

## Portland Planning and Sustainability Commission

June 27, 2017

5 p.m.

### Meeting Minutes

**Commissioners Present:** Andre' Baugh, Mike Houck (by phone), Katie Larsell, Michelle Rudd, Katherine Schultz, Chris Smith, Eli Spevak (by phone), Teresa St Martin

**Commissioners Absent:** Jeff Bachrach; Andres Oswill

**City Staff Presenting:** Joe Zehnder, Sandra Wood, Lora Lillard; Phil Nameny (BPS); Staci Monroe (BDS); Karl Arruda, Christine Leon, Richard Eisenhour, David Nassif (PBOT)

*Chair Schultz* called the meeting to order at 5:02 p.m. and gave an overview of the agenda.

### Documents and Presentations for today's meeting

#### Items of Interest from Commissioners

- *Commissioner Larsell* attended the officer's briefing last week. She was interested in learning more about how projects get started and become projects. She is really interested to hear more about this topic.

#### Director's Report

Joe Zehnder

- Mr. Zehnder reviewed a handout related to the BPS Work Program for Fiscal year 2017-18, explaining how it worked with relationship to budget and staffing. This is just for your information. Please look it over and call me if you have questions. Intent is to discuss this work plan, as well as the 3-year work plan, as part of PSC retreat that is yet to be scheduled. We're also interested in hearing about ideas for other projects. This work program is what we use when we develop the budget, but it's still fluid.

#### Consent Agenda

- Consideration of Minutes from June 13, 2017 PSC meeting.

*Commissioner Smith* moved to approve the Consent Agenda. *Commissioner Baugh* seconded.

The Consent Agenda was approved with an aye vote.

(Y7 – Baugh, Larsell, Rudd, Schultz, Smith, Spevak, St Martin)

#### R/W 8073: Street Vacation Request

Hearing / Recommendation: Karl Arruda (PBOT)

Karl reviewed the details of the street vacation request, including the map, the relationship to the LID, and all of the different utilities that need to preserve access through the potentially vacated land. He reviewed the recreational trail easement and concerns about maintaining access to the slough. He also reviewed photographs of the various areas proposed for vacation. The existing fence was installed at the request of adjacent property owners concerned about illegal camping and other unauthorized activities.

*Commissioner Smith:* When we vacate a street, it always goes to the adjacent property owner. Correct?

*Mr. Arruda:* Yes.

*Commissioner Smith:* Could you expand on the Bureau of Environmental Services (BES) trail easement and particularly what we anticipate the operational procedures would be for opening and closing the gate installed there?

*Mr. Arruda:* there was much discussion about how that would work. The current thinking is to leave the gate open for public access. I learned that recreational trail easements are governed by the same rules as a City Parks and that the normal hours of operation are 5am to 10 pm. I've talked to BES about installing a sign stating that this area is only available for daytime use - and that the gate would only be closed if there was a public health or safety issue where BES or the Police felt it needed to be closed.

*Commissioner Houck:* We have exchanged some emails and I'm satisfied with what I've heard regarding the gate - leaving it open with the option to close it. Illegal camping on the Columbia Slough is a big problem and I totally understand the need to periodically cut off access in order to keep some control. The most important part is maintaining that public access easement as a condition.

*Commissioner Baugh:* Can you explain to me the difference between the BES' requested conservation easement as a condition - and just leaving it as a street? What is the difference for property owners? What is the development difference in terms of having that conservation easement next to their property?

*Mr. Arruda:* I think that as a practical matter, having the p zone overlay there already precludes most development, so having a conservation easement, probably doesn't reduce development options very much. But BES was more comfortable with the easement because they would be in control of that easement, whereas the p zone could change. As a practical matter, there's not a huge difference.

*Commissioner Baugh:* The setbacks are the same?

*Mr. Arruda:* I don't know if it effects the setbacks in a different way, but I don't think so. And just for reference, Deering Drive is 30 feet wide for that whole length.

*Commissioner Larsell:* I went and visited recently, and the door was locked. Are we in an in between stage, where BES needs to take control - and then it would be open on a regular basis?

*Mr. Arruda:* It was locked? Between our visits, PBOT maintenance must have gone out to clean the area - and PBOT or the Police must have locked it to prevent immediate recurrence of the issue. I don't know offhand when they were planning to unlock that. But BES' plan would be to have it open and accessible for the public as much as possible.

*Chair Schultz:* Ok, we're going to take testimony.

### Testimony

1. *Linda Robinson:* I am a member of the Columbia Slough Watershed Council and I live in East Portland. We've had a few long discussions at the Watershed Council. We agree that Deering Drive should be vacated, but we do care about maintaining public access to the slough at 112<sup>th</sup>, for a few reasons. It's one of the few places where the bank slopes gradually. It's also a cool spot - the water is shallow and clear and springs bubble up. We'd like to have the gate open as much as possible, or all the time, but we understand that it might need to be closed at times - we have that issue with all of our parks and open spaces. We would like to maintain access.

2. *Corky Collier:* I am the Executive Director of the Columbia Corridor Association and I also serve on the Board of Supervisors for the Multnomah County Drainage District, and I serve on the Columbia Slough Watershed Council. I've got three hats on right now but it's easy because we're all in agreement. I want to thank adjacent property owners for taking on the responsibility of that new environmental easement. We all agree we need a maintenance easement for the Drainage District to get into that area. We also all agree that we'd like to have a public trail easement as well.

Part of the problem here is that there hasn't been public access to the site, which has helped create the problem. We have a crude solution here. Part of the solution requires that we have these two easements. One is the maintenance easement and the other is the public trail easement – which essentially sit on top of each other. Management has been a challenge. Who will take it on? I tried to get the Drainage District and the Watershed Council to take it on but lost those votes. At this point, whoever will take on that easement until we find a more permanent solution, great. I'm not going to argue too much about how they manage it at this time.

### **Written Testimony Received**

*Chair Schultz* closed the hearing at 5:39 p.m.

### **Discussion**

*Commissioner Rudd:* Is it clear that the maintenance responsibility is on the City for the easement?

*Mr. Arruda:* I think with the recreation easement, it depends on how it's negotiated, it could be shared between City and property owners. This has not been finalized.

*Commissioner Baugh:* Is it the same for the trail? For adjacent property owners?

*Commissioner Rudd:* Will whomever holds the keys have maintenance responsibilities? I don't want a situation where a property owner doesn't have a key to the gate but is responsible for cleaning up what happens beyond the gate. That doesn't seem fair to me. That responsibility should be on the City. That's what I'm trying to figure out.

*Commissioner Baugh:* So it's not clear who has the trail responsibility for maintenance?

*Mr. Arruda:* It's not finalized yet – this would be between BES and the property owners. The trail easement default is a shared responsibility. This would be negotiated between now and City Council. The easement would be prepared in advance of that hearing.

*Commissioner Baugh:* Is that a condition in here today or does that come later? Can we add a condition to the report?

*Mr. Arruda:* I don't think the maintenance part is detailed in this report.

*Commissioner Baugh:* Is that something we can add?

*Mr. Arruda:* I suppose you could. You can make that recommendation.

*Commissioner Baugh:* I just want to make sure there's an agreement before this is approved. It seems that the property owners would need to know what their responsibilities are before this is decided.

*Mr. Arruda:* Yes. We would have that detail negotiated before we go to City Council. As a Commission, if you wanted to make a recommendation on how that detail should be handled, you certainly could.

*Commissioner Baugh:* I just want to make sure there's an agreement before a decision is made.

*Mr. Arruda:* Yes, that's the intention.

*Commissioner Spevak:* I have a process question. Is this going from us to City Council? If there's still an easement to negotiate, are we the end of the road?

*Mr. Arruda:* City Council is the final authority. PSC issues a recommendation.

*Commissioner Houck:* I'd be inclined to say that the City would take on the responsibility and BES can decide when to open and close the gate.

*Commissioner Rudd:* Process wise, this goes to City Council? They would actually have the property owners signed easement at that point?

*Mr. Arruda:* No. The ordinance would have a copy of the trail easement as one of its exhibits- the signatures would come after, but the easements would be resolved and attached, saying condition is execution and recording of trail easement, attached as exhibits A, B and C.

*Commissioner Rudd:* I just think you should deal with the maintenance issue in the document rather than have people fight about it later on.

*Chair Shultz:* That should be included in our recommendation to make sure it's covered in advance.

## **Motion**

*Commissioner Baugh* moved to accept the street vacation with the additional condition that the maintenance agreement be included in the documents or exhibits at Council, for the trail.

*Commissioner Smith* seconded.

(Y8 – Baugh, Houck, Larsell, Rudd, Schultz, Smith, Spevak, St Martin)

The motion passed.

## **Transportation System Development Charges**

Work Session: Christine Leon, Richard Eisenhour, David Nassif (PBOT); Eric Engstrom (BPS)

*Ms. Leon:* We were asked to come back to continue the conversation on the methodology - last time you had some questions. We responded in writing, but we wanted to take some time to go through those and entertain additional questions. The ultimate request is to see if you can give your support to the bureau in our request to update the SDC program at Council. The City Council hearing is July 26, at 2 p.m. time certain.

We have a handout that covers the questions and our answers. We'll just go through those.

The response to questions in summary were either related to the methodology or about projects that we'd selected to move forward on the project list, mainly the streetcar.

So, the first substantive question – Is the 50 percent funding of the total project list the appropriate rate to base System Development Charges (SDC) on?

We wanted to establish a rate that we knew Council would support – funding will go to projects that support a certain level of growth and level of service. With the change of methodology and new projects, we are estimating that we will collect about three times as much in the next 10 years as what we collected in the last 10 years. We're estimating it might capture up to \$270 million over 10 years.

The other thing that's important is that it relies on PBOT's historic practice of using SDCs to fill in gaps left from grant funding. While projects can be eligible for 100 percent, we don't anticipate anything being funded at that level. It will be a mix of state grants, local match, plus SDC. There's a cap in the project list - but we don't expect to have any one project be funded to that level. We are capturing 50% of the total projects in the SDC list. We could have gone higher. But we're choosing to keep it lower, realizing some of the market forces and what else is happening comprehensively with fees across the City.

*Commissioner Smith:* The total picture for adequacy of our transportation funding is still a pretty sad story. The maintenance backlog continues to grow. In an environment where we know maintenance is going to have a bigger and bigger calling - are we going to be able to sustain the growth projects?

*Ms. Leon:* By state law, we can only spend SDC money on capacity or performance enhancing projects - maintenance projects are not eligible. We struggle internally with the forecast. We've done a good job of getting additional resources and Council recognizes the backlog - we hope that this will continue to fill in that gap.

*Commissioner Larsell:* How do you set the priorities on the list? Who gets to set them?

*Ms. Leon:* The projects come from our Transportation System Plan (TSP), as well as a few other plans. The majority, in order to get onto the SDC list, have to show that they will be a growth-accommodating project - we also scored them with our equity score and other factors. Once you're on the SDC list, there are a few processes in place to get on the budget. We have our capital program that feeds into the budget.

We've come up with an internal discussion guide and decision matrix that illustrates some of the criteria that we're asking individual project managers to address when they come to the committee to request funding.

*Commissioner Larsell:* I'm really curious to see where in the process citizen input takes place, if at all.

*Ms. Leon:* This is a table (see handouts) extracted from our evaluation based on 4 projects – this is an example. But I wanted to highlight the criteria. Overall, the community support and community input on SDC-list projects comes from the TSP update and through the rate study.

*Commissioner Larsell:* Would citizens be able to see this handout? Do all the projects have sheets like this?

*Ms. Leon:* Yes, we can make those available. And through our annual reports to Council and other communities - we want to make these available for transparency.

The next question you asked that I want to address relates to the streetcar projects. There are four projects on the list totaling about \$20 million.

*Commissioner Baugh:* Given the way you've described streetcar, it becomes a question of East Portland vs. West Portland. East Portland will never have streetcar. Streetcar is a catalyst for affordable housing but affordable housing is not a criteria of streetcar. How do you address inequity when streetcar gets \$20 million? I'm concerned that PBOT has to take on housing and streetcar won't develop affordable housing under the same conditions. My reservation is streetcar.

*Ms. Leon:* The streetcar projects are in our capital list as part of the regional “tab.” They would have to make the case for funding. They may not get a green category in each of these, but that’s part of what we need to evaluate. The affordable housing question is related to a commitment that we will deliver an affordable housing strategy with the next streetcar extension. They have to come to us requesting funding. They got on the list because there’s a growth accommodating piece.

*Commissioner Baugh:* Who is the gatekeeper for affordable housing? Who can say no?

*Ms. Leon:* We own the streetcar. They are partners and it’s a large project to deliver. But there will be a series of formal approvals before a decision is reached on the next streetcar extension. If the City, based on your recommendation, is saying we need to have an affordable housing strategy delivered at the same time, that could be in place.

*Mr. Engstrom:* The Bureau of Planning and Sustainability has been working closely with streetcar on what this looks like. Most of what we’re talking about is around the SW corridor light rail, but we’d like to apply those lessons and apply a similar strategy to a future streetcar extension.

*Commissioner Baugh:* As part of our recommendation, could we ask Council to step back and consider that strategy before funding?

*Ms. Leon:* In order to receive SDC funding, the project needs to demonstrate the affordable housing plan...something like that?

*Commissioner Smith:* Streetcar, in part, because of its partnerships, has been successful in asking for funding at City Council, so we want to consider that. When we did the TSP project list, geographic equity was a huge part of that. Have you done an equity analysis of the eligibility selections?

*Ms. Leon:* We have looked at where the revenue is coming from and where capital projects have been delivered. East Portland has received more than they put in; North Portland has gotten back less than it put in. There is geographic data that we’ll be using to make our decisions. The streetcar supports a lot of affordable housing - so that’s part of why their strategy works at Council.

*Commissioner Smith:* Streetcar was extraordinarily successful in the Pearl District at creating affordable housing, but its track record in South Waterfront was not as rosy. And for the Central Eastside, we’re still watching, to a degree. We talked about projects that should come before the streetcar. Has this eligibility list gone through a geographic equity analysis? Is there a counterweight in East Portland in the project list for a new streetcar extension closer in so that they’re balanced?

*Ms. Leon:* You could put that in your letter... that you would like to see geographic balance in delivering capital projects on an annual or cumulative basis.

*Commissioner Larsell:* For current spending, they do have current mapping. It would be great to see geographic mapping. And showing the priorities, because am I to understand that only about 50 percent of these will be done?

*Ms. Leon:* I think we’re hoping all the projects will be done. We continue to rely on external sources as well.

*Mr. Eisenhauer:* Part of the challenge is that it’s a 10-year list. Priorities change; some projects become less urgent after a number of years. They’re not community priorities any more.

*Commissioner Larsell:* The priority is really important to me.

*Ms. Leon:* Ok. On the residential topic, we are continuing to look into single family as well. We are using the best scientific data we have to come up with a methodology and rates. What Commissioner Spevak asked us to do is consider the rates which Portland Parks and Recreation (PPR) used based on Portland State University's (PSU) collection of data.

We are continuing to work with PSU to find the best data that can translate between residential square footage for single family and PM peak trip generation. There is correlation between square footage of houses and the number of people living there that doesn't necessarily correlate to PM peak hour trips. We have looked at the five tiers that PPR used to see what we could align. We do know for very small units, trips are less. For these, we recommended half of the single family rates (1200 square feet or less); anything above 1200 square feet is in the other category.

Maybe we can have an in depth discussion with Commissioner Spevak. And once we get more data from PSU, we can make a better recommendation on how to align the PPR and PBOT SDCs with respect to the data.

*Chair Schultz:* What's your timing? Will this be done before Council?

*Ms. Leon:* Yes.

*Commissioner Spevak:* There's a long history of jurisdictions covering SDCs to cover costs based on count as opposed to square footage. Counting units is a convenient proxy but it leads to consequences when costs are same for 1000 square foot house and a 5000 square foot house. It also gives the market a price signal to build bigger homes because SDCs are flat. What's a good proxy for counting people, not units? I worry about institutional bias. This applies to multi-family as well. Not all multi-family is the same. We need a good nexus. It would be more intuitive to count people.

I would recommend in the letter that PBOT break this into more categories, ideally to the same as Parks, but not necessarily the same categories. Use 2015 American Community Survey data; do something similar for multi-family.

*Chair Schultz:* I've had clients in the multi-family arena, who are choosing to build smaller units to avoid SDC charges. We're seeing a lot of 1BR units so they don't have to hit the SDCs. We're not creating family housing. How do we not penalize family units from being built? One thought is to make sure affordable units don't get SDCs on them. Maybe that will incentive developers to designate larger units for affordable.

*Commissioner Spevak:* Great points. The rigorous scientific way to approach this is to first come up with the fairest possible way to link system users and impacts for which there's scientifically defensible data, then consider making adjustments to better achieve policy objectives. For instance, SDCs were waived on Accessory Dwelling Units (ADUs) to encourage that housing type, even though ADU residents use transportation, parks, and other systems. Presumably, at some point SDCs will come back for ADUs because that's fair. The same case could be made for the 1200 square foot threshold... supporting a lower rate for smaller homes to encourage other City policy objectives. Something similar could be done to encourage family sized multi-family homes. But I would suggest that we start with what the data supports then approach policy goals afterwards.

*Chair Schultz:* I agree.

*Ms. Leon:* We're wanting to use local data as much as possible. State law requires we have a methodology. We want to make sure it has the right amount of proportionality. We would like to make this as robust and as sound as we can. We are moving forward with some new strategies, like the person-trip, and there aren't a lot of cities that have this in place. So we are figuring this out ourselves. We will look at this and we would like to have a conversation with you, Commissioner Spevak, in the next week. As far as developers underbuilding, this is what we see. We looked at other

places, and transportation still is one of the lower rates and Portland is in the middle of the pack. Do developers move because of the SDCs? It's not the conclusion our consultants are seeing.

*Commissioner Rudd:* I grew up in a family of four and raised a family of four and the sizes of our houses were completely different. If you control for other things, you'll get a different outcome.

*Commissioner Baugh:* The other thing that's a concern is that SDCs have to be legally defensible. I'm supportive of looking at methodology, and I want to make sure as a City we're putting in a policy that is equitable for an increasingly diverse population. The size of the unit is not a determinant of how many people are in that household in certain populations. That may be a problem when you get to the legal defense.

*Commissioner Spevak:* I know families can be independent of unit size. On average, what's a better proxy? Counting homes or counting people? It is also unfair if someone pays the same for a studio as they do for a 4-bedroom apartment. Which is more fair?

*Commissioner Rudd:* Maybe the average isn't the right approach. Maybe you need to look at the mode or some other analyses.

*Ms. Leon:* Kelly Clifton suggested looking into the data for relationships that are statistically significant. We keep hearing that context for trips matters. We need the data to back up the recommendation for our rate study.

*Chair Schultz:* Things topics I heard that we might want to include in our letter: 1) making sure affordable housing is tied to streetcar; 2) the issue of geographic allocation of funds/equity; and 3) the methodology for residential SDCs.

*Commissioner Spevak:* If the current language is used it creates an implementation challenge where multi-family would cover apartments, duplex units, townhomes. These are all building code definitions, and the Zoning Code sometimes uses different names. Clarify how SDCs are applied to single family structures in multi-family zones.

*Mr. Nassif:* We would rely on the building code definitions. A triplex is three single family units. More units than that get the multi-family rate. Condos, townhouses, etc. have a separate rate category; as proposed these would be lumped in with multi-family rate.

## **Motion**

*Commissioner Smith* moved to recommend the overall program to City Council and additionally recommend that 1) Council assess, in the light of overall transportation funding needs, whether the 50 percent target is appropriate; 2) that before this goes to Council some clear exhibits analyzing geographic equity be prepared; 3) that for streetcar to tap this funding source, there's clear demonstration of achieving affordable housing, job access, and displacement mitigation goals; and 4) that the project should continue to refine the methodology for residential units both for this round on its way to Council and to improve future methodology to make this more accurate next time around.

*Commissioner Baugh* seconded.

(Y8 – Baugh, Houck, Larsell, Rudd, Schultz, Smith, Spevak, St Martin)

The motion passed.



## **Design Overlay Zoning Amendments (DOZA)**

Briefing: Sandra Wood, Lora Lillard, Phil Nameny, Staci Monroe (BDS)

*Ms. Wood* introduced DOZA staff and gave some background for the project related to the Design Overlay Zone Assessment recommendations.

*Mr. Nameny* reviewed the components of the DOZA Process project: 1) purpose statement; 2) thresholds; 3) realigning the review process; 4) public notice improvements; and 5) miscellaneous items that arise. In an email, *Commissioner Houck* raised the issue of membership on the Design Commission. He stated that someone with a natural resource background should be on the Design Commission given their role in reviewing Willamette Greenway related development and with the new bird friendly design guidelines. That's the type of thing that would go into that fifth bullet point.

*Ms. Lillard* described the content of the DOZA Tools project - that staff would be rewriting both the Community Design Standards and Community Design Guidelines.

*Ms. Monroe* described the content of the DOZA Administration project. BDS has been working since 2015 to increase the efficiency of the process. There has been a large increase in projects. The assessment identified additional improvements that we are folding into work plan.

*Ms. Wood*: *Commissioner Houck* had a question about whether the composition of the Design Commission would be looked at. The answer is yes, that will be part of the DOZA Process project. *Commissioner Spevak* had a question about the scope of design review and whether FAR, height, density are on the table for discussion. Yes. We will be looking at what is on the table and what is not as part of the package.

*Mr. Zehnder*: And what's coming out of the state legislature may effect this.

*Commissioner Larsell*: How does this effect Gateway?

*Ms. Wood*: The consultant recommended that Gateway be treated like the rest of the City, not Central City, so they'd have access to the two tracks. In DOZA Process, that would be considered under the threshold conversation.

*Commissioner Larsell*: The reason I ask about when it will be effective is that Gateway is ready for the change now. So, it's about a year.

*Ms. Wood*: So, that's the project scope. We wanted to shift gears to talk about purpose. If anyone wanted to share initial reactions.

*Ms. Lillard*: See the one-pager. The purpose statements should be the "what" and the "why."

*Commissioner Smith*: Those are important values, but they're also very broad statements. Is there any desire to put bumpers on those so we know they have limits and we're not trying to regulate down to the last millimeter?

*Ms. Lillard*: I think that's something we'll negotiate in the tools... how do these things reflect in the physical manifestation of a building on a site? Something like context can be abstract, but if you're looking at a site, it's more specific.

*Chair Schultz*: How does this all tie back to our overall Comprehensive Plan goals? What are you trying to achieve? How does equity manifest itself in achieving context? It's one way to think about it.

*Ms. Wood*: There are two design chapters, Chapter 3 and Chapter 4. That's something we're going to have to figure out how those map onto each other.

*Chair Schultz:* Can you send copies of those chapters to the Commission?

*Commissioner Baugh:* Context is a broad word. When we look at neighborhoods and certain neighborhoods have a cultural sensitivity, how do those neighborhoods get the development that is culturally sensitive to the buildings that are there today? Context is different. How does the purpose statement make sure the Design Commission is looking at that?

How do we make sure that context does not mean that East Portland may not have a perceived value of less? How do we make sure the quality that's going in there isn't diminished because of the context? The Comprehensive Plan deals with that, but I'll look at the Chapters.

*Commissioner St. Martin:* I'd like to see DOZA functioning as an enhancement as opposed to handcuffs. And context is current, not what was set in 1900. We need to take into account how we function in the modern world.

*Commissioner Rudd:* I'm concerned about that word "conservation" and whether that will allow change.

*Ms. Lillard:* What you're looking at is the current purpose statement. I've highlighted things where I think we have had a shift in thinking. I'd like your thoughts on this – maybe the conservation piece is something that changes.

*Commissioner Rudd:* In a purpose statement, the purpose statement is just background informing the implementation rules. If we get this right, you won't have to go to the purpose statement except in the ambiguous situations.

*Ms. Lillard:* Yes. But it will guide our work as staff over the next few years.

*Ms. Wood:* That's what we're hoping to get on July 25.

*Commissioner Spevak:* Brandon Spencer-Hartle is working on a project in 2017-18, which is overlapping. I wanted to confirm that project is also looking at the scope of review, so could we have him talk to us about scoping?

*Ms. Wood:* He is finishing up his scope; he'll be here in the summer. The Historic Landmarks Commission is also interested in seeing how his work aligns with ours. The tools are intricately connected, but yes, Brandon will be coming here.

*Chair Schultz:* Throughout our Comp Plan process and MUZ process, there's a lot of importance/concern from the community – a lot of tension with our centers and corridors. Doesn't Getting these tools right to help us guide us through that, but still hit our growth goals, is paramount. We need to figure out how the purpose statement helps guide that work.

What does context mean to different people? How do their ideas mesh with the vision we've set out for the Centers and Corridors?

## **Adjourn**

*Chair Shultz* adjourned the meeting at 8:05 p.m.