

# Judge: Hayes was public official, her emails public record

By HILLARY BORRUD  
Capital Bureau

SALEM — A Marion County Circuit Court judge ruled Wednesday that former Oregon first lady Cylvia Hayes was a public official and her emails regarding state business are public records.

Hayes served as an unpaid policy adviser to her fiancée, former Gov. John Kitzhaber, from 2011 until shortly before Kitzhaber resigned in February. The Oregonian newspaper filed a public records request for Hayes' emails from that time that dealt with state business.

In an order issued Wednesday morning, Judge Tracy Prall gave Hayes 14 days to provide copies of her emails to the court. Prall will review the emails to determine which are public records and should be released.

The office of Gov. Kate Brown already released 94,000 emails between Hayes and Kitzhaber administration staff in April, so Prall will focus on approximately 30,000 additional emails Hayes sent or received in the time period requested by The Oregonian.



Pool photo/Statenman Journal

**Marion County Judge Tracy Prall has ruled that former first lady Cylvia Hayes was a public official in the Kitzhaber administration, and that her emails concerning official business are public records.**

Hayes never had a government email address and instead used private accounts.

### A public official

Hayes filed a lawsuit against The Oregonian to prevent the disclosure of her emails, after the Oregon Attorney General's Office ordered Hayes to turn over the emails in February.

Charles Hinkle, a lawyer

for The Oregonian, said on Wednesday that Prall agreed with the previous decision by the Attorney General's office that Hayes was a public official.

"Judge Prall agreed with the Attorney General that when a person functions as a member of the government, that person is subject to the public records law," Hinkle said. "And Judge Prall

found that the undisputed facts showed that Cylvia Hayes acted as a member of the governor's office, with authority given to her by the governor, just like any other member of the staff."

"The task before the court is to separate the emails that are clearly public records," Hinkle said.

Prall decided to review the emails because Hayes'

lawyer argued it would have violated Hayes' Fifth Amendment right against self-incrimination if the court forced Hayes to decide which emails pertained to state business. Hayes' lawyer, Whitney Boise, has said the request for Hayes to determine when her emails dealt with public business and when they were private addressed the distinction between Hayes' paid consulting work and public policy role, which is the heart of a federal criminal investigation into influence peddling allegations against Hayes and Kitzhaber.

### Private consultant, public adviser

Hayes was paid more than \$200,000 for consulting work since 2011, by groups with an interest in the same areas of state policy on which Hayes advised Kitzhaber. Boise and Hayes did not respond to a request for comment on Wednesday.

After Prall reviews the emails, she will issue a final order which will determine whether any additional emails will be released.

Prall agreed with Hayes' attorney's argument that the position of first lady was not

defined in Oregon law as a state agency. However, Prall said the key question was whether "the record being sought is a public record of a state agency." Hayes was "acting as a state officer within the Governor's Office" during the period for which The Oregonian requested Hayes' emails, Prall wrote.

"State employees were expected to, and did regard her as having authority roughly equivalent to that of a senior policy adviser," Prall wrote. "The Governor's Legal Counsel considered (Hayes) to be her client and had (Hayes) sign a conflict of interest disclosure form in which plaintiff was referred to as 'a public official.' The governor himself confirmed her authority when he directed his chief of staff to ensure that (Hayes) had a role in defining and developing his policy around the clean economy initiative."

Hayes also was reimbursed by the state for her expenses and directed state employees to assist her, Prall wrote.

*The Capital Bureau is a collaboration between EO Media Group and Pamplin Media Group.*

## ACCUWEATHER® FORECAST FOR ASTORIA

### Astoria 5-Day Forecast

**Tonight**  
Clear  
54°

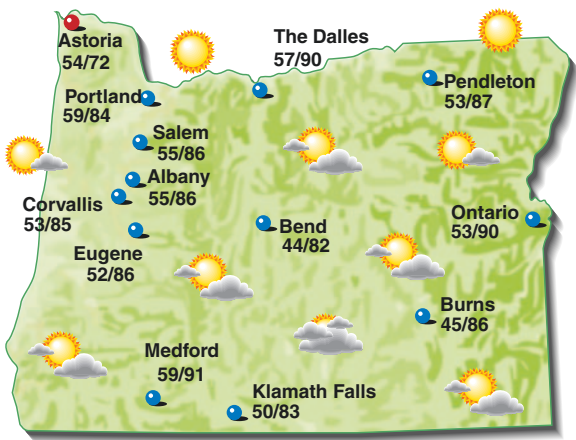
**Friday**  
Mostly sunny and beautiful  
72° 57°

**Sunday**  
Times of sun and clouds  
69° 56°

**Saturday**  
Mostly cloudy, a shower in the afternoon  
68° 58°

**Monday**  
Cloudy  
70° 54°

### Oregon Weather



### Almanac

Astoria through Wednesday.

Temperatures	Precipitation
High ..... 70°	Yesterday ..... 0.00"
Low ..... 53°	Month to date ..... 0.00"
Normal high ..... 68°	Normal month to date ..... 0.12"
Normal low ..... 54°	Year to date ..... 27.78"
	Normal year to date ..... 37.06"

### Sun and Moon

Sunset tonight .....	8:39 p.m.
Sunrise Friday .....	6:04 a.m.
Moonrise today .....	none
Moonset today .....	1:45 p.m.



AccuWeather.com

### Regional Cities

City	Today			Fri.		
	Hi	Lo	W	Hi	Lo	W
Baker City	79	38	s	84	46	s
Bend	79	44	s	82	48	pc
Brookings	75	58	pc	72	57	c
Eugene	82	52	s	86	56	pc
Ilwaco	66	57	c	67	59	s
Klamath Falls	84	50	s	83	48	pc
Medford	91	59	s	91	60	pc
Newport	66	51	s	65	54	s
North Bend	69	53	s	69	57	pc

### Regional Cities

City	Today			Fri.		
	Hi	Lo	W	Hi	Lo	W
Olympia	79	50	pc	82	55	s
Pendleton	82	53	s	87	60	s
Portland	80	59	s	84	60	s
Roseburg	87	59	s	87	60	pc
Salem	82	55	s	86	57	s
Seaside	69	56	pc	68	58	s
Spokane	77	53	s	84	57	s
Vancouver	80	57	s	83	59	s
Yakima	86	51	s	89	56	s

### Under the Sky

**Tonight's Sky:** Due south, Antares, the bright orange heart of Scorpius, is one of the biggest, heaviest and brightest stars.

Source: Jim Todd, OMSI

### Tomorrow's Tides

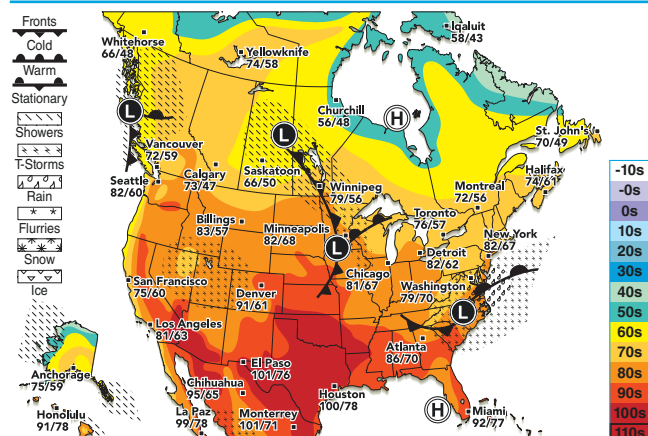
Astoria / Port Docks

Time	High	Time	Low
7:56 a.m.	6.4 ft.	1:51 a.m.	0.4 ft.
7:58 p.m.	8.3 ft.	1:36 p.m.	1.6 ft.

### National Cities

City	Today			Fri.		
	Hi	Lo	W	Hi	Lo	W
Allanta	85	71	t	86	70	pc
Boston	81	64	s	74	62	s
Chicago	81	62	pc	81	67	t
Denver	94	60	pc	91	61	c
Des Moines	84	70	pc	88	71	pc
Detroit	80	60	pc	82	62	pc
El Paso	102	75	s	101	76	s
Fairbanks	69	48	s	72	55	pc
Honolulu	89	76	sh	91	78	sh
Indianapolis	73	58	r	80	61	pc
Kansas City	82	70	pc	90	72	s
Las Vegas	104	79	pc	100	73	t
Los Angeles	85	66	pc	81	63	pc
Memphis	88	73	t	90	75	t
Miami	92	78	s	92	77	pc
Nashville	81	68	t	83	66	pc
New Orleans	92	78	t	96	79	pc
New York	83	69	s	82	67	pc
Oklahoma City	98	76	s	99	74	s
Philadelphia	85	67	s	79	67	r
St. Louis	86	68	pc	87	71	pc
Salt Lake City	89	68	pc	77	60	pc
San Francisco	76	61	pc	75	60	pc
Seattle	77	57	pc	82	60	s
Washington, DC	84	70	t	79	70	r

### Tomorrow's National Weather



Shown are noon positions of weather systems and precipitation. Temperature bands are highs for the day. Forecast high/low temperatures are given for selected cities.

**Weather (W):** s-sunny, pc-partly cloudy, c-cloudy, sh-showers, t-thunderstorms, r-rain, sf-snow flurries, sn-snow, i-ice.

## OBITUARIES

### Patrick Anthony Dugan Astoria March 3, 1932 — Aug. 2, 2015



Patrick Anthony Dugan, 83, of Astoria, died Aug. 2, 2015, in Portland. Pat was born to Bartholomew A. Dugan and Nora H. (Hunt) Dugan, in Astoria, on March 3, 1932.

He was a graduate of St Mary, Star of The Sea, Class of 1950. He attended the University of Portland until 1953, when he decided to enlist in the U.S. Marine Corps with his brother, Donny. He served three years, reaching the rank of sergeant.

After the Marines, he was a logger, then a longtime shareholder and worker at Astoria Plywood Corp. He was a die-hard Notre Dame fan.

He married Alicia Punilei (Burrows) Dugan on Aug. 9, 1958. She preceded him in death Feb. 28, 1987.

He married Marilyn Elizabeth (Larson) Dugan on Nov. 18, 1989. She preceded him in death Feb. 9, 2012.

He is survived by Mary (Dugan) Todd of Astoria, Patrick and Ingrid Dugan of Astoria, Kerry and Holly Dugan of Arlington, Wash., Maury Dugan of Kodiak, Alaska, Tim and Margie Dugan of Renton, Wash., Mike and Patty Larson of Portland, Paul and Cheryl Larson of Svensen, Jim Larson of Portland, Rick and Dori Larson of Knappa,

Jody Burkholder of Astoria; a brother-in-law and sister-in-law, Pat and Gail Hjorten of Seattle; a sister-in-law, Erica Dugan of Knappa; 19 grandchildren; 10 great-grandchildren; numerous nephews and nieces and grand-nephews and nieces; and longtime friend and companion, Laurel Carlson.

He was preceded in death by brothers Donald F. Dugan and James M. Dugan; and eldest son, Sean Bartley Dugan.

Visitation will be held Friday, Aug. 7, 2015, from 3 to 7 p.m. at Caldwell's Luce-Layton Mortuary, 1165 Franklin Ave., Astoria, Ore.

Recitation of the Holy Rosary will be held Saturday, Aug. 8, 2015, at 12:30 p.m., followed by a Mass of Christian Burial at 1 p.m., at St. Mary, Star of the Sea Catholic Church, 1465 Grand Ave., Astoria, Ore.

Graveside services will follow at Greenwood Cemetery, 91569 Highway 202, Astoria, Ore.

Memorial contributions may be given to the St. Mary, Star of the Sea Memorial Fund or the Archdiocese.

Caldwell's Luce-Layton Mortuary is in charge of the arrangements. Please sign our online guest book at [www.caldwellsmortuary.com](http://www.caldwellsmortuary.com)

### Kenneth Nanson, DMD Milwaukie July 27, 1936 — July 18, 2015

Ken Nanson passed away peacefully on July 18, 2015, of complications of dementia. He was a beloved orthodontist in Portland and Astoria for 40 years, and loved the outdoors, hunting, and fishing. He cared deeply for his patients and their families, and leaves behind many good friends.

He also started for the Oregon State Beavers

Varsity Basketball Team from 1956-1958, and was a die hard Beaver Believer. He is survived by his brother, Jim, and four children, Kelli, David, Chris, and Gabriella.

In lieu of flowers, please send remembrances to the Oregon State University Foundation. A private remembrance service will be held.

## Death

July 28, 2015

BERG, JoAnn, 78, of Ilwaco, Wash., died in

Ilwaco. Penttila's Chapel by The Sea in Long Beach, Wash., is in charge of the arrangements.

## Lotteries

**OREGON**  
Wednesday's Pick 4:  
1 p.m.: 9-4-1-2  
4 p.m.: 3-0-0-3  
7 p.m.: 1-1-6-9  
10 p.m.: 5-3-9-4  
Wednesday's Mega-bucks: 1-8-10-11-12-19  
Estimated jackpot: \$5.6 million.

**Washington**  
Wednesday's Powerball:  
9-11-14-16-42, Powerball: 19  
Estimated jackpot: \$40 million.  
Wednesday's Daily Game: 1-2-8  
Wednesday's Hit 5: 13-15-21-28-37  
Estimated jackpot: \$150,000

**Wednesday's Keno:** 01-03-07-11-16-19-23-28-40-50-53-57-62-63-66-70-72-73-76-80  
**Wednesday's Lotto:** 04-05-14-16-32-49  
Estimated jackpot: \$1.8 million  
**Wednesday's Match 4:** 09-18-21-23

## Public meetings

**THURSDAY**  
Northwest Oregon Housing Authority Board, 10 a.m., NOHA office, 147 S. Main Ave., Warrenton.  
Clatsop Care Health Dis-

trict, 3:45 p.m., special meeting, Clatsop Care Memory Community, 2219 S.E. Dolphin Road, Warrenton.  
Seaside Parks Advisory Committee, 7 p.m., City

Hall Council Chambers, 989 Broadway, Seaside.  
**MONDAY**  
Seaside City Council, 7 p.m., City Hall Council Chambers, 989 Broadway, Seaside.

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