



2007 OMBUDSMAN REPORT

AUDITOR'S OFFICE, CITY OF PORTLAND, OREGON

Issued: March 2008

I have been working as an Ombudsman for over 20 years, most of that time for the City of Portland. It is always healthy to check-in periodically on what the Office is attempting to accomplish and to evaluate whether or not the direction is still meeting the interests of the public.

It is a common thought that when an ombudsman office is created that it will work its way toward obsolescence. There is the notion that as complaints are investigated and resolved, government will learn how to function better and have less need for independent oversight. While it is true that the resolution of complaints improves government operations, City government and the public will always benefit from having access to independent oversight of the services provided.

As an entity, the City is in an adaptive state, constantly changing. Elected officials are temporary stewards, employees retire and are replaced, personalities influence programs and policies, and the public interest is often expressed through a relatively small number of people. As we continue to transform, we find interests that are in conflict and we are naturally prone to make some mistakes or find ourselves so close to an issue that we are unable to act objectively. While we work diligently to provide the best public service possible, we can

find ourselves behaving in a less than optimal fashion.

Since the Office of the Ombudsman has no power to issue directives, it must apply common sense and an accurate representation of the public's interest to be effective. We must maintain a respectful working relationship with the City Bureaus while at the same time demonstrate the ability to conduct independent investigations and to preserve an open mind when assisting the public with their grievances. The public on the other hand, has a responsibility to demand that the City conduct the public's business to the highest standards and must not be complacent about their oversight role. Too often, we find that City government accountability is driven by the media rather than the public interest. The public has an important obligation to fulfill in this partnership. The public needs to become more involved and City government needs to be receptive to their voices.

We can certainly expect that government will continue to make the occasional mistake, or not notice an inequitable policy; however, this Office is a partner with the public in working to correct deficiencies and to validate and support the sound policies that guide how the City operates. This partnership will help to improve public service and build trust in Portland's government.

Michael Mills, Ombudsman



Photo: Steve Bonini

A Word from the Auditor

Gary Blackmer, Portland City Auditor



Every organization needs a trouble-shooter. The world is much more varied and complex than all the plans and programs governments devise to maintain equity, order, safety, and efficiency.

Michael Mills and Kristen Erbes help Portland address, and avoid, situations that "fall between the cracks".

When no bureau was addressing a public problem, like refuse containers in the right-of-way, the Ombudsman highlighted the issue and helped assemble a group that could address it. When the building code doesn't fit the situation, the Ombudsman can help produce a solution that works for the builder as well as the neighbors. The Ombudsman helps citizens who get so caught up in red tape that they can't untangle the mess. With that kind of credibility, the Ombudsman can also convincingly explain

to some citizens that their expectations are unreasonable or inappropriate.

The Office has other important responsibilities that are less visible to the public. Questions and training about ethics are an important element in any organization, and Portland employees are regularly reminded to contact the Ombudsman to address situations that may arise. Some of the issues that arrive at the Ombudsman's desk are system-wide concerns that are better handled through an audit, and the Ombudsman can help formulate the problem in a way that easily translates into successful workplans for the Audit Services Division.

Lastly, the Ombudsman helps the organization learn. Our problems and failures can reveal the solutions for the future. By inviting the public to share their problems, Portland develops better strategies to address emerging situations. That is the mark of a responsive and accountable government.

I am proud to be part of Portland government and pleased with the difference that an Ombudsman makes for all the citizens.

I wasn't sure how to proceed with my problem. (The Ombudsman's Office) seemed to know exactly what to do. Results were immediate and helpful.

~Comment from 2007 satisfaction survey

Purpose of Report

The Office of the Ombudsman investigates complaints about City government, develops recommendations to improve public service and provides another voice for the public interest. As a result, City procedures become more transparent, the City is more accountable for its actions and responsive to potential improvements. We have an obligation to be accessible and to let the public know the types of issues we have addressed on their behalf. One way to accomplish these objectives is this Annual Report. The Annual Report is required (PCC 3.77.170) in order to advise the Auditor and City Council of the Office's activities and some of the concerns raised. It also serves as a management tool for improving public services and helps evaluate our performance.

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OMBUDSMAN HANDLES A VARIETY OF CASES IN 2007

Pole Clutter Brings Complaints



Typical example of advertising on poles

The Office of the Ombudsman (Ombudsman) received a complaint regarding the increasing number of advertising signs posted on City of Portland light poles and utility poles that are owned by private utilities such as Portland General Electric (PGE) and PacifiCorp. The complainant contacted PGE but said they told him the City ordinance applied to signage on

City-owned poles, not privately-owned poles. The complainant said he was frustrated. He cannot take them down because they are put up more than fifteen feet above the ground. He also had researched and cited parts of the City Code he believed were applicable including,

14A.50.070 Advertising on Streets.

A. It is unlawful for any person to scatter notices or advertisements on any street right-of-way or to post a notice or advertisement anywhere on a street right-of-way or upon the exterior of a public building.

B. It is unlawful for any person whose name appears upon, or who is responsible for posting, any notice or advertisement posted in violation of this Section to permit the notice or advertisement to remain posted after having received a request to remove it.

C. Any notice or advertisement found in violation of this Section may be removed by a peace officer.

And

17.64.040 Use of City Poles or Posts.

(Amended by Ordinance No. 173369, effective May 12, 1999.)

A. It is unlawful for any person to attach any animal, or to affix or attach any bill, sign, advertisement of any kind, or any contrivance or device of any kind or nature other than City official notices, to any pole, post, wire, cable, fixture or equipment of City of Portland owned telecommunications lines and equipment, street lighting, or traffic signal systems, except as authorized by the City.

B. Public utilities operating in the City under franchise or permit may attach their utility wires or cables to poles or posts of City of Portland owned telecommunications lines and equipment, street lighting, or traffic signal systems, to the extent specifically permitted by the City, in such locations as the City may specifically designate, in consideration of reciprocal privileges extended to the City when necessary or convenient for the City to use the poles of the utility in maintaining the City systems.

The Ombudsman confirmed there was nothing in the City's Sign Code (Title 32) that would regulate this issue. The Ombudsman met with representatives from the Portland Office of Transportation (PDOT) and the City Attorney's Office to discuss the issue. They said there are references to signs in a number of sections of City Code. In addition, there are some regulations governing utility poles through the Oregon Public Utility Commission.

PDOT and the City Attorney's Office also said contents of signs posted in the Right-of-Way cannot be a factor in enforcement decisions. This would be the case whether the signs were on City owned poles or private poles. So if enforcement actions took place, the City could not selectively choose, based on content, which signs to take down and which to leave in place.

After much discussion, the PDOT representative said given current resources, enforcement is not a City priority unless there is a hazard present. This is not to say the laws cannot be improved and priorities changed, it is simply to help explain the reality of why enforcement is seemingly non-existent at this time. The Ombudsman communicated this back to the complainant and acknowledged this is frustrating to hear, but it is the current state of affairs.

Shortly after reporting this information back to the complainant, the Ombudsman learned Risk Management had initiated a program billing those responsible for posting signs the cost of removing the signs. The Ombudsman learned of the program because of a complaint to the Mayor's Office from a woman who received a \$200 bill for removing signs she had posted. The Ombudsman contacted Risk Management and reported he had recently met with PDOT and the City Attorney's Office and their conclusion was that there were not resources for enforcement. The Ombudsman urged there needed to be consistent policy and practice between the bureaus, whatever that may be.

A representative from Risk Management responded that until further management review and discussions with PDOT, the collection program would be suspended.

Complaint Uncovers ADA Limitations

A complainant contacted the Office of the Ombudsman in August complaining the Oregon Health Sciences University (OHSU) Center for Health and Healing (CHH) building did not comply with the Americans with Disabilities Act. The complainant reported he had met with rep-



Recessed elevator call buttons were one of the concerns

resentatives several months earlier but remained concerned about the lack of compliance. The Ombudsman said he would check with the Bureau of Development Services (BDS) regarding the inspections that took place for this building before it was occupied.

BDS reported the federal ADA requirements are not in their entirety incorporated into the State of Oregon Structural Specialty Code (OSSC). Therefore, the City inspections may not result in a facility being in 100% compliance with all ADA requirements. Nevertheless, BDS representatives went on a specific site visit to CHH to investigate the access complaints. This visit was in addition



Close up of a recessed elevator call button

to the code required inspections. They learned OHSU hired an accessibility expert to analyze the building for any and all accessibility issues including those that fall outside of the scope of the OSSC.

During the site visit, BDS representatives met with OHSU representatives, the architect and the contractor on site and chose several items to review. Because BDS can only enforce those items that fall under the purview of City code, they spent their time spot checking those items that were of a structural nature such as door placement, protrusions caused by the building structures, and elevator buttons. At the time, most of the items BDS reviewed had been brought into compliance. BDS reported there was still a remaining issue and they would continue to work with both the contractor and the architect to resolve. Once the final issue is addressed, BDS will consider the building to meet the City's inspection process.

Because there are parts of the ADA that have not been adopted in Oregon building codes, the Ombudsman communicated to the complainant that persons can file complaints with the federal government through federal court against a developer if they believe there are violations of the federal laws. The Ombudsman was pleased BDS took the concerns seriously and OHSU was making a good faith effort to comply with ADA requirements.

I tried and contacted several other government agencies - (The Ombudsman Office) was the only one who actually helped me - (they) also contacted me several times to make sure the problem was resolved. More people should know about this service!

~Comment from 2007 satisfaction survey

(continued on page 3)

Uniform Public Records Request Form and Standard Copying Fees

During 2003 and 2004, there were communications between the Deputy City Auditor and the City Attorney regarding the need for a Public Information Request Form for use when requesting records from the City of Portland. The Office of the Ombudsman shared concerns about the inconsistency in how City agencies process requests for records, and had the additional concern over the lack of uniformity in fees charged the public for copying public records.

The Ombudsman contacted the City Attorney in February 2007, asking that a Uniform Public Information or Records Request Form be created in order to provide consistency and efficiency in responding to the public's request for records. The creation of a uniform policy and form had not been a high enough priority to dedicate resources to during the prior 3 years. In a meeting with the Ombudsman in March 2007, Mayor Potter expressed an interest in resolving the issue. In April, the State Senate continued their work on Senate Bill 554, that; "Requires public body to respond to written request for public record as soon as practicable and without {undue} unreasonable delay. Provides that response must contain certain information. Requires public body to make available written procedure for making public records requests."

The City Attorney's Office convened a group of City officials to undertake the Citywide uniform records request project to:

- Develop a Citywide standard records request form;
- Develop a Citywide standard response form;
- Develop a Citywide standard fee chart; and
- Develop a public records bureau contact list.

Largely as a result of the passage of Senate Bill 554, the project was completed in January 2008. The documents offer a significant improvement in service to those requesting public records. The public records forms provide the means to explain if the requested document is confidential, or if the request is under review, and applicable research fees that might be applied. The documents also provide a schedule of standard copying fees for different mediums the records might be stored in. One concern was that two bureaus have fees that are above the standard rates of most other bureaus, such as a rate of \$10 for the first 1 to 5 pages. This difference in rates may be addressed in the future.

It is anticipated that written policies and procedures for responding to public records requests will be incorporated into a comprehensive citywide records policy in the future. The adoption of the Uniform Public Records Request Form and Standard Copying Fees is a major accomplishment in improving how the City responds to the public's request for public records.

Information can be found online at <http://www.portlandonline.com/auditor> by clicking the "Public Records Request" tab at the top right side of the page.

Ombudsman Urges Mediation to Resolve Mt. Tabor Dispute

When the Mt. Tabor and South Tabor communities learned of a Memorandum of Understanding to explore options for leasing part of Mt. Tabor Park property to Warner Pacific College, they erupted. Residents of the neighborhoods began lobbying City Commissioners to ensure the entire park would stay in City hands and not be subject to other private interests. They complained there was not a public process in creating this agreement and were distrustful of any explanation from Portland Parks and Recreation (Parks).

The Office of the Ombudsman was approached by Parks to assist in determining how best to move forward with the Mt. Tabor and South Tabor communities regarding the issues on the Mt. Tabor Park maintenance yard. The Ombudsman met with both neighborhood associations to discuss whether the community wanted to meet with representatives from Parks, whether they wanted the assistance of a mediator, and what they wanted as an outcome from meeting with Parks.



Mt. Tabor nursery and maintenance yard

During both neighborhood association meetings, the Ombudsman was asked by individuals whether the Ombudsman would investigate Parks actions. At both meetings the Ombudsman explained he thought this issue had progressed too far for a formal investigation and efforts were now being made to find solutions and restore relationships. The Ombudsman also explained he cannot investigate elected officials or their personal staff and encouraged both neighborhood associations to explore the option of mediation. He explained a mediated process would allow all parties the opportunities to discuss past issues as well as work to develop protocols for communicating in the future. Portland City Code (PCC) 3.77.120 (B)(1) gives the Ombudsman discretion to decline investigating a matter that could use another remedy such as mediation.

After several discussions and negotiations, both Mt. Tabor and South Tabor Neighborhood Associations agreed to meet with Zari Santner, Director of Parks, and other Parks representatives with the assistance of mediators Jamie Damon and Mary Forst.

The Ombudsman assisted in scheduling the initial mediation sessions. After several sessions, the group reached agreement. The provisions of the agreement included (1) Parks' need to develop a policy related to property disposition through an open and transparent process that included full public involvement, (2) the Mt. Tabor Master Plan needed to be updated and (3) the plan needed to include the Mt. Tabor Park Central Maintenance Yard and Nursery. The mediation participants agreed

the Master Plan Update needed to take place through and open, transparent, community-wide and inclusive process. Both the Mt. Tabor and South Tabor Neighborhood Associations supported the agreement.

In September 2007, Commissioner Dan Saltzman introduced Resolution No. 36539 to support the Mt. Tabor Master Plan Update. Parks Director Zari Santner, Parks staff, union representatives and neighbors all testified through mediation they were able to reach a working partnership and begin to rebuild trust after years of damaged relationships. The Resolution also committed to prioritizing the necessary funds to complete this Master Plan Update in the budget process. Four Commissioners in attendance all unanimously supported the Resolution.

Sewer Line Failure Raises Questions

A resident of Southwest Portland complained to the Office of the Ombudsman about the cost to the City sewer rate payers of having to replace significant portions of the eight year old sewer line in the Multnomah area. Replacement and repair estimates were into the millions of dollars. This project involved pipe material that had been substituted. The change in material was from steel pipe to C-905 PVC plastic pipe. Portions of the pressurized line experienced failures at the connections. There had been some concerns raised by the public at the time the substitution was made. The individual who complained requested information on who approved the substitution and on what basis the decision was made.

After a number of communications with the Bureau of Environmental Services (BES) who managed this construction project, the Ombudsman was able to meet with staff directly involved with the project construction. This followed a request by the Commissioner-in-charge to review the complaint as well.

BES explained the substitution was recommended by the construction contractor and approved by the project's designer at a time when steel pipe was not readily available, and produced modest costs savings. A complete understanding of the decision was difficult to ascertain by the Ombudsman because that office was not able to reach the City's project manager for the project, who is no longer working for the City. In addition, the underlying records documenting the approval process for the change were disposed of earlier in compliance with the City's record retention policy. The break in the line calls into question the design of the pipeline as well as its construction and the City has filed litigation to try to resolve this matter.

There is no evidence of outside influence on the decision to substitute PVC pipe for the steel pipe. All indications are the decision, which was in hindsight found to be flawed, was a case of poor judgment. The City is in the process of contacting the former project manager, the designer and the construction contractor to learn more about how the decision was made.

(continued on page 5)

CITY HALL MARBLE STAIRS STEP UP INTEREST IN THE VALUE OF HISTORIC PRESERVATION

In January 2007 the Office of the Ombudsman received several complaints, many from City of Portland employees, regarding the removal of many City Hall marble steps. Complainants questioned why they were being removed given their historic value and the fact they were carefully replaced at considerable expense during the recent renovation. Some asked if the removed steps were being disposed of in the garbage or were to be recycled. (A large drop box was placed on 4th Avenue in front of City Hall with many pieces of the stairs.) One person asked if she could retrieve pieces from the drop box if they were going to be thrown away.

The Bureau of General Services (BGS) which handles facilities issues responded that the stairs being replaced were worn and cracked and considered safety hazards. The criteria used to evaluate the stairs were worn nosings, uneven surfaces, cracks, and areas where steps had been patched a few years ago. A number of steps had been cut and repaired during earlier work where patches existed on both sides of each step. BGS also reported there was no market for the recycling of the material. They also said since the material was natural rather than manufactured, "it would not be garbage in the sense that it would be a source of pollution or contamination." The contract for removal also gave the responsibility for disposal to the contractor so BGS said they could not authorize anyone to take pieces of the stairs. The contractor also denied requests for pieces of the stairs and, due to liability concerns, did not want people fishing through the drop box.

The Ombudsman also raised two issues of concern. The first was whether approval was required from the City's Historic Landmarks Commission since most of the steps being replaced were merely worn and not broken (and City Hall is on the National Register of Historic Places). The second was why the marble being removed was not reused or recycled through any number of operations in town that specialize in reusing old or historic building materials. Apparently many of the significant materials from the City Hall renovation in 1998 were reused or stored for years at a significant cost to the City before being sold to interested buyers. The City still stores reusable crates of marble for repair use in City Hall.

Representatives from the City's Bureau of Planning's Historic Resources Section (Planning) and the Bureau of Development Services (BDS) were also contacted. Planning asked BGS if the pieces of marble in the drop box could be removed to a City-controlled site so it could be evaluated for potential salvage/re-use/or disposition.

BDS Land Use Services Division, which handles design review and landmarks review explained the City Hall historic designation was

from an early period, where the nominations were rather abbreviated, sometimes cryptic. Though interior aspects of the building were identified in the nomination, BDS typically does not utilize those items as the determinant of whether a Historic Design Review applies to interiors. BDS only does so when the interior is specifically designated. BDS explained when the City Hall restoration was being reviewed, only the exterior modifications were addressed through regulations. There was some informal advisory discussion with the Landmarks Commission, but their review authority was limited to the exterior. BDS also explained if the material is being replaced with like material



Drop box container outside of City Hall with pieces of the removed marble stairs

it would be exempt regardless. BGS went through great efforts to ensure that the steps were replaced with not only "like materials" but that they also went to the original source, a quarry in Italy. Several samples were reviewed and rejected until an exact match was confirmed.

While there may not have been a requirement for a review by the Landmarks Commission or City historic preservation staff, the Ombudsman concluded a review would have been beneficial in evaluating alternatives that may have resulted in greater protection or re-use of the historic marble steps.

Since it was determined a Historic Design Review was not required, several months passed before a meeting was organized regarding how communication might take place in the future and better address the historic materials. The meeting involved representatives from BGS, Planning and the Ombudsman. Meeting attendees discussed the differences between formal Historic Design Reviews and the need for proactive communication between City bureaus and staff to ensure the City was doing its best to preserve historic resources even when a Historic Design Review was not required. BGS welcomes comments and review by the Historic Design Review group whenever they determine that a facilities project is of historic design significance or significant architecture. Such communication helps assure that the best interest of the City is being served, and that the removal of historic material is minimized.

Some attendees at the meeting felt the City has a special responsibility to be thoughtful stewards of the significant cultural resources

we hold in trust. It was agreed the City can and should be held to the highest standards in terms of an open and deliberative approach to the care and disposition of historic properties, and BGS has demonstrated this commitment in the past. City Hall was designated a Historic Landmark by City Council in 1970 and listed on the National Register of Historic Places in 1974. The National Register nomination identifies the structure as "one of Oregon's most architecturally significant buildings." In addition, the building was painstakingly and sensitively remodeled by BGS in the 1990's, including preservation and restoration of significant historic features--at significant public

cost and to high acclaim from the preservation community and citizens. It is one of the City's most important physical assets and a culturally resonant civic monument.

Meeting attendees also talked about how the City has to weigh the competing values of historic preservation, accessibility and litigation risk to determine where and how to maintain those local historic elements. BGS was urged to continue exploring salvaging materials for any and all demolitions particularly when high-quality aged material is involved. Agreement was reached between these City agencies on enhancing communications to ensure the values and interests related to historic architectural features are fully recognized and considered in decisions regarding our public facilities.

Ombudsman, The Word

This Office uses the original Swedish word Ombudsman because the Office was created as closely as possible to conform to the national and international standards for a governmental ombudsman. "Ombudsman" is a gender-neutral term, recognized throughout the world by women and men who hold the office.

There are many different words used internationally to describe the public ombudsman. A translation from Amharic and used for the ombudsman role in Ethiopia is the phrase "Guardian of the Peoples' Tears."

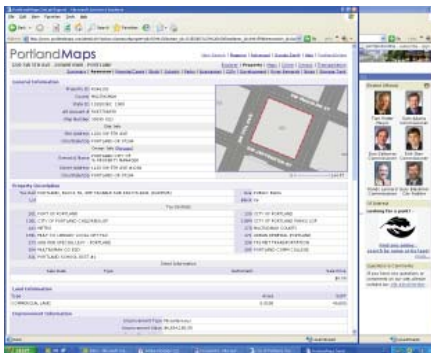
In this office, ombudsman refers to either Michael Mills or Kristen Erbes.

A related question arose concerning the time in which construction documents are retained after project completion. While it would have been helpful in this case to have maintained the approval documents for the City's protection, in general BES has a well designed process of record management. BES is capable of making adjustments in order to maintain records that may be of value in the future. BES did recognize there were two repositories of records, an issue they are addressing.

Balancing the Public's Interest in Knowing Land Ownership Information Against Personal Privacy

A complaint was filed with the Office of the Ombudsman in 2006 over the City's decision not to display the names of property owners along with other property information that was made available on the internet on PortlandMaps.com. The complainant argued the names were part of public records that were readily available through county assessor's offices. Multnomah County provides owner information of this county in person, over the telephone and to anyone willing to subscribe to their online service. Additionally, Metro, a regional planning government offers property information including owner names for Multnomah, Clackamas and Washington Counties to the public for a nominal fee. Further, it was argued all City employees with internal intranet access may retrieve property owner names, and when requested, may provide those names to the public.

Many local governments in Oregon, and throughout the country, now provide electronic access to property owner names. The ownership information is a public record under state statutes (ORS 192). The Ombudsman found that there was a compelling enough public interest in land ownership to make property owner names available on the internet, and recommended this to the City's Bureau of Technology Services (BTS). Upon receiving authorization from Multnomah County, the custodians of property records, the City displayed property owner names on the internet through PortlandMaps.com.



www.PortlandMaps.com

The City and Multnomah County agreed to allow searches by property only, NOT by an owner's name. This prevents someone from locating property, often the property owner's residence, with only a person's name. Allowing a search by property, but not by the name, helps address potential safety concerns.

After several weeks of property owner names being available on the internet via PortlandMaps.com, there were complaints received in opposition to the decision. While the policy decision was made by the Mayor's Office based on the Ombudsman's recommendation, this Office responded to most of the concerns. It was discovered that ownership names for Clacka-

mas and Washington Counties were also being displayed in addition to Multnomah County; however permission to display such names from these two counties had not been received. At the request of BTS, the Ombudsman contacted Clackamas and Washington Counties. Both counties requested that property owner names not be displayed on PortlandMaps.com. Recognizing the three counties were each the custodians of their respective public records, the City honored their wishes. PortlandMaps.com currently displays the names from Multnomah County, but not those within Clackamas or Washington Counties. The City will not display the owner names from Clackamas or Washington Counties until such permission from these two counties is received.

The Ombudsman continues to work with the Bureau of Human Resources and BTS to identify the most effective means to advise City employees as to the appropriate and inappropriate uses of property owner names obtained from these records based on directions from the three counties. It is anticipated that specific policy direction will be provided to all employees in the first half of 2008.

City Council Acts to Roll Dumpsters Off Sidewalks

The six year challenge, for the Office of the Ombudsman and concerned members of the public, to clear streets and sidewalks of garbage dumpsters and refuse containers approached a final conclusion as a result of City Council action in October 2007. The City Council passed a resolution adopting the Work Group's report and recommendations on Containers in the Right-of-Way (the CROW report). The action directs an ordinance be prepared to require all new buildings provide space on their property sufficient to store their own garbage and recycling; and to prohibit ongoing storage of garbage and recycling containers in the Right-of-Way, effective six months after passage of the resolution.

The Council established a means to fund enforcement of the new regulations and created a requirement to report back to them within a year. A financial hardship review process is being developed as a temporary measure to assist those with extreme difficulties with compliance, and the City is exploring ways to offer financial incentives to achieve compliance where possible.

The City permits sidewalk cafés and food vendors because they are desired public amenities adding to the livability of the City. Public exposure to the sight and smell of garbage and recycling containers on sidewalks is not considered an amenity. The responsibility for storing waste products on site is an existing cost of doing business that has been accepted by an estimated 98% of Portland businesses.

The Work Group and the City Council are to be commended for finding a solution to this quite visible livability issue that has eluded resolution for so many years.

I had a legitimate beef, presented my view and was listened to!

~Comment from 2007 satisfaction survey

OMBUDSMAN MEETS WITH INTERNATIONAL DELEGATION

The Office of the Ombudsman is requested throughout the year to meet with international visitors interested in the ombudsman program and the City of Portland government. In December 2007, the Ombudsman met with representatives of the International Visitor Leadership Program hosted by The World Affairs Council of Oregon. This group was particularly noteworthy given their interest and dialogue about Human Rights Advocacy and Awareness. The delegates were from Algeria, Bahrain, Egypt, Jordan, Morocco, Qatar, Tunisia, United Arab Emirates, Palestine and Yemen.

The guests represented various government and non-governmental organizations concerned, in one way or another, with issues of fairness and justice. The group included members of the Yemen Parliament, Qatar Human Rights Committee, the Jordanian National Commission for Women, the National Council of Liberties in Tunisia, The Women's Center for Legal Aid and Counseling in Ramallah, the Moroccan Judiciary system and the Bahrain Human Rights Society among others.

Representatives from Egypt, Palestine, Tunisia, Jordan, Yemen and others raised questions and discussed similarities with their own organizations. Participants exchanged views on the functions of Portland's Ombudsman, the ways in which it can investigate and respond to issues in the public interest and how it can try to ensure its recommendations are implemented. Guests Ms. Rafeef Mjihad of Palestine and Mr. Atef Youssef of Egypt and others shared models of grievance offices and mediation available to citizens in their countries. Some similarities raised were the need for independence and the utility of resolving complaints effectively and avoiding lengthy judicial processes where possible.

The Ombudsman would like to thank our guests for making these types of exchanges possible.

SPECIAL THANKS TO OUR INTERNS

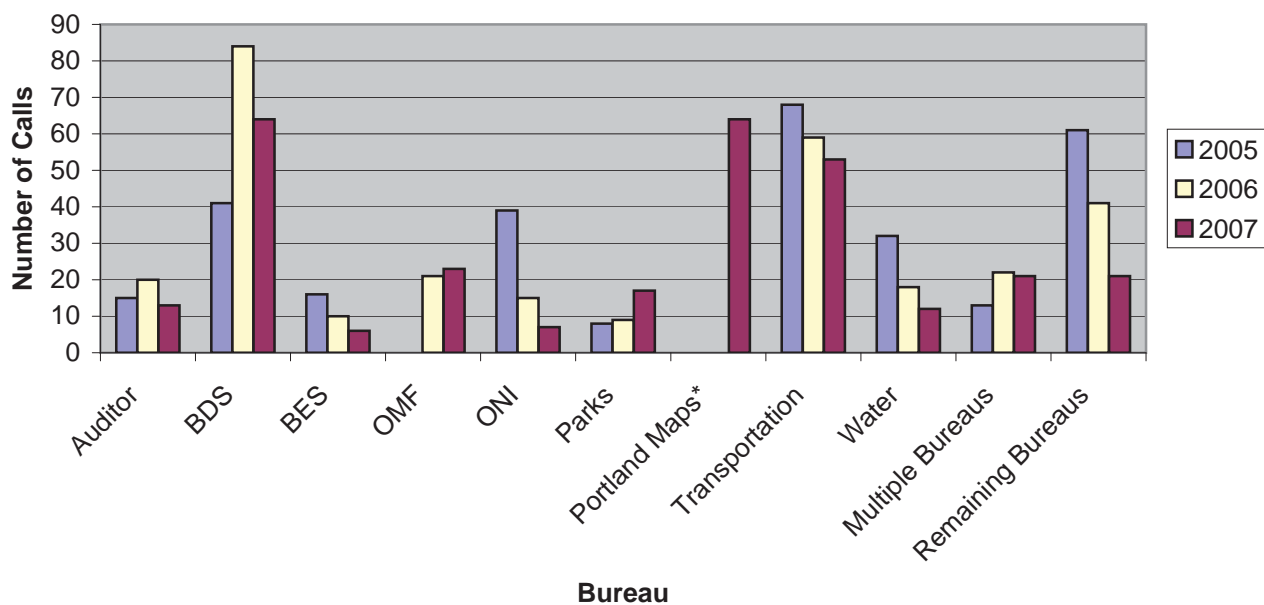
We are often fortunate to have interns assist with the daily operations of the Office of the Ombudsman. During much of 2007, Aimee Sanders provided support. Aimee came to us with an extensive background in legal research and paralegal experience. In addition to great research skills, she was also familiar with mediation and conflict resolution methods. Aimee is currently enrolled in the Conflict Resolution Graduate Program at Portland State University.

In November 2007 we were joined by Lisa Robbins. While a student Lisa served as the Ombudsperson at the University of British Columbia (UBC), a position created by the UBC Student Society serving over 40,000 students on campus. Lisa has assisted this Office in responding to complaints and with this annual report. She hopes to go to graduate school in international relations in the near future.

We wish both Aimee and Lisa well as they continue their careers!

OMBUDSMAN COMPLAINTS BY BUREAU

All Complaints 2005-2007



* In 2007 the Ombudsman made a recommendation regarding displaying property owners names on Portland Maps. The change in policy resulted in 64 complaints to the Office of the Ombudsman. There is a story about this recommendation on Page 5.

Acronyms: Bureau of Development Services (BDS), Bureau of Environmental Services (BES), Office of Management and Finance (OMF), Office of Neighborhood Involvement (ONI). OMF includes Business Operations, Financial Services, Human Resources, Purchases, Revenue and Technology Services.

In the past, the Office of the Ombudsman has separated cases into informational and jurisdictional cases and had separate charts reflecting cases by bureau. This year, we have decided to combine the cases into one chart.

The combined case numbers reflect the fact that we handle cases in a variety of ways. Sometimes we refer the complainants to the bureau letting the bureau staff attempt to directly resolve the issue with the complainant. There are other times we decide to investigate the matter to the fullest extent allowed by our code, including requesting and reviewing bureau documents, interviewing parties involved and researching legal or technical questions that arise. Often, our intervention is somewhere between those two ends of the spectrum. The amount of time spent on an issue is not always reflected in the type of complaint. For example, the assistance this office provided in the Mt. Tabor mediation process (story on page 3) was very extensive even though we assumed a more facilitative role than an investigative one.

The cases in the chart to the left do not include calls to our office we deem non-jurisdictional, meaning they do not involve an administrative act of a City agency. In those cases, we try to refer callers to the best appropriate resource to address their concerns.

If you are interested in further breakdowns of informational and jurisdictional cases by bureau, there is more on our website www.portlandonline.com/auditor/ombudsman under Reports and Publications.

ETHICS: A LENS FOR CITY EMPLOYEES

City officials (including employees, elected and appointed officials and volunteers) face ethical decisions on a continual basis as part of their jobs and are subject to different standards than are applied in private business or in our private lives. The standard of ethics that City officials must adhere to are more conservative and protective in order to insure that the decisions made are in the public's best interest rather than someone else's. This is because City officials are the stewards of the public's resources. Government officials must maintain awareness of these issues to avoid violations of the ethics code and appearances of a conflict of interest.

The City Code of Ethics, Chapter 1.03 of the Portland City Code, conveys the principals of the City organization and emphasizes positive expectations. This approach is a result -in part - of the original work done for the City by the Josephson Institute of Ethics. The Auditor's Office has also published a printed booklet which provides employees explanations and examples to help guide decisions. The booklet is also available online under "Code of Ethics" on the Auditor's website.

The Office of the Ombudsman is available to provide guidance to officials on the common sense application of the Code of Ethics, whereas the City Attorney has the expertise to provide legal advice on compliance with the Code of Ethics and other laws. Our office can help enhance an official's perspective while considering an appearance of fairness issue, or an appearance of a conflict of interest,

even in situations where there may not be a violation of law. The City Attorney's Office is assisting bureaus in understanding Oregon's New Government Ethics Law, effective January 1, 2008, that makes significant changes to reporting and lobbying regulations and places new limits on accepting gifts, including travel and entertainment.

The Oregon Government Ethics Commission (formerly called the Oregon Standards and Practices Commission) is a compliance agency. Their mission is to fairly and impartially administer the regulatory provisions of ORS Chapter 244, Oregon Government Standards and Practices law; ORS 171.725 to 171.785 and 171.992, Lobby Regulation and Oregon Public Meetings law; ORS 192.660. The seven-member citizen commission is charged with enforcing government standards and practices (ethics) laws, which includes the prohibition against public officials from using office for financial gain, and requires public disclosure of economic conflict of interest.

The Ombudsman has addressed concerns about the use of City resources for non-City business; the solicitation and/or acceptance of gifts, including travel; relationships with contractors and City sponsored non-profit organizations and the restrictions of using City resources for campaign purposes. We encourage officials or the public to contact our office when they have questions. We can either provide information or refer the question to the appropriate party for a response.

PARTICIPATION IN PROFESSIONAL ASSOCIATIONS

Both Ombudsman Michael Mills and Deputy Ombudsman Kristen Erbes continued involvement with several professional associations throughout 2007. Michael was a presenter on a panel comparing ombudsman models at the International Ombudsman Association annual conference in April 2007. He also attended the United States Ombudsman Association (USOA) annual conference in September 2007 and moderated an issues forum panel. The focus of that panel was a discussion of current issues of interest in the ombudsman field. Panelists were comprised of ombudsmen from local, state and federal government. In October 2007 Michael organized and participated on a panel of a diverse group of ombudsman at the Association for Conflict Resolution's annual conference.

Michael currently serves on the board of the Northwest Institute for Conflict Resolution, an organization centered in Oregon which promotes the dispute resolution profession and ideals in a variety of ways.

Deputy Ombudsman Kristen Erbes continues to serve as a board member for the USOA (currently serving in her second elected term). Kristen also joined with ombudsman from the Oregon Department of Human Services, Bonneville Power Administration and Portland State University on a panel moderated by former intern Jason Coulthurst at the Oregon Mediation Association annual conference in November 2007.

RECOGNIZING OUTSTANDING SERVICE

We have found that the vast majority of City employees are dedicated to public service and often receive little recognition. We thank those workers, and would like to provide a special “thank you” to a handful of City employees who have provided exceptional help in assisting the Office of the Ombudsman in resolving complaints. This year we would like to acknowledge and thank the following people.

Laurel Butman, Office of Management and Finance (OMF) – Laurel Butman assisted the Ombudsman throughout the year with questions regarding Portland Online, the City’s web portal. One example of a case involved an inquiry when someone tried to access Charter Review Commission meeting minutes and was denied access. Laurel helped explain that the minutes had been removed from Portland Online in order to comply with election laws because the City Council had referred the Charter Review issues to the ballot. Even though the documents were removed from the on-line site, they were still available through a public records request and instructions to request records were placed online.

John Dutt – Office of Neighborhood Involvement (ONI) – John Dutt manages the information and referral services for the City and Multnomah County. This program directs tens of thousands of individuals’ annually to specific local government services, saving both the public and government officials resources and needless frustration. In addition, John stepped forward to lead the Customer Service Advisory Committee which assists bureaus in implementing the Customer Service Bureau Innovation project recommendations on improving customer service.

Anne Holm, Regulatory Program Administrator, Revenue Bureau – Anne Holm receives and investigates complaints regarding the pay-and-park and non-pay private parking facilities. When the Ombudsman receives complaints regarding pay-and-park facilities, we refer the complaint to Anne. Anne will investigate the issue (often going out to the lot personally), work with the parking lot companies to ensure they are in compliance with Portland City Code and communicate her findings to both the complainant and our Office. After Anne resolved a recent complaint, we received an email from the complainant that said, “Wow! The system actually worked! ... I hate to sound surprised, but it sometimes seems that challenging something of that nature is worth more trouble than just writing a check. I really appreciate the process you used, and that others won’t get burned!”

Bill Ryan – Bureau of Environmental Services (BES) – Bill Ryan has consistently assisted the Ombudsman in addressing concerns over sanitary sewer construction projects. He has provided the necessary information and explanations to our Office that have allowed us to provide a knowledgeable response to the public as well as informed recommendations to the Bureau. Bill was extremely forthright in explaining the details of the decision making process that ultimately resulted in failures within a major sewer line project in the Multnomah area. This information was of great value to our Office in offering findings and recommendations as well as to the Commissioner-in-charge who had requested our assistance.

Mark Warrington, Public Safety Manager, Portland Parks and Recreation (Parks) – The Ombudsman received a complaint regarding the failure to enforce the closure time at a park. The residents nearby were disturbed by people in the park after midnight. The Ombudsman contacted Mark Warrington for information and assistance. Mark thoroughly explained the challenges that Parks faces throughout the City and the collaborative effort between Parks and the Portland Police Bureau to prevent, minimize and manage such disturbances. Mark discussed the complaint with the precinct commander near the park, a joint problem-solving team and also worked with the complainant to address remaining concerns.

Mission Statement

To receive complaints, conduct independent, impartial investigations of the administrative acts of City agencies and recommend appropriate changes to safeguard the rights of persons and promote higher standards of competency, efficiency and justice in the provision of City services.

2007 SURVEY CARDS PROVIDE VALUABLE FEEDBACK

Every year the Office of the Ombudsman sends survey cards to complainants. The responses provide valuable feedback from people who have used our services. This year we had a return rate of approximately 48%.

The 2007 results show a slight decrease in satisfaction rates for all of the questions compared to last year’s responses. However, it is important to look at the responses in terms of longer trends.

In our 2002 report, only Question 1 “Did staff listen carefully to your complaint” had satisfaction rates above 70%. The following year four questions had satisfaction rates above 70% with Question 3 “Did staff provide helpful assistance” and Question 6 “How would you rate the service you received” still not rising above 70%. In fact, only the 2006 results show satisfaction rates above 80% for all questions.

This year, only two questions (Questions 3 and 4) fell below the 80% benchmark we strive to reach. While it is hard to know exactly what complainants thought, some comments on the survey cards hint at possible explanations. Some cards with low satisfaction rates contained comments indicating they thought we were biased toward the bureau instead of advocating for the complainant. While we try to explain up front we are not advocates for the complainant, we know some people will be disappointed in any response that does not produce a favorable outcome for them.

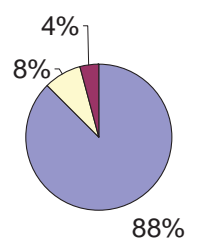
The role of the Ombudsman is to remain impartial. When a bureau has taken action or made a decision consistent with the code, and we have found that action to be in the best interest of the public, we explain the reasons to the complainant even if it is not what he or she wishes to hear. If the Ombudsman believes the code or policy should be changed, we will surely recommend doing so.

Occasionally we hear from complainants who were happy with our help even though the answer was not in their favor. It is important for us to continue to survey people who use our services and to listen to what they are saying. We must make every effort not to dismiss a voluminous complaint in its entirety when there may be some kernels of validity within it.

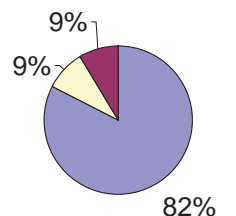
We appreciate those complainants who take the time to respond to our survey. However, if you have feedback or constructive criticism on how we can improve, even if you do not receive a survey card, please feel free to contact us at any time!

■ Satisfied □ Neither ■ Dissatisfied

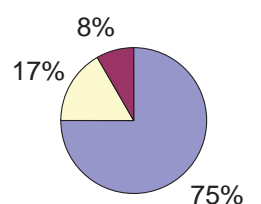
Did staff listen carefully to your complaint?



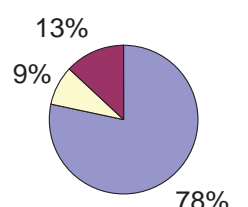
Did staff evaluate your complaint fairly?



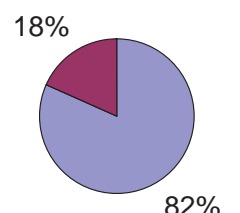
Did staff provide helpful assistance?



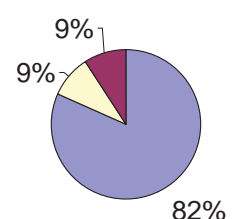
Did staff display suitable knowledge of issues?



Did staff respond in a timely manner?



How would you rate the service you received?



■ Satisfied □ Neither ■ Dissatisfied

OMBUDSMAN RELEASES PUBLIC RECOMMENDATION ON WELL ACCOUNTS

The Office of the Ombudsman received a complaint from a sewer-only customer (he has a private well). He was concerned because he was switched from quarterly billing to monthly billing without any explanation. His complaint focused on the difference in base charges assessed to accounts. Because of the switch, he said he ends up paying approximately \$150 more annually but does not receive any service for the increased fee.

2007-2008 water rates were adopted through Ordinance No. 181008 which states each meter shall be charged a base charge. The base charge covers the cost of reading and inspecting meters, servicing customer accounts, and billing. It is based on a cost per day, reflecting the number of days in the service period.

(A) A monthly, bi-monthly or quarterly base charge, based on a 365 day year, shall be levied on water and/or sewer services connected directly to the City system. A base charge per meter will be levied on sewer special submeters. The base charge shall be in addition to the volume or extra strength rates charged for water and sewer as follows:

Daily charge per meter for a quarterly billed account;
\$ 0.2155

Daily charge per meter for a bi-monthly billed account;
\$ 0.3232

Daily charge per meter for a monthly billed account;
\$ 0.6464

(B) The base charge shall apply to any unused water service when the owner, other city, water district or water company desires the service be retained for future use. Failure to pay the charge within sixty (60) days of the billed charge shall be sufficient cause for the service to be disconnected from the main. The Administrator of the Portland Water Bureau may direct a waiver of the charge because of a special need to retain the service when the public health or welfare or the convenience of the Bureau is served.

Portland City Code Titles 17 and 21 both refer to monthly, bi-monthly and quarterly billing, but they do not define which accounts must be billed in any of these respective frequencies. The Water Bureau has said identifying accounts billed at the monthly, bi-monthly and quarterly frequencies is a business practice designed to fit the needs of the Bureau and, in the case of sewer-only accounts, the needs of the customer's water provider.

The Ombudsman found since there is

no water provider, there is no reason that sewer-only well accounts could not be switched back to a quarterly billing cycle instead of a monthly billing cycle. The Water Bureau stated if these accounts were billed four times a year their total service charge would have been \$77.56. If these same accounts were billed twelve times a year their total service charge would have been \$232.68, or a difference of \$155.12. The Water Bureau agreed to change all sewer-only well accounts back to quarterly billing.

The Ombudsman also recommended sewer-only well accounts receive a credit for the difference in base charges between the quarterly and monthly billed accounts for the time period of July 1, 2007 until the time the accounts were changed back to quarterly billing. The accounts were changed back to quarterly billing October 22, 2007. There are 205 such accounts that would be eligible for this credit. The difference in service charges incurred between July 1, 2007 and October 22, 2007 is \$48.93 per account. (114 days at the monthly rate = \$73.69 and 114 days at the quarterly rate = \$24.76 so the difference is \$48.93 per account.)

The Ombudsman determined the difference in base charges (or service charges) is significant, especially given the fact these accounts do not receive any service other than receiving a bill more frequently. The Water Bureau confirmed well account rates have always been based on class average. (The Water Bureau does not go out and read a meter.)

The Water Bureau declined the Ombudsman's recommendation. Kathy Koch, the Water Bureau's Customer Services Director, explained:

As far as refunding the difference, as you know the bureau is quite committed and responsive to refund any overage when an error is made on an account. Well accounts getting billed monthly was not an error. It was a business decision that was in line with where the bureau would like to go for the benefit of its customers – monthly billing. Customers have been asking for this for years and we are researching different ways to get there. A good majority of our customers would very much appreciate a monthly bill. We had an opportunity to get a group of accounts there and we did that. We have considered your recommendation to change the billing frequency and we did that but given that the accounts were billing accurately as designed – a refund seems inappropriate for our entire rate payer group.

While the Ombudsman certainly appreciates the convenience monthly billing would provide many customers, we do not believe this convenience should come at a price of \$150 more per year. This is especially true for sewer-only well accounts where a meter is not even read.

The Ombudsman's public report recommended to City Council

- The Water Bureau credit sewer-only well accounts the difference in base charges between the quarterly and monthly billed accounts for the time period of July 1, 2007 until October 22, 2007, the time the accounts were changed back to quarterly billing.
- The Water Bureau should go further to balance the convenience of more frequent billing and the cost that is passed on to customers. The Water Bureau reports that they offer budget/equalized billing for free. If this alternative exists, then it is hard to justify switching accounts to monthly billing at an added cost of \$150 per year.
- The City Council should look closely at the difference in base charges between quarterly, bi-monthly, and monthly accounts before adopting the next rate ordinance to ensure Portland Water Bureau Customers are being charged fairly for the services they receive.

The Ombudsman's report can be found online at www.portlandonline.com/auditor/ombudsman under the 'Formal Investigations' subsection of the Reports and Publications section.

How To Contact Us

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Photo: Steve Bonini

Ombudsman Michael Mills & Deputy Ombudsman Kristen Erbes at The Gerding Theater at the Armory.

