

The Oregonian

Portland voters to decide on new rules for Bull Run watershed, spending ratepayer money to help other cities

*By Everton Bailey Jr.
October 28, 2019*

Two proposed Portland charter amendments related to the city's water system are on the Nov. 5 ballot.

Portland voters are being asked to decide whether to increase protections for the Bull Run Watershed and whether to allow the Water Bureau to spend ratepayer funds to help other cities, tribes and utilities during emergencies.

Both measures are sponsored by Commissioner Amanda Fritz, who oversees the Portland Water Bureau. Neither has any organized opposition.

Thursday is the last day to mail ballots. Voters can deposit their ballots at a drop-off site until 8 p.m. on Election Day.

The Bull Run proposal, Measure 26-204, would add a new section to the Portland charter to restrict public access and limit land uses and activities such as tree cutting on city-owned lands near the watershed, the city's main drinking water source. It would also require any drinking water or hydroelectric projects to avoid and mitigate impacts to the natural environment.

Currently, the city council has the power to allow new access to or uses of that land. If passed, the measure would put any future proposed Bull Run development or restriction changes in the hands of voters.

The watershed is made up of 102 square miles in the Sandy River basin near Mount Hood. It collects rainwater and snowmelt that flows to the Bull Run River and its tributaries, then drains it into two reservoirs.

Similar protections of the watershed are already in the city code, Fritz said. The state also already requires the city to protect the watershed.

Fritz said its protection belongs in the city charter. "The most important things are supposed to be in the city charter and there's nothing in the charter about the Bull Run Watershed," she said. "I think there should be."

The ballot measure has been endorsed by the Audubon Society of Portland, Willamette Riverkeeper and other environmental groups.

The measure to allow new emergency uses of ratepayer funds, Measure 26-205, would authorize the city council to approve using that money to give aid to other jurisdictions during a major emergency that disrupts water-related services, such as an earthquake.

If voters reject it, spending on mutual aid agreements related to the Water Bureau would come from the city's general fund.

The Portland Water Bureau and Environmental Services are already part of the Oregon Water/Wastewater Agency Response Network, a statewide water-related emergency response coalition that includes 130 other cities and water districts. Their partnership is meant to facilitate deploying emergency services in the event of natural and people-caused disasters.

“We can’t build enough affordable housing, we had to make massive cuts in the Parks Bureau last year and we have a shortage of general fund dollars,” Fritz said. “To have a water fund expenditure come out of the general fund takes away from all the other areas where that money can go instead.”

Fritz said there hasn’t been a major disaster where the water bureau has been asked to help outside city limits since 2005’s Hurricane Katrina in Louisiana. At the time, Portland sent about three dozen Water Bureau workers and 17 vehicles to help repair water mains, broken valves and damaged facilities and give other hurricane recovery aid.

The city spent about \$2.1 million of utility ratepayer money on the 30-day trip. A Multnomah County judge ruled in 2014 that city officials improperly used the money.

The Federal Emergency Management Agency reimbursed the city about \$1.8 million and the city’s general fund repaid the other more than \$200,000 to the Water Bureau ratepayer account.

Fritz said the city spends at least \$500,000 a year to send Water Bureau employees to scenario-based training and conferences to help prepare for what to do in the event of a disaster. But, she said, “there are certain things you can’t get in a classroom situation.”

“We also know we’re going to have a huge earthquake in the next 50 years, so we’re sure as heck are going to want to have people help us out.” Fritz said. “And it would be really helpful to be able to get these agreements between the water bureau and other utilities ahead of time so that, in the midst of a disaster, we’re not trying to do the paperwork to allow it to happen.”

Fritz said if Measure 26-205 is approved, the Water Bureau would be required to report to the city council each year on water fund spending.

Anti-abortion street preacher sues city of Portland, alleging his exclusion from Waterfront Park was unconstitutional

*By Maxine Bernstein
October 28, 2019*

An anti-abortion street preacher who was barred this summer from Tom McCall Waterfront Park only to have a city hearings officer overturn the ban as unconstitutional is now suing the city in federal court, alleging a civil rights violation.

Mark Mayberry, of Riddle, Oregon, says the city deprived him of his free speech rights when one of its park rangers ordered him to leave the park and issued a 30-day exclusion when he refused.

Mayberry is seeking \$307,443 in damages in the suit filed Friday in U.S. District Court in Portland.

City attorney Tracy Reeve declined comment, citing the pending litigation.

The suit says Mayberry is a Christian evangelist and activist who travels around Oregon to call for the abolition and criminalization of abortion in the United States.

On June 1, he was at the park holding an anti-abortion sign, passing out pamphlets and “engaging passersby in conversations about abortion and the gospel,” according to his lawyer, Ray Hacke.

While Mayberry was expressing “views that were undoubtedly controversial to some, his speech and conduct were civil, peaceful, and by no means incendiary,” Hacke wrote in the suit.

A ranger ordered Mayberry to leave the park, and when he declined, he was ordered not to return for 30 days. He also was cited for harassment and failing to obey a park officer’s order.

Mayberry successfully challenged the citation and exclusion order before a city hearings officer. No city representative showed at the July 11 hearing. Mayberry, along with another evangelist who was present the day Mayberry was told to leave the park, both testified.

Hearings Officer William Guzman found the city failed to meet its burden to support the exclusion and concluded it was based on “an unconstitutional application” of city code and state law.

Guzman found that Mayberry’s conduct at the park was protected free speech.

“Therefore, the Park Officer’s direction to stop engaging passersby with information regarding his Christian beliefs against abortion was not reasonable,” he wrote in his ruling. “Appellant was not required to comply with this Park Officer’s unconstitutional attempts to silence Appellant’s message.”

The clause in the harassment citation, accusing Mayberry of abusive words or gestures likely intended to provoke a violent reaction, was struck down in 2008 by the Oregon Supreme Court, which found the prohibition over broad and in violation of the state constitution, Guzman noted.

Guzman found Mayberry didn’t commit harassment, noting that Waterfront Park is a public forum and the government’s ability to restrict speech in a public park is extremely limited.

The city’s action also directly violated a 2006 order by the 9th U.S. Circuit Court of Appeals in *Gathright v. City of Portland*, which upheld a permanent injunction prohibiting Portland from removing speakers engaged in lawful free speech from a public square, Hacke wrote in the suit.

Mark Ross, spokesman for the Portland’s parks and recreation department, declined comment about the park ranger’s actions, referring all questions to the city attorney.

Mayberry has faced criticism before. In April, parents in Medford complained to city officials about the graphic images of aborted fetuses that Mayberry and others were displaying at a Pear Blossom Festival in that city.

Fourth lane on damaged Swan Island bridge expected to reopen by Thanksgiving

*By Samantha Swindler
October 28, 2019*

The city of Portland plans to open a fourth lane on the damaged North Going Street Bridge to Swan Island before Thanksgiving.

Repair work will begin Nov. 4 on the bridge to Swan Island Industrial Park, according to a release from the Portland Bureau of Transportation.

A Union Pacific train derailment on Sept. 7 damaged the bridge’s support columns, temporarily closing it entirely. Since Sept. 15, three of the bridge’s six lanes have been open to traffic.

The bridge provides the only public access to the Swan Island industrial area, home to about 200 businesses, including large shipping centers for UPS and FedEx. That fourth lane is scheduled to open by Nov. 28, around the start of the holiday shipping season.

Lane closures continue to be a headache for anyone who works on or makes deliveries from Swan Island. The Portland Bureau of Transportation says some businesses have changed work schedules to alleviate rush-hour congestion, but travel times to the island “have been reported to vary widely and unpredictably.”

The Portland Bureau of Transportation says the full six lanes may “potentially” reopen this spring.

The Portland Tribune

Beaverton, Portland invited to apply for federal water loan

*By Peter Wong
October 28, 2019*

It's one of 39 projects nationwide that the Environmental Protection Agency has encouraged to seek money from a program created by Sen. Jeff Merkley; Portland also invited; \$6.3 billion total is available in third round.

Beaverton has been invited to apply for a \$58 million federal loan to help pay for water system improvements.

Beaverton's proposed work is among 39 projects in 19 states, including a \$554 million plan from Portland, invited by the Environmental Protection Agency to seek a share of \$6.3 billion available this year under the Water Infrastructure Finance and Innovation Act.

Although there is no guarantee, an EPA statement says: "An invitation to apply indicates that EPA believes the selected projects will be able to attain WIFIA loans."

The EPA loaned money under this same program to the Tualatin Valley Water District and the city of Hillsboro, which received a total of \$640 million, repayable by water customers, for construction of the \$1.2 billion Willamette Water Supply Program. When completed in 2026, the regional program will draw from the Willamette River as a backup source of water to the district and several cities, including Beaverton, which joined earlier this year.

Hagg Lake is the primary source of water for much of Washington County, but seismic concerns about Scoggins Dam — which is under study by the U.S. Bureau of Reclamation — have led local governments to develop another water source if there is a severe earthquake off the Oregon coast.

"We are committed to ensuring a safe and reliable water supply for our growing community," Mayor Denny Doyle said in a statement. "This is a positive next step in our efforts toward critical water infrastructure improvements that will enhance resiliency for our customers and the greater region. We appreciate the opportunity to participate in the application process."

U.S. Sen. Jeff Merkley, D-Oregon, was the chief sponsor of the law that was signed in December 2016 to create the loan program.

"Oregon's leaders deserve a tremendous share of the credit for this progress," he said in a statement. "Their persistence in brainstorming solutions ultimately led to the creation of this

program. As these water infrastructure projects show, persistence is already paying huge dividends for our communities here in Oregon — and for communities across the country."

Beaverton has begun work on two major water projects.

One is a 5.5-million-gallon reservoir on Cooper Mountain to match an existing reservoir built in 1994. Given population growth in the city, and on Cooper Mountain, city officials have said a second reservoir will be needed soon. The City Council has authorized \$23.9 million in revenue bonds, repaid by water customers, for the project.

The other is a 24-inch intertie between Tualatin Valley Highway/Cornelius Pass Road and Southwest 209th Avenue. It is part of the Willamette Water Supply Program. Beaverton's estimated share of the regional program intertie is between \$3 million and \$4 million, also to be paid by water customers.

In addition, the city estimates it will have to replace 28.4 miles of water pipes and 1,850 fire hydrants over the next 30 years.

firsthand how important it is to find outside capital when a community needs critical infrastructure investments," said Chris Hladick, EPA regional administrator for four states. "These drinking water projects in Oregon are important public health investments, so we're pleased that Beaverton and Portland are included in this list of eligible communities."

The Portland Mercury

Fox & Friends Investigates Portland's Homelessness Crisis

*By Alex Zielinski
October 28, 2019*

Great news, everyone! The intrepid journalists at Fox and Friends—the White House's only news source—decided to take a deep-dive into Portland's homelessness crisis last week.

On October 25, Fox and Friends' glossy hosts breezed past any context or reporting to dub Portland's new mobile hygiene stations—which bring portable toilets, hand-washing stations, and garbage bins to homeless camps—a "band-aid solution" to the city's problems with homelessness.

"By putting these hygiene stations out there, the city is triaging a symptom, not the underlying problem," said host Emily Compagno, as the camera pans over the new stations. "Without effective enforcement of the law there, nothing is getting done."

Compagno and her co-host Brian Kilmeade offer zero facts to back this up. But! To make up for this dearth of information, they turn to one of Portland's top homelessness experts: An employee at a men's boutique in downtown Portland.

"I've had constant people running in out of the street saying they don't feel safe [from homeless people]," said Michael Kirby, a manager at Boys Fort, who spoke to the pair from a Portland studio. "People are just like, 'Oh my gosh, what is going on?'"

Kirby points out the homeless population's problem with untreated mental illness and drug use, a point the hosts' underscore throughout the segment.

"It's not like you don't have housing," said Kilmeade, apparently unaware of the city's affordable housing deficit. "It's mental illness and it's drug abuse."

Kirby didn't have anything negative to say about the hygiene stations, though, and even suggested that Portland's response to homelessness is working. Asked why Oregon has it "as bad as California" when it comes to homelessness, Kirby said: "The reason why we have it so bad is that we have such great programs to assist in living situations and food and shelter."

He was quickly interrupted by the hosts, who steered the conversation back to blaming politicians for not cracking down on homeless camps. "It's not political," says Kilmeade, "but we need politicians to act."

Boys Fort co-owner Jake France said Kirby didn't know he was going to be speaking with Fox and Friends until the last minute. Kirby has previously talked with local Fox affiliate KPTV for a more detailed, balanced news piece on homelessness—and both France and Kirby believed he was just returning to the studio for a follow-up with local reporters.

France told the Mercury that if he had known Kirby was going to be on Fox and Friends, he wouldn't have let him go through with it. France said the interview was wholly "bizarre," and didn't give a fair representation of the city's nuanced homelessness crisis.

"They were just yelling talking points at him," he said. "And why him? Why aren't they asking a city official these questions? Boys Fort is in no way an expert in this topic or the overall City of Portland. But, that's what you get with Fox and Friends."

This clip, surely viewed by our so-called president, is only another juicy piece of sensational garbage Donald Trump can use to justify his campaign against homeless Americans.

OPB

Here's What You Should Know About Portland's Water Ballot Measures

*By Rebecca Ellis
October 29, 2019*

Water is on the ballot this special election.

On Nov. 5, Portland voters will be asked to weigh in on two measures from Commissioner Amanda Fritz, who oversees the city's water bureau.

Both measures would alter the city's charter. Supporters say, simply put, the first would make it harder to develop the land near the region's drinking water supply. The second would make it easier to fix the city's water system after a natural disaster.

No arguments were filed in opposition to either measure.

OPB breaks them down in more detail below.

Measure 26-204

If future Portland City Council members set their hearts on rolling back the regulations that protect the city-owned portion of the Bull Run Watershed, they could easily do so.

With a simple majority vote to change the city code, the council could revoke the rules that safeguard their 4% cut of the 102-square-mile watershed from logging and development.

Granted, it seems an unlikely move for elected officials in eco-friendly Portland. But, the point is, it's possible. And it's the scenario Fritz hopes to prevent with ballot measure 26-204.

The measure would strengthen the protections around the watershed by codifying them in the city charter. This means only Portlanders could vote to roll them back in a future election.

Fritz filed an argument in favor of the measure, promising a "yes" vote would "make sure the water we love stays accountable to Portland voters" and "ensure safe and abundant Bull Run drinking water for generations to come."

The protections themselves wouldn't change if the measure is passed. Just like before, people wouldn't be able to log or develop in the area. They couldn't walk through it. And the city couldn't sell off the land to private business.

The Audubon Society of Portland's director of conservation, Bob Sallinger, who also filed an argument in favor of the measure, said keeping the land free from development is also critical for the endangered species that call it home.

"The fact that area has been protected for so many years has turned it into a refuge," Salinger said, notably for salmon and northern spotted owls. "It's really this incredible place."

Measure 26-205

When a major earthquake hits Portland, residents are going to need water. And the city's going to need a hand getting it to them. It's estimated as many as 3,000 pipes could break across the regional water system when The Big One hits.

That's why the bureau maintains formal agreements that allow emergency responders from other jurisdictions to quickly step in and help the bureau with extra equipment, manpower and expertise. These agreements, called "mutual aid agreements," also allow the bureau to send its staff into disaster zones outside Portland.

Measure 26-205 would allow these agreements to be funded by the water bureau instead of through the general fund.

The measure comes in response to the legal fallout that followed the water bureau's trip to New Orleans in 2005 to assist with repairs after Hurricane Katrina. A judge later ruled that the bureau had acted improperly, as the city did not have the authority to use ratepayer's money for the mission.

Fritz said this measure would "clarify" that the water bureau has residents' approval to make these agreements by enshrining it in the city charter. She said these agreements are "absolutely a water bureau responsibility," as they provide staff with valuable real-life training.

"When we have the big earthquake here, it's going to be really helpful to have had trained staff to know what it's like to have to operate when you can't drive around like you usually do," she said.

The cost associated with mutual aid agreements vary based on the emergency. The \$2 million mission to New Orleans was mostly reimbursed by the Federal Emergency Management Agency, but it left the city on the hook for \$340,000.

If the measure is passed, the bureau will have to report to the city council each year any money spent use to the agreements.

"It'll be open and transparent and the ratepayers will know how many of these we've entered into," Fritz said.

Fritz said ratepayers should not expect their bills to go up from the measure.