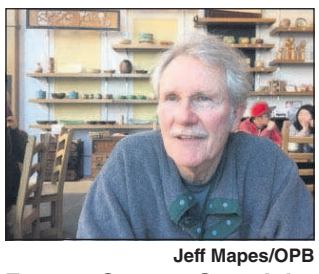
Kitzhaber going public again — but not to run for office

Former governor reflects on a 'painful' year

By JEFF MAPES
Oregon Public Broadcasting



Jeff Mapes/OPB

Former Oregon Gov. John Kitzhaber talks about his future plans at a downtown Portland coffee shop Thursday.

PORTLAND — Thirteen months after he resigned the Oregon governorship, John Kitzhaber is going public again.

Kitzhaber said he will launch a Facebook page that he says will give him an opportunity to talk about public issues.

In his first extensive interview after his resignation, Kitzhaber told Oregon Public Broadcasting that he stayed quiet for more than a year while federal investigators probed allegations that fiance Cylvia Hayes used her position as first lady to win consulting work.

But he said he hasn't been interviewed by federal agents and that it's time to get on with his life.

"It's been a tough year, it's been a painful year. I've obviously struggled with a feeling that I let down people who elected me and certainly was not my intention," Kitzhaber said in an interview Thursday afternoon in a downtown Portland coffee shop. "But I think the biggest lesson for me over the last year is that I'm just not going to let adversity dampen my commitment to these ideas that have motivated me for so long."

No plans to run

Kitzhaber, who turned 69 this month, said he won't run for office again. But the ex-governor said he is looking for work.

"Obviously, you know, I am looking for a way to contribute," he said. "I'm also trying to figure out what my career path from a financial standpoint is going to be. 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."

Kitzhaber refused to comment on the allegations against Hayes and on whether he thought she would be exonerated. He noted that they each have separate defense attorneys.

Kitzhaber also said he was not ready to talk about the specifics of the investigation against him, but he did repeatedly say he expected to be cleared of any wrongdoing.

"I remain confident that when the truth is told and the investigation complete, I will be exonerated," he said. "I am very confident of that."

In the months before his resignation, the Oregon Government Ethics Commission had launched an investigation into the pair, as did the state attorney general's office. But both probes have been on hold while the FBI and U.S. Department of Justice investigate Kitzhaber and Hayes.

Kitzhaber said he and Hayes are still engaged but haven't set a date. "We're obviously hoping to get past, obviously, the investigation," he said.

Health care to tax policy

The former governor said he continues to have firm views about issues ranging from health care to tax policy. He said he was troubled by a proposed ballot measure that would raise corporate taxes by $2.6 billion a year.

Kitzhaber said he agreed the state needed more revenue but said the union-backed initiative failed to reform what he regards as a broken system of paying for schools. And he also said it would cause a bitter rift between business and organized labor that would poison the state's politics.

Kitzhaber offered only brief commentary about his successor, Kate Brown, the former Secretary of State. Her comments about Kitzhaber's state of mind in his last days of office were widely seen as contributing to pressure for him to resign.

"I think she's obviously had a steep learning curve," he said, "and I'm certainly not going to comment on her job performance."

Since his Feb. 18, 2015 resignation, Kitzhaber said he has done a lot of reading and writing while also doing some river rafting, one of his longtime passions. He also jokingly called himself a "domestic guy," saying he had done a lot of puttering around his house.

Now, he said, "I've just got to the point where I don't want my career or want my reputation to be defined by this narrative that grew out of the last months of my administration."

Legislators outdo agencies in high fees, long waits for records

By PARIS ACHEN
Capital Bureau

SALEM — State lawmakers just wrapped up a packed session in which they passed important laws on minimum wage, housing and renewable energy that were negotiated behind closed doors.

Their response to a public records request shows how time consuming and expensive it can be for reporters — and the public — to find out who attended and helped shape legislation during those closed-door meetings.

The Pamplin Media Group/EO Media Group Capital Bureau on in December requested the calendars of 11 legislators. Lawmaker calendars are considered a public record under state law. The bureau planned to examine the schedules to find out how legislative leaders and committee chairpersons spent their time and whom they met with leading up to votes on key policy proposals.

While many state agencies provide public records for free, the two most powerful people in the Legislature, House Speaker Tina Kotek, D-Portland, and Senate President Peter Courtney, D-Salem, were among lawmakers who slapped the highest price tags on their calendars.

Initially, five of the 11 lawmakers volunteered to waive fees associated with releasing their calendars. The other six legislators, including Kotek and Courtney, provided the bureau with estimates that totaled $1,200 to release less than 12 months of their calendars. To reduce the cost, the bureau narrowed its request to the calendars of Kotek and Courtney.

As of Wednesday, the bureau had yet to receive any of the records. Suzanne Trujillo, deputy legislative counsel, said she did not yet have a timeline for when the request would be complete.

Waiving the fees

Excessive fees and long delays for public records are "a barrier to access," said Jack Orchard, attorney for the Oregon Newspaper Publishers Association and a longtime advocate for inexpensive access to public records. "It is a barrier imposed by the legislator. It is not a barrier engineered by the public."

Inconsistencies in the way state agencies answer public records requests — including delays and high charges — contribute to the perception that agencies sometimes block release of public information, according to a November audit by the Secretary of State's office.

The Capital Bureau's request illustrated that those disparities can be even greater when the recipients of the requests are legislators. Lawmakers shape public records rules and have exempted themselves from many of the requirements. Disparities in charges and response times, along with fewer options for recourse when a lawmaker denies a records request, raise questions about whether the public can access information about how their representatives spend their time and make their decisions. Oregon law allows lawmakers and their staff to refuse to release records during legislative sessions.

Hourly charges and the time estimated to release calendars varied dramatically. For example, Courtney's staff members indicated they would charge nearly $80 an hour to review, make redactions and release his calendar. Meanwhile, Sen. Michael Dembrow's office gave an estimate of less than $23 an hour.

State agencies charge anywhere from $15 to $40 per hour for staff time spent on fulfilling public records requests, according the Secretary of State's audit. Time estimates to produce the calendars ranged from two hours for Courtney's to 10 hours for Sen. Arnie Roblan's.

Lawmakers who volunteered to waive fees associated with releasing their calendars were Rep. Margaret Doherty, D-Tigard; Rep. Ann Lininger, D-Lake Oswego; Senate Majority Leader Ginny Burdick, D-Portland; Senate Minority Leader Ted Ferrioli, R-John Day; and Sen. Floyd Prozanski, D-Eugene.

At the bureau's request, Sen. Dembrow, D-Portland, House Minority Leader Mike McLane, R-Powell Butte, and Sen. Roblan, D-Coos Bay, later agreed to also waive the fees. Senate President Courtney, House Speaker Kotek and House Majority Leader Jennifer Williamson, D-Portland, held firm on their charges.

Setting a cost barrier

In their leadership positions, Courtney and Kotek shape the policy agenda, can block bills from the chamber floor and often negotiate backroom deals on legislation. Their power in the state rivals only that of Gov. Kate. Brown.

Kotek and Courtney's estimates for their calendars equaled nearly $300. As a comparison, Brown agreed to release nearly a year of her calendar, with detail fields, for $45.

Courtney's office indicated it would charge for his most expensive employee, Chief of Staff Betsy Imholt, to process the request, at a cost of $80 per hour. Imholt earns $110,838 a year.

Courtney's office later agreed to reduce the charge to $60 an hour, when the bureau pointed out the hourly charge appeared inconsistent with Imholt's annual salary. The original $80 charge contained a prorated cost for benefits, said Robin Maxey, Courtney's spokesman.

Legislators are allowed to charge fees for the time it takes to release their calendar, including redacting items that are not legislative business. That can include personal information, personal appointments, such as doctor visits, and campaign-related events, Trujillo said.

The charge "recoups the cost to the public body incurred in responding to the request — in this case, the staff time that was diverted from taxpayer-funded duties to fulfill your request," said Lindsey O'Brien, Kotek's spokeswoman.

The Speaker's Office didn't offer any evidence that providing the records caused an additional cost to the state.

Not every public record request incurs overtime, so if an employee doesn't work overtime to fulfill the request and an extra employee isn't hired to do so, it is unclear what benefit the fee serves, except to discourage such public records requests, said Orchard of the Oregon Newspaper Publishers Association.

Orchard also questioned whether lawmakers have a right to charge for removing their personal appointments from a public calendar. With today's technology, any lawmaker can keep separate personal and legislative calendars and sync them, Orchard said.

"The decision to merge public and private appointments on a calendar is your decision to make," he said. "To turn around and charge the public for a decision you made to merge the two seems to me to set up a cost barrier for people getting access to that public record."

Lawmakers "need to know what time is really free and not free," said legislative counsel Dexter Johnson. "That inherently means kind of a blended calendar of both public and private events."

Lawmakers also can decide what is and isn't in the public interest. State officials can waive public records fees if releasing the information benefits the public, and the Capital Bureau had argued it would be beneficial for the public to know what lawmakers were doing. The only recourse for a denial is to take the lawmaker to court.

Expensive legal challenges

The Legislature has largely exempted itself from public records law, said Judson Randall, president of Open Oregon, a charitable organization dedicated to helping Oregonians access public information.

Under state law, a requester who is denied a record or charged an exorbitant fee can appeal to the Attorney General's office. That recourse is not available to people requesting records from lawmakers .

"If Courtney says no dice, you have no recourse but to go to court, which is very expensive," Randall said.

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

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