

Ex-Oregon governor emerging from political oblivion

By Jeff Manning
The Oregonian/OregonLive

PORTLAND (AP) — In early January, a capacity crowd filled the Mission Mill for a Salem City Club presentation on health care. It was politics at its most grass-roots, full of wonky detail about capitation rates and coordinated care organizations.

The star attraction was John Kitzhaber, who stayed long after the event was over to chat with well-wishers. “He was full of energy, still very much invested in health care and his legacy of reform in Oregon,” said fellow panelist Jesse Ellis O’Brien, policy director for the left-leaning advocacy group OSPiRG.

It was another baby step in an unlikely return from political oblivion.

Today, two years after Kitzhaber resigned amid an influence-peddling scandal that made him the target of a federal investigation, the former governor has staged a surprising comeback — a testament to his personal resilience and, perhaps, to the shallow bench of Oregon Democratic politics.

Some welcome his return. “Oregon needs everyone’s input, the state’s in bad shape,” said John DiLorenzo, a prominent Portland lawyer. “Whatever you think about the personal choices he’s made, the guy has a hell of a lot of expertise.”

But Kitzhaber can’t fully come in from the cold until the federal inquiry is complete. Chatter among Portland criminal defense lawyers is that some sort of resolution is imminent, perhaps as early as this month.

U.S. Attorney Billy Williams declined interview requests, as did Kitzhaber and his fiancée Cylvia Hayes.

In a video on his Facebook

page, Kitzhaber said he’s ready to write a new chapter. “I’m going to find new ways to lead,” he said. “I’m healing. I’m hopeful.”

Kitzhaber’s long and storied political career took a fateful turn in October 2014 when *Willamette Week* ran a report alleging Hayes had used her position as Oregon’s first lady to land consulting contracts. As the story detailed, Kitzhaber’s staff had become alarmed and tried, unsuccessfully, to rein Hayes in.

Kitzhaber steadfastly denied doing anything wrong even as embarrassing details of Hayes’ past — a sham marriage, her alleged role in a marijuana grow operation — came to light. But the revelations kept coming. Hayes had collected more than \$200,000 through various consulting contracts with environmental and progressive political groups.

By February 2015, Kitzhaber was done. His resignation took effect Feb. 18 — some five weeks into his fourth term — and he was replaced by Secretary of State Kate Brown a week later. That same month, the couple was subpoenaed by a grand jury looking into Hayes’ financial affairs and the contracts she’d landed while first lady.

Meanwhile, a case with eerie similarities to the Kitzhaber-Hayes investigation was unfolding 3,000 miles away. Eight days after Kitzhaber quit, Maureen McDonnell, the former first lady of Virginia, was sentenced to a year and a day in prison after being found guilty of bribery. Her husband, former Virginia Gov. Bob McDonnell, had received a two-year sentence for a federal corruption conviction

just weeks before.

The McDonnells had been accused of accepting more than \$140,000 in cash and gifts in exchange for promoting the business of a political patron who was seeking special favors from the state government. The telegenic couple went down hard, which seemed a foreboding development for their Oregon counterparts.

After his resignation, Kitzhaber disappeared from public view.

The legal morass grew deeper as the former governor and first lady fought demands for their emails. In May 2015, Hayes sued *The Oregonian/OregonLive* in an attempt to block the release of thousands of emails. She lost.

Kitzhaber also took legal action in November of that year to block the government’s demand for emails he considered personal and private or subject to attorney-client privilege. The issue ultimately ended up before the 9th U.S. Circuit Court of Appeals, which ruled last July that the subpoena for his personal emails was “unreasonably overbroad.” But the court rejected Kitzhaber’s contention that his communications with state lawyers were shielded by attorney-client privilege.

Meanwhile, the criminal investigation dragged on.

Corruption cases almost always are lengthy affairs. But seldom does it take federal prosecutors two years to decide whether to file charges.

The nine-month detour to the appeals court helped prolong the investigation, according to lawyers familiar with the case.

By last March, Kitzhaber had had enough seclusion. He

staged his own digital coming out party in a series of videos he posted on a newly created Facebook page. He was both defiant and optimistic, adding that if he had it to do over again, he might not have resigned.

“It’s been a year since I left office,” he said in one of the videos. “I’ve intentionally taken a low profile to allow the federal investigation to take its course. But I can’t sit any longer and allow my career and reputation to be defined by a media narrative that from the beginning has been long on speculation and short on fact.”

He granted one interview — to veteran political reporter Jeff Mapes at Oregon Public Broadcasting. Kitzhaber made it clear that his re-emergence was not just idealistic public service. He needed the money.

“I’m also trying to figure out what my career path from a financial standpoint is going to be,” he said. “And as I said, I do think that will involve some consulting. And if you’re going to do some consulting, people need to know you’re alive and well.”

Sean Robbins, of the health insurance powerhouse Cambia Health Solutions, said it was clear to him after a late-summer breakfast with Kitzhaber that he was determined to raise his profile.

“He was fully engaged with health care transformation, really thinking hard about the looming budget problem, which probably got a lot worse after November’s election,” Robbins said. “His

head was completely in the game.”

Not long after that meeting, Kitzhaber irritated much of the state’s Democratic establishment when he came out against Measure 97, which would have created a new gross receipts tax on certain corporations in the state. The \$3 billion-a-year tax was too steep and failed to impose any performance requirements on the agencies receiving the windfall, he said.

Jack Roberts, former director of the Oregon Lottery, said it was a classic centrist move that reminded him why Kitzhaber was such an effective politician. “He’s got a knack for solutions that bring people together from different partisan camps and geographical areas,” Roberts said. “When you’re a Democrat from Douglas County, you kind of have to learn that.”

Kitzhaber now faces a far greater challenge — defending and preserving Oregon’s model of healthcare after the election of Donald Trump and the likely repeal of the Affordable Care Act.

But how visible and effective Kitzhaber will be all hinges on the criminal case.

On that front, Kitzhaber and Hayes got some encouraging news last summer.

The McDonnells appealed their guilty verdicts all the way to the U.S. Supreme Court, which last June unanimously voted to toss the convictions.


Working on behalf of constituents should not be criminalized, the court opined.

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