is an emergency to you, but we must prioritize our call load to help those with life threatening situations first."

The city's Bureau of Emergency Communications has a slightly different viewpoint.

“We don’t want anyone to ever hesitate to call 911 if they’re ever concerned about something,” said Dan Douthit, an agency spokesman.

But he also there’s always been an issue with people calling 911 when they shouldn’t. “We’ve had a need to refer people to non-emergency,” he said. “Quantifying the exact number of 911 calls that should have started at non-emergency is difficult. And ultimately we always want people to call if they perceive an emergency.”

So, what else can people do?

Denis Theriault, a Multnomah County spokesman, said depending on the situation, people could also call the county’s mental health crisis number, at 503-988-4888. But those responses may not be quick enough.

But Theriault said calling 911 could be an option in many instances, but people should be deliberate in how they approach the call. They can say, “I’m worried about this person,” Theriault said. “I’m worried that they’re in imminent harm.”

Douthit agrees that calling 911, especially if someone is naked, makes sense.

“If someone is naked and it’s December, they are in danger,” he said.

There’s also hope that a new option is on the way, one modeled off of a similar program in Eugene.

One that could address my concern about sending uniformed officers alone to every non-medical call. Something that overly burdens the officers and doesn’t always make sense for anyone involved.

“We know with some of these calls a uniformed response is not the right approach,” Douthit said.

A pilot program for the Portland Street Response team will head to City Council next month for approval. Portland is budgeting \$500,000 for that program.

“That’s exactly the kind of thing that the Portland street response should be able to respond to,” Sand said, when I described my waterfront incidents.

But she said that’s just a start, and Portland needed to throw its weight behind the nascent Street Response Team program – so cops aren’t responding to every call and a crisis counselor, mental health worker or peer support person can be there to help.

“What it’s really going to take is everyone advocating that this happen,” she said.

I asked Sand what she meant by everyone.

“Everyone,” she said.

Because people like me keep calling.

The Portland Tribune

Lawyer: City Council will repeal URM warning requirements

*By Jim Redden
October 08, 2019*

The first hearing on the repeal is scheduled for Oct. 23 and the vote is expected the following week

The City Council will consider repealing the requirement that owners of unreinforced masonry buildings must post signs warning that the structures are dangerous in earthquakes on Oct. 23.

According to attorney John DiLorenzo, who is representing some URM building owners in a lawsuit against the city, the council has agreed to repeal the requirement to settle the suit. Oregon U.S. District Court Magistrate Judge John Acosta issued a preliminary injunction preventing the city from enforcing the requirement on May 30 after ruling the building owners will probably win their suit, which claims the requirement will irreparably harm their federal free speech rights.

The council will also consider repealing a requirement that URM building owners include warning in their tenant leases, too.

"The City opted to NOT appeal the decision by the Federal Court. Instead, they will fully repeal the ordinance, which eliminates the placard and disclosure requirements for ALL buildings," DiLorenzo wrote in an Oct. 8 email to the members of Save Portland Buildings, which advocates on behalf of URM building owners.

In the email, DiLorenzo says the council is expected to approve the repeal at a second hearing the following week on Oct. 30. If not, DiLorenzo said, Acosta will require Mayor Ted Wheeler, who is in charge of the Bureau of Development Services, and Commissioner Jo Ann Hardesty, who is in charge of Portland Fire & Rescue, to appear before him.

"If City Council fails to work toward repeal, Federal Judge Acosta has ordered Mayor Wheeler and Commissioner Hardesty to appear in-person on October 24th and or 31st. If City Council repeals, as promised, those court appearances will be cancelled," wrote DiLorenzo, who is representing the Masonry Building Owners of Oregon, which filed the suit.

Following the repeal, the city is expected to appoint a committee that will recommend alternatives for warning people that URM buildings may be dangerous in earthquakes.

Many building owners objected to the requirement before and after it was approved in 2018, saying it will discourage people from entering their buildings and reduce their value. They also said an agreement the city is requiring them to sign and record with their deed is an encumbrance that could affect their ability to sell or borrow money against their buildings in the future.

The requirement championed by former Commissioner Dan Saltzman passed on a 3-to-0 vote with commissioners Chloe Eudaly and Nick Fish absent. After Commissioner Jo Ann Hardesty succeeded Saltzman on the council in January, she pushed to delay its enforcement. The council agreed and postponed the requirement for privately owned buildings until November 2020 and waived the recording requirement, but said new leases would have to include warning language. The owners argued both future requirements would violate their free speech rights against being compelled to say something they did not believe by government. Acosta agreed.

Business group endorses boost in housing density

By Jim Redden

October 09, 2019

Panelists suggest Business for a Better Portland is a counterpoint to neighborhood associations that oppose city efforts to effectively eliminate single-family zoning

When the City Council finally votes on long-anticipated programs to increase residential density, it can expect enthusiastic support from the members of Business for a Better Portland, a young but growing small business organization that embraces progressive policies.

Unabashed support for more housing — including the effective elimination of single-family zoning called for in the controversial Residential Infill Plan — was on display when the organization held an evening discussion on housing policies in Northwest Portland on Thursday, Oct. 3.

Approximately 200 business owners and others showed up at the event. It included talks by three guest speakers involved in getting government to allow or create more housing: Democratic Portland-area Rep. Earl Blumenauer, who called on the federal government to create more public housing across the country; Portland Bureau of Planning and Sustainability Director Andrea Durbin, whose agency is preparing the new programs for council consideration; and Ernest Brown, a board member of the Oakland, California-based East Bay for Everyone, which is lobbying California and local leaders for more homes to reduce housing costs.

Calling housing a fundamental human right, Blumenauer said the nationwide affordable housing crisis is the result of "conscious housing policy decisions made year after year," including lending discrimination and public subsidies for expensive single-family homes. He said the nation must "atone" for them.

The evening also featured a discussion by a panel that included Brown and Marisa Zapata, a Portland State University urban planning professor, who said she believes all housing should be socialized to guarantee everyone has a home they can afford. Zapata also is the director of PSU's Homelessness Research & Action Collaborative.

"I want to decolonize my whole orientation toward housing," said Zapata, who called the idea that we should all aspire to homeownership a lie rooted in racism.

Some of the speakers characterized Business for a Better Portland as a counterpoint to neighborhood associations, which they accused of fighting higher residential densities to preserve the privileged lifestyle of single-family homes supported by racist housing policies.

Brinks Communications founder Leslie Carlson said she has tried, but failed, to change the minds of some association members on the issue, and accused them of professing progressive values that they do not believe.

The final panelist, Hope Beraka, a principal broker at Think Real Estate, said that she had been slow to understand the problems caused by single-family zoning. However, after looking into the arguments of the neighborhood activists that oppose demolishing existing homes to produce more housing, she realized they were wrong.

Brown said he was an early member of the YIMBY movement, meaning Yes in My Back Yard, which he said started in the San Francisco area in opposition to NIMBYs (Not in My Back Yard) who oppose additional housing.

"We must build more housing," said Brown, whose organization also supports renter protections such as those approved by the council.

Organization Executive Director Ashley Henry said Business for a Better Portland was founded in February 2017 as an alternative to existing business organizations active in city politics. She credited Blumenauer with inspiring its creation, calling him the organization's "patron saint." Since then, it has grown from 15 to almost 400 members.

Ashley said that most small business owners could not spare the time to testify at council meetings, and said the organization was their "outsourced government affairs arm and civic engagement on-ramp."

Durbin invited those at the event to become involved in the Housing Opportunities Initiative, the name recently given to a trio of proposed housing policies working its way through the city approval process. One, Better Housing by Design, is intended to improve the design and encourage the production of apartment buildings. The second council hearing on it is scheduled for Nov. 9.

Another policy, the Residential Infill Project, would allow up to four units on practically every residential lot in the city. It is opposed by many neighborhood associations and is expected to be the first considered by the council in December.

The third is an anti-displacement policy that is still being written.

Every speaker expressed concern over residents being displaced by the development of additional housing, with Brown saying the preservation of existing homes should be a priority that would help reassure those opposed to higher densities. He did not say where else the additional housing he supports would be built, however.

The speakers also worried that not many residents would be able to afford much of the new housing that will be built, even though most of the units will be smaller than current new single-family homes. Beraka said if policies are not enacted to guarantee long-term affordability, "we will have failed."

The event was held at Red Fox Commons, a former warehouse that has been redeveloped into Class A office space near where a proposed extension of the Portland Streetcar line that will end within blocks of Montgomery Park.

Sources: Wheeler defies protesters, meets with global mayors

*By Jim Redden
October 09, 2019*

Plus, Outland housing activist teases Portland and Iannarone did not complain about Sondland before

Mayor Ted Wheeler rejected one of the five Climate Strike protester's demands by attending the 2019 C40 World Mayors Summit this week in Copenhagen, Denmark.

The summit is sponsored by a coalition of large global cities committed to reducing their greenhouse gas emissions, including Portland.

Organizers of the Sept. 20 protest demanded that Wheeler skip the summit unless the city complied with their other four demands, which included declaring a climate emergency and stopping the expansion of the Zenith oil terminal expansion. None of them happened.

Wheeler invited leaders from TriMet and PGE to accompany him to the conference, which is from Oct. 9 to 12. He plans to present information on the community-led Portland Clean Energy Fund and other city policies to reduce emissions at the conference.

Sound like any place you know?

Oakland housing activist Ernest Brown teased Portland about its whiteness during last week's housing policy discussion hosted by Business for a Better Portland.

Brown is a board member of East Bay for Everyone, which is working to boost home density to reduce housing prices in the Oakland area.

Speaking to the nearly all-white crowd at the Oct. 3 event, Brown said he wanted to talk about "white hypocrisy," which is when white liberals say they support the goals of minority communities but don't do anything to help achieve them.

"It's when you have more Black Lives Matter signs than black lives," Brown said to nervous laughter from the 200 or so small business owners at the event.

Iannarone's selective outrage

Mayoral candidate Sarah Iannarone has demanded that Mayor Ted Wheeler return \$15,500 in campaign contributions he has received over the years from local hotel owner Gordon Sondland, who has become ensnared in the Ukraine scandal as U.S. ambassador to the European Union.

"Portlanders expect and deserve elections to be free from the money and influence of people like Mr. Sondland who have actively worked to subvert democracy," Iannarone's campaign manager Gregory McKelvey said in a news release last week.

However, maybe Iannarone should have read the campaign finance filings a little closer. Sondland also gave \$3,100 to Mayor Charlie Hales in 2012. At the time, Iannarone was working with Hales' wife, Nancy, at Portland State University. Sondland also gave \$5,000 to Metro's affordable housing bond ballot measure in 2018, which was supported by every progressive in the region.

Willamette Week

The Portland Water Bureau Wants to Purchase a Six-Bedroom Mansion in Gresham. That's Raising Eyebrows.

*By Kelsey Harnisch
October 9, 2019*

Cost estimates have skyrocketed on the construction of a nearby water filtration plant.

The Portland Water Bureau hopes to purchase a six-bedroom, 3,825-square-foot Gresham mansion as a storage center for construction of a nearby drinking water filtration plant.

The \$800,000 purchase was scheduled for a City Council vote this month—but that vote is being delayed while Commissioner Amanda Fritz examines the plan. The Water Bureau says it picked the home because it's across the street from the 90-acre construction site for the filtration plant.

But it's the latest price tag to raise eyebrows on a project for which cost estimates have risen from \$500 million to \$850 million.

"This is obscene," says Dee White, a longtime critic of the bureau. "Here we have an affordability crisis going on in Portland, and the Water Bureau is using our hard-earned money to buy their engineers a mansion for their job shack? Why can't the Water Bureau use temporary trailers at the site like every other cost-conscious outfit in the U.S. does? We're talking \$800,000 in ratepayer funds for a frat house for the engineers."

The bureau says the property is useful because it's adaptable to several purposes.

"The property could provide a range of uses," says bureau spokeswoman Jaymee Cuti, "including a potential location for a pipeline, as a point for site access...or as a staging and storage location during the construction of the project."

But the bureau's impending purchase of the custom ranch-style home—with six bedrooms, a gourmet kitchen and a hot tub—has become a flashpoint for Gresham residents who don't like having the filtration plant built nearby in the first place. (They've started an advocacy group called Citizens for Peaceful Rural Living.)

"The main reason we moved here was for the character of this neighborhood," says Doug Silton, whose property is across the street. "I literally see herds of elk and deer on my property almost every day."

The Daily Journal of Commerce

Big builders placed under tax umbrella

By Chuck Slothower
October 8, 2019

In November 2018, Portland voters were asked to support a 1 percent gross-receipts tax on large retailers to fund green-energy projects and job training. The tax was promoted as applying to "large retail corporations, such as Wells Fargo, Apple, Comcast and Banana Republic," according to campaign materials.

Nearly a year later, clients of large construction companies are surprised to find themselves footing the bill. Major institutions such as Oregon Health & Science University have told general contractors to include the tax in projected budgets, and some pending project teams are waiting on further clarity.

"What was sold to voters is it was a tax on large retailers," said Dan Drinkward, vice president of Portland-based Hoffman Construction. "We were surprised by the guidance that came out of the city that said it applied to construction firms, and we are working with the city and have had informal conversations with other stakeholders to try to clarify the rules so it would not apply to construction firms."

Months after the measure's passage, the city's Revenue Division in April interpreted the initiative's wording broadly, issuing guidance that construction firms and other service providers qualify as retailers subject to the tax.

"Basically, construction is a service," said Scott Karter, spokesman for the Revenue Division.

The city so far has collected about \$11 million from the tax, Karter said. The Revenue Division declined to specify how much of that came from the construction industry because, he said, it could lead to identifying individual taxpayers.

The Portland Business Alliance is leading an effort to persuade the City Council to carve out exemptions.

“I’m very hopeful that those conversations will be fruitful and the clarification will come through the city that construction is not affected,” Drinkward said.

It’s not clear what degree of support a construction exemption has among commissioners. A spokesman for Mayor Ted Wheeler, who controls the key bureaus, declined to comment.

With the possibility of a change in city policy uncertain, developers, builders and clients are beginning to take the tax into account.

“The uncertainty is affecting projects right now,” Drinkward said. “It’s a significant impact to project budgets. Schools, hospitals, airports and other important projects are grappling with how to put this into their budgets, adjust their scope, or otherwise plan for this.”

OHSU has directed its general contractors to include the 1 percent tax as a budgeting line item, and to incorporate the tax into the guaranteed maximum price, according to a Sept. 17 email from Jennifer Taylor, OHSU’s director of design and construction, to general contractors.

“OHSU is aware of a potential cost increase associated with the city’s clean energy surcharge,” spokeswoman Tracy Brawley stated in an email response to questions. “Until the city presents its plans for implementing this program, the specific impact to OHSU is unclear.”

The tax essentially adds 1 percent to the cost of any large project. Drinkward gave the example of the new Lincoln High School, an upcoming Portland Public Schools project with a \$200 million price tag. The tax could affect what ends up being included in the project, he said.

“You know, it’s \$2 million,” he said.

The tax applies to all “retailers” with more than \$1 billion in annual global revenue, and \$500,000 in revenue generated within the city of Portland.

While the revenue data of the privately held major construction firms are not public, industry officials said firms including Hoffman, Fortis, Turner, Skanska, Mortenson, JE Dunn, Kiewit, Howard S. Wright and Knife River are likely subject to the city’s tax.

A representative of a business-backed tax policy group said Portland’s gross-receipts tax, which was passed by initiative rather than the legislative process, was not drafted artfully.

“They attempted to create a retail sales tax borne by business, and in doing that, they created a whole bunch of issues,” said Nikki Dobay, Portland-based senior tax counsel for the Council on State Taxation, a policy and advocacy group based in Washington, D.C.

“There’s no definition out there of a retail service,” she said. “That’s going to be a major issue for many taxpayers.”

Traditional retail sales taxes, of course, are paid at the point of sale. That is not the case for Portland’s gross-receipts tax.

“They’re trying to implement it in a manner more similar to an income tax,” Dobay said.

Portland’s construction industry has enjoyed flush years since the Great Recession, riding population and jobs growth that brought expansions in the office, multifamily, hospitality and

industrial sectors. Even with warning signs of a slowing global economy, hundreds of millions of dollars in voter-approved school and affordable housing projects should continue to buoy the local construction industry, Drinkward said.

“What this tax could do is push some development out of Portland,” he said.

On Sept. 25, the City Council appointed five people to a newly created Clean Energy Fund Benefits Committee that will award grants generated by the tax revenue.

The Portland Observer

In the Middle of a Fight

By Beverly Corbell

October 9, 2019

Candidate opposes former boss and code change push

A proposed change to city code by City Commissioner Chloe Eudaly to lessen the power of neighborhood associations to better serve diverse and underserved populations has become a contentious issue. One of Eudaly’s chief critics is her former employee, public policy consultant Mingus Mapps, who plans to run for her seat.

Eudaly fired Mapps last summer, unjustly he says, but that’s not why he is running.

“I’m not running because of Chloe,” he said. “I’m running because of what I think I can bring to the job. In terms of this specific process, no one, including the commissioner, is saying the process worked well and is right. So I don’t think there’s any debate that something is seriously off the rails here.”

Mapps is a southeast Portland resident with deep community ties. He was the fourth member of his family to graduate from Reed College. He has a PhD in government from Cornell University and before work for the city of Portland he was employed by the Portland School District and Multnomah County.

Eudaly’s push to change city code has advocates in Portland’s communities of color, including leaders from the Latino Network, the Portland African American Leadership Forum, the Coalition of Communities of Color, Good in the Hood, COFA Alliance National Network, Diverse and Empowered Employees of Portland, and the Native American Youth and Family Center.

Joy Davis, executive director of the Portland African American Leadership Forum, stated her support for the reforms in a letter to the mayor and city council.

She described the benefits of a new inclusive process of decision making in Portland that “puts into the center communities that have been historically excluded and/or disproportionately impacted by decisions made in the past.”

For more than a year, a 25-member volunteer committee has worked on provisions for revising the code surrounding the city’s 94 neighborhood associations. In her online blog, Eudaly addressed a recent delay in presenting the proposal to the full city council after strong opposition by neighborhood associations, saying a new date of Nov. 14 has been designated for its approval which would allow the council more time to consider the changes and have a “public conversation” before the council votes on the final package.

But Mapps argues that there should have been more of a public process before now.

“Clearly residents feel like they haven’t been heard and had a fair chance to participate in this discussion,” he said. “I also worry and don’t understand why the city isn’t focusing on trying to strengthen neighborhood associations instead of taking a step away from them. I’m utterly mystified by that.”

Mapps said the current process has missed opportunities to fix things in the code that are broken.

“For example, no one is happy with the grievance process for neighborhood associations and many neighborhood associations want to do creative new things, like partner with business associations that could be really exciting and innovative,” he said. “But you can’t do those because of restrictions placed in the current code. We should go in and change that so our neighborhood associations can reinvent themselves for the 21st century.”

Mapps also objects to Eudaly’s changes to the city’s former Crime Prevention Program, which oversees Neighborhood Watch programs by changing its name to Community Safety and eliminating foot patrols led by Portland police.

“Public safety is a partnership between the police, the city, the county, the district attorney and the public, and any time you say, ‘You’re not part of the safety solution,’ it’s like trying to box with one hand tied behind your back,” he said.

Mapps said pushing the police out of the discussion is similar to reducing the impact of neighborhood associations without first trying to find a consensus among all the players.

“It really does take a whole village to make a village safer,” he said. “In the meantime, when we exclude people from the table – a theme that some up over and over again at City Hall – we are literally undermining our own process here.”

The city bureau that covers neighborhood associations was called the Office of Neighborhood Involvement when it was headed by Commissioner Amanda Fritz and now is the Office of Community and Civic Life under Eudaly. The two have publicly feuded over the proposed code changes, with Eudaly accusing Fritz of “gross mismanagement” when she oversaw the bureau.

Eudaly has said that the purpose of the code change is to bring more Portlanders into the fold to influence city decisions. A one-page flyer on the city website with the heading, “The Impact of the Code Change,” states that the office “must work to fortify new avenues for communities who historically haven’t walked the path limited to those with privilege.”

The flyer states that the updated code will direct the city to invest in and work with organizations that promote the common good, establish a new foundation for a more racially and socially inclusive Portland, and empower the office of Civic Life to work more closely with other city bureaus.

Eudaly said she is building on former Mayor Tom Potter’s work to revise the neighborhood association code a decade ago. She is also responding to a 2016 audit of the bureau that said the bureau was not doing a good job of engaging all the city’s residents. Mayor Ted Wheeler assigned Eudaly the task of revamping the department.

But Mapps said the discord around the code change, which has not received support from other commissioners, has made the current effort unworkable.

“I really think we might have to start the process all over,” he said. “The process is tainted and I see a lack of trust on both sides of the table. It’s worth putting in the time to get this right. If we don’t, we run the risk of doing real harm to the public trust.”

Neighborhood associations aren't perfect, Mapps said, but they are required to not be discriminatory and he's concerned those protections might disappear with the proposed changes.

"If we wash our hands of the neighborhood association family, the city really loses its ability to demand that (they) are inclusive," he said. "I think it's important to get this right and the first step is that we begin to listen to each other again."

Mapps said the issue has been so contentious that many people think the end result will be inadequate.

"It's a bad process and a bad product," he said.

Others disagree, such as Amanda Manjarrez, director of advocacy at the Latino Network.

"Latino Network supports the code change because we believe that broadening opportunities for marginalized communities to engage directly with city government is a clear starting point to making our city more welcoming and inclusive," she said.

Marcus Mundy, another supporter and the executive director of the Coalition of Communities of Color, was a member of the committee charged with working on recommendations to the code.

"Each proposed change reflects the committee's desire to include more residents into the process of government and, despite a surfeit of misinformation to the contrary, does not remove neighborhood associations from participation or consideration," Mundy wrote. "What it specifically does, however, is to extend the privilege and right of civic engagement to more residents."

Push for Changes in Police Contract

By Beverly Corbell

October 8, 2019

Advocates outline priorities in open letter

Several activist organizations have weighed in early on upcoming contract negotiations between the city and the Portland Police Association, the union representing police officers.

In a recent letter to the Portland City Council, the signers from 20 local civic and civil rights organizations say the last police contract was unfair to the public while claiming provisions of the current contract "create barriers for an effective oversight system for complaints and for disciplining officers for excessive use of force." The opposing groups include the Portland NAACP, the League of Women Voters and the Albina Ministerial Alliance.

One major complaint, says one of the signers, Andrew Riley of the nonprofit Unite Oregon, is the way negotiations are handled.

"We had a problem in the past because a lot of meaningful portions (of the last contract) were negotiated in secret," Riley said. "We had public hearings to discuss some issues, but reached no conclusions, but then things were agreed on in private sessions."

Daryl Turner, president of the Portland Police Association, said he had not read the letter, but that discussions have not yet begun on just how negotiations will be handled this time or exactly when they will begin. The contract ends in June of 2020.

“We haven’t got to that point yet and until that happens there’s nothing I can speak about,” he said. “Those conversations will take place once we start negotiations, maybe in mid-January or early February, but I don’t know. It’s still up in the air.”

Riley says the current system of civilian oversight “does not work” because an independent civilian review of police activities has no teeth.

“The independent police review doesn’t even have the power to compel officers to testify and also has no authority for discipline,” he said.

Riley said to have real oversight, citizen review groups should be able to interview officers and recommend discipline, powers they don’t have at present.

The letter says officers should be held accountable for using excessive force or “exhibited racism or other oppression against targeted communities” and that provisions in the current contract “severely limit the scope of misconduct investigations and narrowly restrict how discipline is handled.”

Other concerns are the lack of public trust, the letter states, because between April 2018 and July 2019, Portland police officers “killed eight people, shot at several more and launched severe assaults on unarmed demonstrators.”

Riley said he is also concerned that Portland cops are not required to have body cameras and currently don’t wear them.

“That seems really strange,” he said. “And assuming they get body cameras, we want to make sure they (police) cannot review (footage from the camera) before they write their report. That seems ripe for abuse.”

Will Layng, executive director of the nonprofit Portland Jobs With Justice, agrees that there needs to be a better police union contract.

“We need a better understanding of how policing has affected communities of color in our city, the role of what police administrators and administrators of the department and the city can do to ensure that racist and other bad behaviors are held accountable,” he said. “That includes the contract itself and how the city enforces it. We need improvements on both sides.”

OPB

Protesters Sue Portland, Alleging Excessive Police Force

By Meerah Powell

October 8, 2019

Three Portlanders who were injured last year in a self-described “counter-fascist protest” filed a civil rights lawsuit Monday against the city.

The lawsuit states the Portland Police Bureau violated the plaintiffs’ rights by using unlawful, excessive force against them when police shot rubber bullets and aerial munitions and hit people with batons.

The plaintiffs are Aaron Cantu, James Mattox and Tracy Molina.

They were protesting an Aug. 4, 2018, rally in support of Joey Gibson's campaign for a Washington state U.S. Senate seat. Gibson is the leader of Patriot Prayer, the Vancouver-based far-right group that attracts white supremacists and has engaged in violence.

The legal complaint states Cantu was struck in the head with a projectile police fired at him. He was wearing a bike helmet, and the projectile penetrated it.

"Eventually, a medic got Mr. Cantu to a hospital," the plaintiffs said in their lawsuit. "Mr. Cantu had suffered a traumatic brain injury, likely one that would have been fatal had he not been wearing a bike helmet."

Cantu still suffers from dizziness and tinnitus more than a year after the incident, the lawsuit states.

The lawsuit also claims Molina was wrongfully arrested.

During the event, according to the legal complaint, she was following police orders to move along the sidewalk while carrying a sign which read, "Hey Racists Stop Making Your Ignorance Our Problem Grow Up or Go Home."

The complaint states that a Portland Police Bureau officer grabbed Molina's protest sign from behind, an action which surprised her, and she then turned around to hold on to her sign.

"An officer then knocked her to the ground with such force that she fell and rolled into the middle of the street, where a large group of officers dog-piled her in a tackle and arrested her," the complaint said.

Molina was charged with attempt to commit a class C/unclassified felony; disorderly conduct; and interfering with peace/parole and probation officer.

She pleaded not guilty, and the case was dismissed in her favor.

Mattox, the third plaintiff, said a police officer fired "less lethal" rubber bullets at him multiple times as he was "flipping off the officers and shouting profanities."

One bullet hit him in the arm and caused a large gash, according to the lawsuit.

The plaintiffs' legal complaint states Mattox was retaliated against for engaging in free speech.

"My clients want change from this department, and an acknowledgement that what happened that day shouldn't have happened," said Juan Chavez, an attorney with the Oregon Justice Resource Center who is representing Cantu and Molina. "We have yet to see from the city an acknowledgement that what happened that day was a travesty."

Chavez said that throughout the day of Aug. 4, Patriot Prayer members refused to follow police orders, yet police paid more attention to the actions of counter-protesters.

"There's videos of Mr. Gibson walking into the crowd. He crosses the police line into the group of counter-protesters, trying to rile them up," Chavez said. "You didn't see a single police officer trying to stop him from doing that. When other folks were doing that, they were getting detained or they were getting told to go back, but not Mr. Gibson."

The lawsuit claims the police bureau used excessive force that violated the plaintiffs' First, Fourth and Fourteenth Amendment rights. It requests a jury trial.

A Portland official said the city cannot comment on pending litigation.