

The Oregonian

Portland negotiating with Lyft on Biketown contract; ‘no specific timeline’ for e-bike rollout

By Andrew Theen

January 29, 2020

Portland officials are negotiating with Lyft, the global ride-hailing and mobility company, to operate the city’s Biketown rental fleet.

But while Portland transportation staffers last year said they wanted to see a new fleet featuring hundreds of electric assist bikes hit city streets this spring or summer, they’re now walking back that timeline.

“We think completing a contract in 2020 is reasonable,” Dylan Rivera, transportation bureau spokesman, said in an email this week, “but we have no specific timeframe in mind.”

Portland’s contact with Biketown’s current operator, Motivate, ends in April.

So why isn’t Portland rushing to find a new on-demand bike rental company?

Lyft owns Motivate, so city officials say they don’t expect riders to notice any service disruption.

“Right now, we’re negotiating with our existing operator, so it stands to reason that extending would be relatively easy to do,” Rivera said.

Rivera said Portland believes it’s important to “get the contract right,” and he said that transportation officials are seeking a five-year agreement with a potential for a five-year extension.

“Taking a number of months to get it right seems like time well spent to get the best long-term deal for Portlanders,” he said.

The city in October opened the floodgates to companies interested in running the Biketown system, which will still be sponsored by Nike through at least 2021. Portland required at least half of the new fleet to be e-bikes, and it called for an expansion into all neighborhoods, including hilly Southwest Portland and neighborhoods east of 82nd Avenue.

Last month, the city procurement division quietly disclosed it chose Lyft, the San Francisco-based company, over the lone other bidder. Social Bicycles, better known as the dockless bike and scooter company Jump, submitted the other bid. Uber, Lyft’s chief competitor, owns Social Bicycles.

If negotiations fall apart, the city can then begin discussions with Social Bicycles.

Lyft declined to provide photos of the company’s e-bikes, citing the ongoing contract discussions.

“We thank PBOT, Nike, and the City of Portland for their many years of partnership and are happy to be in discussions with the City of Portland about possibilities for the future of Biketown,” a spokesman said in an email.

Rivera said city staffers have test-ridden multiple e-bikes from potential vendors, but he declined to comment.

Portland police should give full name, reason for stop, ask what can be done to put person pulled over at ease, community group says

By Maxine Bernstein

January 29, 2020

When pulling over a car or approaching a pedestrian, Portland police officers should introduce themselves with their full names, explain the reason for the stop, clearly state if they are detaining someone or not and ask if they could do anything to put people at ease.

That's the unanimous recommendation approved 8-0 Tuesday night by a community group appointed by the mayor to oversee Portland police.

"This recommendation would radically change the interactions at stops or searches by laying out everything about the stop," said Lakayana Drury, co-chair of the Committee on Community-Engaged Policing. "The Portland Police Bureau under Chief Outlaw has championed procedural justice. This recommendation would put that into practice."

Police Chief Jami Resch, who took over for Outlaw on Dec. 31, said she'll take a look at the idea, but the head of the rank-and-file officer union expressed reservations about officers required to follow a script.

Both Resch and Officer Daryl Turner said police already do most of these things.

The committee's proposal also urges the Police Bureau to note in police reports why officers make the stops.

Portland officers stopped African American motorists and pedestrians at more than twice the rate of white people stopped during 12 months ending in June, according to data examined by the Oregon Criminal Justice Commission. African American motorists also were more likely to be searched, yet less likely than whites to be found with contraband.

City auditors reported in May that the bureau still doesn't document investigative reasons for motorist and pedestrian stops by the former Gang Enforcement Team, now the Gun Violence Reduction Team. The auditors also said police have no comprehensive data on what they call "mere conversations" – defined as contacts with people who are free to leave at any time.

The audit also found the Gang Enforcement Team lacked records to explain why its officers pulled over so many African American motorists during traffic stops or if their tactics were effective in reducing violence.

"If people are being treated fairly and justly, they're more likely to follow the law," said Marcia Perez, a member of the oversight committee who worked as a Multnomah County juvenile court counselor and now serves as a youth and gang violence prevention coordinator.

"This will help increase trust with the community."

She said she hopes police officials will work with committee members to iron out specific language for a new policy. "We're not policy experts but can make recommendations to develop one collaboratively," she said.

The bureau now requires officers to display their badge and name tag on their uniform, identify themselves by name and offer their police business card when responding to an emergency call, making a stop or conducting an investigation. They aren't required to identify themselves when

it would compromise their safety, interfere with police duties or if a supervisor says they don't have to because of a safety concern, special assignment or other reason.

Resch said she believes officers now do a lot of what the committee is recommending but she'll review the proposal details with the bureau's policy team.

Under Outlaw, the bureau began to include procedural justice concepts in all training. The four main principles are: giving someone a voice, being neutral in decision-making, promoting transparency or respect in officers' actions and trustworthiness.

Turner, president of the Portland Police Association, said officers practice the protocols the community group has recommended. Officers, though, shouldn't be required to provide specific instructions in a specific order because of the different dynamics involved in each stop, he said.

"There is no one-size-fits-all and only the officer involved in the interaction can access what information shall be given and in which order it's given in," he said.

Drury shared an experience he had last Sunday night when he received a call from a young man of color, a student of his from his work in the community, who was stopped and pulled over outside Portland. The student called him and asked him to remain on FaceTime with him.

"He feared for his safety, wanted me to stay on the line," Drury said. "The officer was agitated. He (the student) began recording the incident, when for him it was a matter of personal safety."

Drury had taught at Rosemary Anderson High School before becoming executive director of the nonprofit Word is Bond, which works to build positive relationships between young black men and law enforcement.

Drury also criticized the question that police sometimes ask motorists, "Do you know why I stopped you?"

"It's a backwards question, asking me to incriminate myself," Drury said.

He wants officers to ask motorists if there's any "reasonable accommodation" the officer can make to make the motorist feel more safe. That can range, he said, from stepping back slightly, writing down their instructions and showing them to the person or giving a motorist a chance to call a mentor.

Acting Capt. Chuck Lovell, a supervisor of the Police Bureau's community services division, said everything officers do when they stop a car is intended to keep the officer safe, as well as the motorist and passengers in the car. Officers are instructed to "over convey" information, asking such questions as the location of someone's driver's license so the officer knows where it is before a motorist reaches for it.

The committee also adopted an idea offered by Dan Handelman of the police watchdog group Portland Copwatch: The officer should ask motorists to keep their hands visible for their safety and then ask if there are any other reasonable accommodations they can make to ensure the driver feels more comfortable.

Amy Anderson, a committee member who works as a peer wellness specialist for a Cascadia Behavioral health team, expressed initial reluctance to support the policy recommendation, concerned it could put officers at a greater risk.

"Every single stop is a potential risk to life and limb," she said.

But she ended up supporting the idea after other committee members pointed out that officers would be excused from the requirement in certain circumstances if it would impair their duties or when a crime is in progress, weapons are visible or where force may be necessary.

In other action, the community group didn't endorse the use of body cameras for officers but adopted recommendations governing their use if police ever decide to provide them to officers.

Resch has voiced support to outfit officers in a pilot program before providing the cameras to the full bureau.

The community group said: Officers should be randomly selected for the pilot project; an independent third-party should store the footage and make the footage available to the public; officers should write their police reports before viewing footage so they don't tailor their accounts based on the video; and officers who turn off their cameras when they're supposed to be operating should face strict discipline, including termination.

Portland's ban on homeless camping survives appeal, but appellate judges question its constitutionality

*By Molly Harbarger
January 29, 2020*

An Oregon Court of Appeals ruling Wednesday upheld one woman's conviction for violating Portland's camping ban, but the judges signaled that a different case could potentially overturn it.

Three years ago, homeless Portlander Alexandra Barrett argued that some of the criminal charges she had racked up in 2014 should be dismissed because they unfairly targeted her for being homeless.

The one she zeroed in on was the city's prohibition against camping on public property. In a pretrial motion, her attorneys tried to get the case dismissed on the grounds that the charge, when applied to homeless people, violated the Constitution's Eighth Amendment's prohibition on cruel and unusual punishment.

The argument boiled down to whether it is cruel to arrest Barrett for sleeping in downtown Chapman Park if she had nowhere else to go.

That argument lost at the circuit court level and Barrett was found guilty.

Still, she appealed.

Since the Appeals Court case was argued in 2017, the federal 9th U.S. Circuit Court of Appeals made a landmark ruling that cities cannot ban camping if there are not enough shelter beds to house every homeless person.

However, the Oregon appellate judges noted that they were not bound by that case because only federal appeals court cases or Supreme Court ones are binding on a state appeals court.

And in this instance, they ruled, Barrett didn't provide enough information to determine whether she could have accessed shelter at the time she was arrested. She didn't have proof that there were no open shelter beds on the nights she camped in a downtown Portland park, for instance, and there was some testimony that she rebuffed police offers to connect her to social services or a shelter bed.

Portland city attorney Tracy Reeve said that she is still confident the city's camping ordinance is in line with both state and federal law.

"We do not expect the courts' recent decisions to have an immediate impact on the City since the City has been operating consistently with these decisions in the past and will continue to do so," Reeve said.

But nine of the 11 appeals court judges specified that the ruling only applied narrowly to Barrett's failure to provide enough information -- not whether Portland's camping ban violates the Eighth Amendment, which leaves open the door for a future case.

Two judges took the ruling a step further by saying that banning camping on public property by homeless people likely does violate the Eighth Amendment -- if they are not voluntarily homeless.

"As I see it, it is not hypothetical that the homeless in Portland are subject to criminal punishment for a circumstance that is, in many cases, beyond their control," wrote Judge Darleen Ortega, "and those in circumstances similar to those faced by defendant would benefit from guidance by this court."

She continued: "The city's blanket prohibition of public camping violates the Eighth Amendment when the camping is an unavoidable consequence of being homeless."

While the ruling disappointed homeless advocates, they found some hope in the ruling and especially Ortega's opinion.

"Members of the Court of Appeals raise serious and important questions about the constitutionality of the ordinance and the use of it to prosecute homeless Portlanders," said Barrett's attorney Lindsey Burrows of law firm O'Connor Weber.

She said that she plans to appeal the case to the Oregon Supreme Court.

The ACLU and Oregon Justice Resource Center also called on Portland officials to reexamine the camping ban.

"It is wrong to punish or jail people for sleeping outside, especially when they have nowhere else to go," said Kelly Simon, interim legal director of the ACLU of Oregon. "People who live on the streets are already very vulnerable. Piling on fines, fees and a criminal record only makes things harder."

Willamette Week

In Crowded Race to Replace Nick Fish, NARAL Pro-Choice Oregon Endorses One of its Own Board Members Without Interviewing Other Candidates

*By Nigel Jaquiss
January 29, 2020*

Tera Hurst gets the nod from the pro-choice group at a time when Trump has put abortion rights in danger.

There are at least 13 candidates jockeying to replace the late City Commissioner Nick Fish in May.

Yesterday, one of them, Tera Hurst, the executive director of Renew Oregon, a clean energy group, picked up a valuable endorsement from NARAL Pro-Choice Oregon, the group formerly known as the National Association for the Repeal of Abortion Laws.

"Tera Hurst will be an incredible addition to City Hall. [At Renew] she has redefined what an environmental leader looks like, and inspired NARAL to support Clean Energy Jobs, with the understanding that reproductive justice includes environmental justice," says the endorsement, which goes out to 13,000 NARAL Oregon members and probably many more than that on social media.

Although endorsements don't always mean a lot, NARAL's pick is helpful in a crowded field in which candidates don't have much time to distinguish themselves from each other before the May 19 primary election. It also comes at a time when abortion rights are under threat around the country and in the federal courts.

NARAL Pro-Choice Oregon positions itself as a key player in that fight. "NARAL Pro-Choice Oregon is the leading grassroots pro-choice advocacy organization in Oregon," the organization says on its website. "We educate our members and identified supporters, provide strategic advice to candidates, mobilize get out the vote efforts, and ensure that pro-choice policies are a top priority in local and state government."

Typically, before groups active in Portland city elections—such as public employee unions or business groups—issue endorsements, they ask candidates to fill out questionnaires, come in for interviews, or both.

NARAL did not do that. Instead, the group just chose Hurst, who happens to be a NARAL board member.

Hurst says the choice makes sense. "It is common for an organization to quickly endorse its chosen candidate, who they know is an uncompromising champion of their mission," Hurst says in an email. "NARAL was not only confident in my candidacy for City Council but also invested in sending a strong message of early support in an open election."

One of the other candidates in the race, Margot Black, the founder of Portland Tenants United, expressed disappointment that NARAL endorsed without interviewing other candidates.

"I'm a little puzzled why an organization like NARAL would make such an impactful endorsement without any process at all," Black says. "There are a number of progressive women in this race and I think it make sense to conduct an endorsement process. I imagine people on NARAL'S mailing list would assume there was a process."

Former Multnomah County Commissioner Loretta Smith, perhaps the best-known candidate in the race, declined to comment directly on NARAL's decision, although Smith noted she'd worked closely with the group at the county and hopes to do so again if elected.

"I appreciate the work they do," Smith says. "My campaign is going to be about poverty—putting roofs over people's heads and put food on their tables." (Julia Degraw, who ran against Fish in 2018 and is running again, could not be reached for comment.)

Although NARAL recently released a slate of statewide endorsements which mentioned NARAL's political action committee was "meeting with amazing candidates every day," Christel Allen, NARAL Oregon's political director, acknowledges in the case of the City Council race that didn't happen.

"In this case, we didn't [interview candidates]," Allen said in a statement. "We take our endorsements seriously, and this was a unanimous decision. We recognize Tera Hurst as a true

reproductive freedom champion and a leader in our organization. We are proud that pro-choice voters trust us to support candidates like Tera who will go above and beyond to champion our mission. We know she will be an extraordinary partner in City Hall."

The Portland Mercury

City Council Hears First Annual Report on Portland Police's Collaboration With FBI

*By Alex Zielinski
January 29, 2020*

Portland City Council received its first annual report Wednesday on the Portland Police Bureau's (PPB) involvement with the FBI's Joint Terrorism Task Force (JTTF), a cross-jurisdictional group of regional law enforcement officials who collaborate on domestic terrorism cases.

City Council voted in February 2019 to remove its two PPB officers from the task force, responding to community concerns about federal law enforcement disproportionately targeting people based on their religion, race, or political beliefs. Since then, PPB has only been informed of local FBI investigations when the JTTF believes it's critical to get PPB up to speed. Those cases go directly to PPB Chief Jami Resch, who presented the report before City Council Wednesday.

According to the report, the JTTF referred 10 cases to PPB in 2019—and the police bureau has closed all but one of them. Based on the little information shared about the closed cases, most of the incidents involved racist, anti-cop, and generally violent speech. All suspects in the nine closed cases were white men. One was a white woman. Many of the suspects were referred to the PPB's behavioral health unit.

The report also notes that in 2019, PPB referred 12 of its own cases to the JTTF for review. Per the report: "The nature of these cases includes bomb threats to critical infrastructure, public buildings, private entities, and houses of worship; threats of mass violence; reports of racially motivated violent extremist and sovereign citizen activity; and threats to public officials."

All of the suspects in these cases were men—eleven of them were white and one was Black.

"I think it's notable that only one [of these cases] involved a person of color and only one involved a woman," said Commissioner Chloe Eudaly, "because that more accurately reflects the truth we face domestically, despite public perception."

At the morning City Council meeting, all four city commissioners thanked PPB leaders for offering a more transparent look into how the city collaborations with the FBI.

"I think my colleagues and the public appreciate the level of transparency we're getting," Eudaly said. "It was somewhat of a mystery to me what the JTTF was doing prior to our withdrawal."

"This process turned out the way I was hoping it would," said Commissioner Amanda Fritz.

Police accountability advocates, however, said the report was too vague and questioned the constitutionality of some of the cases. As an example, Dan Handelman with Portland Copwatch pointed to one case simply described as: "Report of person affiliated with a racially motivated violent extremist group talking to a person at a bar."

"Does that mean that if someone says they're a white supremacist, the police will investigate them?" Handelman told the Mercury. "Legally, there has to be suspicion of a crime to investigate. What's the crime there?"

PPB Sergeant Pete Simpson, who presented the report with Resch, said the bureau hopes to improve upon the inaugural report in 2021.

OPB

A 1st-Of-Its-Kind Affordable Housing Community For Native Americans Opens In Portland

By Erica Morrison

January 30, 2020

If you drive down Northeast 42nd Street in Portland's Cully Neighborhood you may come across a sight that has become very familiar: a shiny new apartment building in a changing neighborhood. But this building is special. It's a 59-unit affordable housing complex developed to address the disproportionate rate of homelessness among Native Americans in Portland.

"We have a lot of tribal members that live here in Portland, that have lived here for generations and we are able to provide housing for some of them," Delores Pigsley, chair of the Confederated Tribes of Siletz Indians said during a ribbon-cutting ceremony.

The name of the community is Nesika Illahee, which translates to "Our Place" in the Chinook language. The 53,000 square foot building includes a mix of units featuring studio, one, two- and three-bedroom apartments. There are laundry facilities on each floor and spaces for residents to gather and host events. Throughout, walls are adorned with murals and artwork by Native artists.

Nesika Illahee is the first housing complex to receive the U.S. Department of Housing and Urban Development's Indian Housing Block Grant to build housing in an urban environment. Typically the funds are used to build on reservations.

"We have, per capita, the largest homeless population in Portland so we as a tribe are looking to address those needs," Pigsley said.

A variety of funders contributed to the development of the \$17.7 million community, but a key player was the Confederated Tribes of Siletz Indians.

According to Oregon Housing & Community Services, the Siletz Tribe secured \$1.7 million in Indian Housing Block Grant funds. As a sovereign nation, the Siletz Tribe can exercise preference to citizens of tribal nations. Twenty of the units have a specific tribal preference, following a policy defined by the Siletz Tribe.

That policy gives first preference to applicants whose head of household is an enrolled member of the Confederated Tribes of Siletz Indians or the household includes a minor or dependent child who is an enrolled Siletz tribal member.

Second preference goes to households with at least one member enrolled in a federally recognized tribe, Alaska Natives or tribes recognized by states and included in the Native American Housing Assistance and Self Determination Act.

Nesika Illahe will also support tenants in recovery, with the help of the Native American Rehabilitation Association of the Northwest. Residents will be asked to sign a drug-free and

alcohol-free lease policy. A certified drug and alcohol counselor will work with residents to support them with treatment and recovery plans. NARA will also provide access for children, youth, adults and elders to a slate of services including primary and specialty care providers, women's health support, a diabetes program, as well as dental and mental health services.

The journey to Nesika Illahee began in 2016 when Community Development Partners, an organization focused on developing and sustaining affordable housing, bought the plot of land on NE 42nd Avenue in the Cully neighborhood. After reading the report authored by Portland State University and the Coalition for Communities of Color, Eric Paine, CEO of Community Development Partners said the overrepresentation of Native communities in poverty and homelessness inspired them to partner with Native American Youth and Family Center and Native American Rehabilitation Association of the Northwest to create housing for the Native community.

“It's an innovative project that has never been done before. No one has ever used Indian Block Grant funds in order to fund a project or create a preference for Native Americans in off-reservation urban setting,” Paine said during the ribbon-cutting ceremony. “It's really a groundbreaking idea.”

Paine said that PSU has received funding to write a report teaching others how block grant funding can be utilized to serve the community.

Legal Challenge To Portland's Public Camping Ban Fails

By Dirk VanderHart

January 29, 2020

A legal challenge to Portland's ban on public camping saw its latest setback Wednesday, when the Oregon Court of Appeals affirmed a lower court's ruling that the law is constitutional.

In an opinion nearly three years in the making, appeals judges found that a Multnomah County judge acted correctly in 2015 when he declined to dismiss a criminal case against Alexandra Barrett.

Barrett was homeless and facing more than a dozen charges for violating the city's camping ban. She argued the city's ban was unconstitutional because she had nowhere else to go.

That's an argument that federal appeals judges have found persuasive recently. But Multnomah County Judge Stephen Bushong ruled Barrett hadn't made her case, and he declined Barrett's motion to dismiss the matter. She was eventually sentenced to 60 days in jail.

In its majority ruling Wednesday, the appeals court found that Barrett's argument for dismissing the case was not detailed enough for it to rule on whether the city's camping ban was used illegally. Barrett would have needed to make a more explicit case that no shelter beds were available and that she had attempted to “be among those sheltered,” in order for judges to determine whether her citations violated Eighth Amendment protections against cruel and unusual punishment.

“In short,” Judge Joel DeVore wrote for the majority, “the record did not indicate whether defendant's acts of camping were involuntary acts ... Lacking the record necessary for this as-applied challenge, the trial court did not err in denying the pretrial motion” to dismiss the case.

Lawyers for the city of Portland and Oregon Department of Justice had argued against Barrett's appeal. The woman's attorney, Lindsey Burrows, plans to ask the Oregon Supreme Court to review the ruling.

"The opinion does not resolve the constitutionality of Portland's public camping ordinance," Burrows said in a statement.

The Oregon judges did acknowledge a 2019 opinion by the 9th Circuit Court of Appeals, which found that a Boise law similar to Portland's could violate the Eighth Amendment if homeless people have no choice but to camp. But Oregon appeals judges noted that they were not bound to follow the 9th Circuit's lead.

The court also did not agree with Barrett's argument that the city's camping ban "wholly prevents homeless persons from residing in or visiting Portland," or that the city's law ran afoul of state laws dictating what sorts of policies localities can put in place to address camping.

But despite the court's overall decision that Barrett's case had not been mishandled, two judges did voice strong concerns about the constitutionality of the city's law.

In a concurring opinion, Judge Darleen Ortega wrote that "it is not hypothetical that the homeless in Portland are subject to criminal punishment for a circumstance that is, in many cases, beyond their control."

"The city's blanket prohibition of public camping violates the Eighth Amendment when the camping is an unavoidable consequence of being homeless," Ortega wrote. That sentiment was shared by another judge on the court, Steven Powers, but does not have any force of law for the city of Portland.

Camping bans such as Portland's have drawn attention around the state, as cities attempt to grapple with a widening housing crisis. Salem passed a similar law last year, but might be on the verge of reconsidering.