

Portland Planning and Sustainability Commission

May 24, 2022

5:00 p.m.

Meeting Minutes

PSC Commissioners Present: Jeff Bachrach, Jonell Bell, Jessie Gittemeier, Katie Larsell, Oriana Magnera, Valeria McWilliams, Steph Routh, Eli Spevak

City Staff Presenting: Brian Landoe (PP&R), Nik Desai (PP&R), Patrick Sweeney (PBOT), Ray Mabey (IBR), Jake Warr (IBR)

Documents and Presentations for today's meeting can be found [here](#).

Chair Routh called the meeting to order at 5:03 p.m.

Chair Routh: In keeping with the Oregon Public Meetings law, Statutory land use hearing requirements, and Title 33 of the Portland City Code, the Portland Planning and Sustainability Commission is holding this meeting virtually.

- All members of the PSC are attending remotely, and the City has made several avenues available for the public to watch the broadcast of this meeting.
- The PSC is taking these steps as a result of the COVID-19 pandemic and the need to limit in-person contact and promote social distancing. The pandemic is an emergency that threatens the public health, safety and welfare which requires us to meet remotely by electronic communications.
- Thank you all for your patience, humor, flexibility and understanding as we manage through this difficult situation to do the City's business.

Items of Interest from Commissioners

Commissioner Bachrach: Has there been any follow-up from the PSC retreat with Commissioner Rubio?

Director Olivera: We have met with Commissioner Rubio and her staff to come up with action items. They will be provided at next week's Officer's Meeting. As a teaser, we are looking into subcommittees for the PSC.

Chair Routh: Spoke a few words on the day's school shooting and led a moment of silence.

Director's Report

Chief Planner Patricia Diefenderfer gave the report, updating the PSC on some recent Council actions:

- The E-zones Project was adopted unanimously May 18 and will be effective October 1, 2022.
- Council also adopted an ordinance that will consolidate the effective date of new code updates to March 1 and October 1 of each year.
- On May 19, RIP2 was before Council for a hearing and vote on amendments to the proposal. There will be a vote on June 1 to adopt RIP2 as an emergency ordinance, effective June 30.

Consent Agenda

Consideration of Minutes from the May 10, 2022, PSC meeting.

Commissioner Spevak **moved** to adopt the minutes and Commissioner McWilliams **seconded** the motion.

Y6 – Bell, Gittemeier, Larsell, Magnera, McWilliams, Routh, Spevak | Abstention 1 – Bachrach

Title 11 Amendment Project

Brian Landoe (PP&R), Nik Desai (PP&R)

Nik Desai from Portland Parks and Recreation (PPR) provided an overview of the project.

- Project overview
 - Phase 1 – Technical and minor Title 11 amendments
 - Phase 2 – Urban Forest Management Plan (UFMP) update
 - Phase 3 – UMFP-informed updates
- Significant Changes in the Current Draft
 - #5 – Grant City Forester authority to approve removal of dead Heritage trees without UFC consent – Removed
 - #6 – Add administrative review step to appeal process – Changed from 10 days to 14 days
 - #10 – Consider tree removal impacts to other trees – Doesn't apply to Type A permits
 - #36 – Definition of "dangerous" to include threats to the urban forest – Removed
 - #42 – Amend permit requirements for pruning in Environmental Overlay and Wildfire Hazard zones – Removed
- Change to be added to the future draft:
 - Provide City Forester authority to issue stop work order

Commissioner Bachrach: We just heard that there will be a future draft with another amendment, but we're being asked to vote on this draft without what sounds like a significant change. Also, what is the PSC's role in terms of Title 11?

Brian Landoe: The only amendment that is different than what you were provided is the one about the City Forester being able to issue a work order. This will clean up the language to state that the City Forester can issue the order if there is a Title 11 violation and won't change the intent.

Spevak: My understanding is that for the portion of Title 11 for Trees in Development Situations, then the PSC is the recommending body.

Commissioner Larsell: I, too, would like more clarity on why an item is being brought to us and what the PSC's role is.

Bachrach: Which of the amendments are within our purview?

Desai: In the future we'll be clearer about what falls under the development review provisions.

Landoe: Sections 11.50, 11.60, and 11.70 fall under the "Development Situations" rubric. None of the amendments proposed here tonight fall within those sections.

Public Testimony

Written testimony can be found [here](#).

Kyna Rubin: I am with Trees for Life Oregon. Trees provide critical ecosystem services to our city that we need now more than ever. The Title 11 Technical Amendments are part of a suite of City projects that collectively will erode tree canopy in the future. We appreciate staff's responsiveness to early feedback on the amendments. We are pleased that staff continued to include the amendments we supported and deferred those that we had concerns about until a more substantive code update. We ask that you support this amendment package and recommend approval to City Council. The great "de-greening" of our city must be reversed if we want this to continue to be a livable City.

Testimony was closed at 5:35.

Landoe: I can provide a refresher PowerPoint highlighting the amendments that are most relevant to the PSC:

- #15 – Clarify City Forester review is required in City projects
- #20 – Simplify street tree planning requirements for project over 200 feet
- #27 – Enforcement Authority – to place liens on a property when a violation is not resolved
- #29 – Definition of dangerous tree does not consider site conditions – would allow the Forester more flexibility to make a determination

Bachrach: Isn't this a way of expanding the definition to give the Forester a broader subjective authority? It seems like a substantive amendment rather than a technical one.

Landoe: It is in a sense an expansion and a substantive amendment, but the goal of the tree preservation standards are to protect as many trees on the site as possible, so this requires consideration of other options.

Desai: An example is if there was a tree was on an unstable slope, a way of addressing site conditions would be to stabilize the slope.

Bachrach: To me this seems like a substantive change that doesn't belong in a package of technical amendments and should be deleted

Landoe: Continuing with the amendments...

- #38 – Tree density and shared trees – clarity for trees crossing property lines
- #40 – Update Title 11 development type definitions to match Title 33

McWilliams: I have a question about #38. Does it impact situations where a new ADU is added? Is this change a disincentive for that type of development?

Landoe: For tree density standards on a lot, a certain tree canopy needs to be provided. Title 11 allows existing tree canopy to count towards tree density. This allows for a percentage of canopy from a tree that is not actually on the site to count towards the tree density. It isn't intended to incentivize or disincentive anything, but rather to clarify how existing regulations are applied.

Commissioner Spevak: If you are doing half-street improvements that require removal of street trees, does that mean the urban Forester has a say in that? I think that currently that is not the case. Does this change that?

Landoe: The Forester's role is unchanged.

McWilliams: As I understand it, if someone removes a tree, they must also replace it. Does this dangerous tree definition provide a better alternative?

Landoe: The change allows the site owner flexibility if they do want to preserve the tree. It is not intended to increase the cost burdens to a property owner. It provides more options.

Spevak: While the intention may be to provide options, I think the way it is written could be interpreted to present greater burdens to the property owner.

Bachrach: I think this new definition is also a substantive expansion and not technical. If the intent is to provide a property owner more options, there is no reason to add language that is an enforcement hammer.

Bachrach: As to the future amendment, does the Forester currently have authority to issue a stop-work order in the code?

Landoe: The way it is worded is if there is a violation AND a threat to public safety then the Forester can issue a stop work order. This would allow the Forester from stopping unpermitted activity from occurring.

Bachrach: What if this is a dispute over a prior action, even if it was a violation? That seems like an expansion of power if the Forester can stop an entire project because of a violation. Even if that's not the intent, I think that the code should be clarified to reflect that.

Landoe: This does not apply to work that is outside the scope of Title 11. The Forester can't stop work outside of those bounds.

Commissioner Bachrach: In reference to #8, I think that at an appeal hearing, the appellant should be allowed to bring in new evidence at a hearing. This is standard procedure land use proceedings. I think it is an inconvenience to the property owner.

Landoe: The appellant can submit new evidence as part of the appeal, but not at the hearing because the commission and staff will not have had time to review it.

Spevak: My instinct is that there should be a higher hurdle for a stop-work order e.g., a health and safety violation. The amendment as written could open the door for a dispute or disagreement over tree removal to a stop-work order on the entire project.

I would **make a motion** that we make an amendment to strike the new stop work order language and keep the language as is to require a public safety violation to issue a stop work order.

Bachrach: So, delete Amendment #32 and stay with the existing? I **second that motion**.

Landoe: In a situation where a neighbor is about to take down a large healthy tree in a way that doesn't pose a threat to public safety, stripping this amendment would mean that the Forester couldn't stop that action and would only be able to issue a violation after the tree has been removed. The way I'm reading it and understand PPR's authority ONLY applies to the activity that is in violation of Title 11 and does not extend to other development activities on the site. Perhaps an amendment could be to add language that clarifies that.

Spevak: I understand the intent, but I'm concerned that unless the language is changed to clarify that, then I still want to keep the amendment and kick it down the road for staff and Council to work out.

McWilliams: I would feel more comfortable if staff brought new language back rather than vote to approve this. I am concerned about the unintended consequences.

Magnera: I agree with Valeria, and I understand the challenges bringing these back raises, both for PPR staff and BPS staff coordinating the PSC agendas.

Routh: Could we greenlight the amendments that are not controversial then leave the others to be addressed at a later meeting?

Landoe: We could ask the PSC staff to direct us to craft language to address the concern of Forester stop work authority, then we could do that for the Council draft.

Spevak: I think that we could address this issue as a quick consent agenda item and give PSC members time to wordsmith language. If that works, then I would withdraw this amendment and we can move on.

Diefenderfer: That approach would work.

Landoe: To be clear, the concern is that this amendment would give the Forester authority to stop an entire project, and the clarification could be made that the stop work order ONLY applies to Title 11 tree work.

Spevak: **Amendment withdrawn.**

Bachrach: I **make a motion** that we delete amendment #8 (amendment that does not allow new evidence at a hearing). The appellant should have the right to have a last shot at the evidence at a hearing.

Spevak: **Seconded the amendment.**

Magnera: Was this a concern raised by the Urban Forestry Commission?

Landoe: No, the UFC asked for clearer language. And to be clear that there is no new evidence at the hearing from either the appellant or staff side.

Gittemeier: Is this a response to a problem in the past?

Landoe: Yes, there have been instances of this in the past. An example is when an appellant brought in new photos of a tree and the Forester was unable to confirm at the hearing if it is accurate.

Gittemeier: I could see how that would be challenging and I'm not sure I would support the amendment.

Routh: Called the vote.

Y2 – Bachrach, Spevak | N6 –Bell, Gittemeier, Larsell, Magnera, McWilliams, Routh
Motion failed.

Bachrach: I'd also like to **make a motion** to delete #29 (provision that expands the definition of dangerous tree).

Gittemeier: Could this one be addressed similar to the stop-work order amendment, and allow staff to come back with clearer language?

Bachrach: Motion withdrawn to allow staff and PSC members to draft language.

Routh: I make a motion to recommend the amendment package less items #29 and #32.

Magnera: Seconded the motion.

Y7 – Bell, Gittemeier, Larsell, Magnera, McWilliams, Routh, Spevak | N1 - Bachrach
Motion passed.

Interstate Bridge Replacement Project

Patrick Sweeney (PBOT), Ray Mabey (IBR), Jake Warr (IBR)

The following commissioners disclosed potential conflicts of interest:

Routh: I disclose that I represent Sightline Institute on a related group, the Just Crossing Alliance.

Commissioner Bell: I disclose that my firm is on contract with the Interstate Bridge Replacement Program, and I therefore withdraw myself from participation with this project and will now log off.

Commissioner Magnera: I disclose that my organization ,Verde, is advocating on this issue though I am not involved.

Diefenderfer: I want to frame this as a briefing from project staff and PBOT staff with to no action asked of the PSC at this time. This is a project for a multimodal bridge that will replace the 125-year old Columbia River I-5 bridge. Tonight, staff will present the modified locally-preferred alternative (LPA) and next steps for this project.

Patrick Sweeney: The IBR staff will present the modified LPA. At a May 11 City Council meeting, Commissioner Hardesty and other commissioners stated the City's position on the modified LPA, so there may be further conditions of approval or modifications requested.

Ray Mabey: I represent ODOT on the bi-state IBR team and am here to present to you the on overview of the status of the project and the modified LPA.

- Initiating IBR Efforts:
 - Bi-state Memorandum of Intent signed by Governors Brown and Inslee in November 2019
 - \$90 million in combined funding dedicated by OR and WA as of March 2022
 - Bi-state legislative committee oversight and guidance to shape program work
 - ODOT and WSDOT are jointly leading the program work in collaboration with eight other bi-state agencies
- Project Timeline:
 - 2004-2014 – Previous planning efforts that inform this effort
 - 2020 – Program launch
 - 2021-2022 – Planning
 - 2022-2024 – Environmental review
 - 2024-2025 – Pre-construction
 - 2025 – Begin construction
- Purpose and need – the alternative must address ALL
 - Safety
 - Impaired freight movement
 - Congestion
 - Earthquake vulnerability
 - Inadequate bike and pedestrian paths
 - Limited public transportation
 - Equity and Climate
- Oversight and Advisory Groups
 - Program administrator
 - Bi-state legislative committee
 - Executive steering group
 - Equity advisory group
 - Community advisory group
- IBR is supportive of City's Climate Action Plan and Climate Emergency Declaration
 - IBR has a goal to contribute to reduced GHG emissions through:
 - Multimodal options
 - Demand management
 - Reducing construction-based emissions
 - Reducing GHG in maintenance and operations
- Consistency with City plans
 - Comprehensive Plan
 - Transportation System Plan
 - Pricing Options for Equitable Movement
 - Hayden Island Plan
 - Bridgeton Plan
- Modified LPA
 - What it is:
 - High level identification of foundational components
 - Early agreements by local agencies
 - What it is not:
 - Fully defined alternative

- Final design
 - The end of technical analyses
 - Final approval
 - IBR Recommendation: See presentation slide decks for visuals, Includes:
 - Hayden Island partial interchange
 - River crossing auxiliary lane to Hayden Island
 - Light rail to Evergreen
 - Variable rate tolling
- Centering equity and climate
 - Maximize benefits and minimize burdens for equity priority communities
 - Center equity-priority community engagement and feedback
 - Support state climate goals of reduction in greenhouse gas emissions and air quality improvements
 - Improve infrastructure resilience
- How IBR is centering climate
 - Adaptive and resilient
 - Infrastructure and operations to support GHG reductions
 - Construction
- How IBE is centering equity
 - Grounding the program in the history of the river. I-5 and the region
 - Principal Equity Officer
 - Equity Advisory Group
 - Community engagement strategies
 - Procurement and contracting
 - Demographic analysis
 - Language accessibility and inclusion
 - Accessibility and inclusion for people with disabilities
 - DEI education and training
- Equity Advisory Group
 - Purpose is to provide laser-focus on project's potential impacts and benefits for marginalized and underserved communities
 - Bi-state group focused on community benefits agreements, equity in contracting, etc.
- Community Advisory Group
 - Broader swath of community groups with bi-state membership
- Community Engagement
 - 100,000 postcards sent
 - Monthly e-newsletter with 6,000 subscribers
 - 9,600 survey responses
 - Virtual public meetings
 - CAG/EAG
 - Listening sessions
- Equity-Priority Engagement Feedback
 - Tribal Nations
 - BIPOC listening session
 - People living with disabilities
 - Youth

- People with lower incomes
- Limited English proficiency, immigrants, and refugees
- Timelines and next steps
 - Summer 2022 – gathering feedback from various bodies
 - Bi-state legislative committee will consider and respond to modified LPA
 - Fall/Winter 2022 – Begin SDEIS proves
 - Update conceptual finance plan
 - 2023-25
 - Additional tolling discussions
 - Federal grant opportunities
 - Detailed design analysis

Commissioner Larsell: If you are going to toll, would it be as part of an effort with the I-205 bridge? Is that part of the concept?

Mabey: With the previous iteration, that wasn't on the table. Now, the Oregon Tolling Program is looking at tolling both I-5 and I-205 and will look at that sort of diversion.

Magnera: I'm curious why tribal governments are not part of the decision-making process?

Mabey: Since the tribes are sovereign nations, that happens at the federal level. It's happening, but not at the CAG level.

Spevak: I support this for resilience and transit, but I find it hard to believe that a 5-mile bridge of this sort supports our climate action goals. I've heard that the bridge will be 50-feet off the ground on Hayden Island and as wide as a football field, I'm curious about access from light rail and other impacts.

Mabey: A lot of those questions are still being addressed. The structure will be drilled down to the Troutdale Formation. There may be grade improvements to address soils prone to liquefaction.

Spevak: I just don't understand how there aren't other alternatives being considered at this time. And are the opportunity costs being considered? Aren't there better options to fund more climate friendly projects?

Mabey: We're building on the existing body of work where many of the alternatives were already explored. And we're limited on how we can spend the federal dollars.

McWilliams: Is the alternative design shown one that's been informed by feedback from the community advisory groups? Was the rendering already considering the input that has been provided? How and where is that feedback making its way into the design? Also, what is different about this iteration from previous efforts?

Mabey: Over the last 1.5 years, we've been working with the advisory groups to help inform the design options that fed into what you were shown today. An example is the changes to the bridge based on Hayden Island feedback and the auxiliary lane. The community said they wanted access to the road, and this addresses that issue with one (instead of two) auxiliary lane to minimize the impact but still provide connectivity.

What's changed is the bi-state committee. This helps ensure the two states are on the same page and working together. Another is the way that we are elevating equity and climate more than the last time around.

Magnera: I'm curious how cost overruns will be addressed with this project? Also, how are you receiving feedback from the advisory groups on the costs and opportunity costs of this work?

Mabey: Inflation is an issue that we're faced with now, but as we move forward, we're going to have to identify a cost range and incorporate risks of inflation and delays. As to the second question, a lot of this is in the hands of the legislature and what choices they make. But we will be looking to them to help us find ways to bring benefits to the community.

Magnera: I think that is important to make it clear to the decision makers what the tradeoffs are and identifying those in community benefits agreements. And doing regular check-ins with community.

Routh: I'm curious about what is happening with Council on July 6? How can the community engage with this?

Sweeney: July 6 is a public hearing in consideration of the resolution to support the modified LPA. And there will likely be conditions of approval, which is typical of these large projects with major decision points.

Adjourn

Chair Routh: Adjourned the meeting at 8:05 p.m.

Submitted by JP McNeil