



Bureau of Planning and Sustainability

Innovation. Collaboration. Practical Solutions.

July 13, 2012

TO: West Hayden Island Advisory Committee

FROM: Eric Engstrom, Principal Planner

RE: Proposed WHI Draft Code and Agreement

The following is a summary of the major changes BPS staff intends to make to the draft zoning code and intergovernmental agreement in response to Advisory Committee and community input received to date. There will be an additional opportunity for community discussion of the draft at the open house scheduled on July 17. On July 20, 2012, the Advisory Committee will meet for their regular monthly meeting to further discuss these items and potentially offer additional recommendations. BPS expects to publish the next draft (the "Proposed Draft") in early August.

Health Impact Assessment (HIA) - IGA (Section 5.3.4)

BPS is very committed to evaluating the health impacts of this decision, and we agree with EcoNorthwest that an HIA will help illuminate these issues. We are working toward a two-stage HIA:

- The first stage will be completed before this fall, when the Planning and Sustainability Commission (PSC) and City Council consider the annexation and zoning. We have compiled existing information into a consolidated health report, which was presented at the PSC on June 26. Over the summer we are collecting additional baseline noise and air quality information. We are asking the Multnomah County Health Department to review all of this information, and provide recommendations. A "Stage 1" HIA report will then be prepared, with a focus on recommendations appropriate to the question of annexation and zoning.
- The second stage of the HIA would be completed in future years, when more specific marine terminal plans emerge, and would be used to inform the Environmental Impact Statement (EIS). An EIS would likely be required with the federal permit process, when specific marine terminal designs are finalized.

The IGA (Section 5.3.4) will be clarified, to be consistent with this approach. The two-stage HIA will be done by BPS and the Multnomah County Health Department, and BPS would seek Port funding for stage two.

Bridge

The initial staff recommendation against a new WHI bridge is based on several concerns noted below; however, we are exploring the possibility of leaving the bridge on the Regional Transportation Plan (and eliminating the removal language in the IGA),

to keep the option open for the future. If we take this approach, it may still be removed from the shorter “financially constrained” list of priority regional projects.

BPS has hired David Evans and Associates to investigate the potential savings if the bridge were reduced in size and was built without a connection to the rest of Hayden Island.

Some of BPS’ concerns:

- The cost of a new additional bridge serving West Hayden Island is estimated at \$100 million.
- Based on the reduced size and limited type of marine terminal considered by the concept plan, the number of vehicles that would be served by this bridge is very low relative to other bridges that have received federal funding. There are no local sources of revenue that could bear this cost.
- The terminal is now significantly smaller than past proposals, when the bridge was first contemplated (with a footprint of less than 300 acres).
- The terminal will be primarily a ship-to-rail facility.

The PSC may yet choose to recommend a bridge. If they do, staff believes it would need to be justified primarily as a community mitigation measure, rather than a transportation system need.

#### Best Management Practices

The Draft IGA (Section 5.2) includes provisions on how a future marine terminal might be operated and designed to avoid unnecessary and undue impacts on adjacent neighborhoods. The initial list of Best Management Practices, drafted by the Port, includes ways to promote green practices, protect air quality, and limit noise and light. The initial list is insufficient and the next draft of the IGA must include more specific and aggressive actions to address these potential impacts. BPS and BES are reviewing a revised list prepared by the Port’s new draft and we will be supplementing that with additional suggestions.

#### Community Grant Fund

The Draft IGA (Section 5.3.3) establishes a grant fund to be administered by an Advisory Committee. BPS will propose that this program begin at the time of annexation, and continue for the term of the agreement. The fund would start at \$20,000 annually, and increase to \$40,000 annually when construction of the rail loop begins. Once the first terminal is operating, the amount would be tied to a metric rated to truck traffic volumes (specific formula tbd).

#### Security

The draft IGA (Section 5.3.2) includes additional funding for security services on Hayden Island. The wording of this section will be clarified to ensure that this represents an increase above current levels of funding for WHI security.



### Hayden Island Drive Funding

The IGA (Section 3.1.6) includes a description of Port responsibilities for North Hayden Island Drive reconstruction. This section will be revised to clarify and strengthen those responsibilities.

### Local Hiring Preference

A number of community leaders have suggested the IGA include a commitment to some form of local hiring program. Based on initial consultation with labor leaders and the Port, this appears feasible, and reference to this will be added to Section 6 of the IGA. The geography of the program would need to be determined - options include North Portland, Hayden Island, or the Manufactured Home Community on Hayden Island.

### Permanent Protection of the 500 Acres

Some readers interpreted the IGA (Section 4.1.1) to allow future rezoning of the open space. This was not the intent. This section will be revised to clarify that a more permanent legal instrument will be put in place to preclude future industrial use of the 500 acres of open space (e.g. a conservation easement or other legally binding covenant). A third party entity could be a party to that instrument, to give greater certainty that it would not be undone in the future.

### Forest Mitigation

BPS will insert more specific (additional) forest mitigation into the draft agreement - specifically that the Port must carry out additional forest vegetation enhancement. The enhancement should take place on WHI in the form of invasive plant removal around the edges of the remaining forest, and on Government Island in areas surrounding the already-proposed planting areas. The issues to be resolved cover how much mitigation, at what cost and timing.

### Grassland Mitigation

BPS will insert language about funding to a third party to carry out off site conservation activities for the benefit of Western Meadowlark.

### State and Federal Permit Coordination

Section 4.2 of the IGA addresses the City's role in the anticipated state and federal permit process, which will likely involve mitigation for wetland and shallow water impacts. This provision is an alternative to the City's current practice of requiring City review of in-water development. The potential advantages are providing all parties with agreement upfront on the size and type of mitigation expected. BPS will insert more specific language into this section to:

- Add initial "baseline" commitments for wetland and shallow water mitigation.
- Provide a much more specific sequence of consultation between the City and the Port prior to submittal of those permits.
- Provide a stronger form of third-party mediation if disagreements arise about the nature of that mitigation.



### Rail Spur and Electric Substation

The draft zoning code allowed for some encroachment of rail and substation uses into the open space (Sections 33.595. 110 and 33.595.320). These allowances will be removed.

### Tree Planting Standards

The proposed environmental zoning standards for WHI include several sections that specify when tree replanting is mandated. The size, density and species type requirements for replacement trees will be revised to comport more closely with environmental restoration practices.

### Financial Commitments

The draft IGA includes financial pledges in a number of sections - for transportation and recreational improvements, and community mitigation measures. The phrase “up-to” was used in several instances. This phrase will be removed, and the pledges will be stated as specific amounts (in 2012 dollars).

### Extension Clause

Section 2.1 of the agreement anticipates a meeting that would occur one month before the end of the agreement term. This will be revised to place the meeting one year in advance.

### Dispute Resolution

The dispute resolution section (Section 8) will be re-written, to provide stronger terms.

