MEMO

DATE: May 21, 2015

TO: Planning and Sustainability Commission

FROM: Eric Engstrom, Principal Planner

CC: Susan Anderson, Director; Joe Zehnder, Chief Planner

SUBJECT: Open Data and Broadband Policy

This memo serves to present several options for including stronger references to broadband services and open data in the Draft Comprehensive Plan. This is in response to requests from Commissioner Smith, The Portland Office of Cable Management, and a number of external stakeholders. These policies would be in Chapters 2 and 8. The PSC will discuss this topic on May 26.

Some or all of these policies may have merit as general city policies. However; how appropriate are they for inclusion in the Comprehensive Plan? The Comprehensive Plan is a long-range plan focused on land use, public facility investment and development. It is to guide future growth and the physical development of the City. Its provisions and decisions made on these provisions are subject to the processes of State land use law and appeals.

The Comprehensive Plan does not directly govern the City's approach to data management, technology procurement, or telecommunications services. It does govern land use planning and, by extension, data collection related to planning. The Comprehensive Plan also includes the Transportation System Plan and its policies about use and development of the public right of way. Some delivery of telecommunications services occurs in the right of way.

Some of the proposed policies appear to have minimal relationship to land use, or the public right of way. They may be more appropriately addressed through citywide

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policy outside of the Comprehensive Plan. For example, the City Council has already adopted a broadband strategic plan as official city policy (UTL 6.01), and the City's Office of Community Technology is involved in implementing or advancing that policy:

http://www.portlandonline.com/auditor/index.cfm?c=56146&a=364959

The City has adopted an open data resolution (Resolution 36735):
http://efiles.portlandoregon.gov/Record/3675248

The City also has extensive technology policies, which can be viewed on the City's policy documents website:

http://www.portlandonline.com/auditor/index.cfm?c=26821

Below is a description of the suggested policy additions in Chapter 2, and 8. Staff supports some suggested changes, but not all of them.

Requested Policy Change 1: Add requirements for open data to Chapter 2 – Community Involvement

The policies recommended by stakeholders are in the box below:

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Open data
The City of Portland is a collaboration of its residents, businesses, non-profit sector and City and other governments. This collaboration is enhanced and opportunities for innovation and value creation are unlocked when data collected and generated by the City are shared as widely as possible.

Policy 2.X1   **Open by Default.** Ensure that City data sets and their metadata are free of charge, available without restriction or license, freely redistributable and updated frequently in both human and machine readable formats, adhering to open standards. Exceptions to this policy due to compelling concerns of privacy, security, liability or cost should only be granted in accordance with clearly defined criteria and review by an appropriate oversight body.

Policy 2.X2   **Community Engagement and Equitable Access.** Actively reach out to the community with information, tools, APIs and training to ensure awareness and accessibility of the data sets. Leverage frameworks and tools in use elsewhere. Establish procedures for including public feedback in the process of data release and reuse.

Policy 2.X3   **Effective Governance and Collaboration**. Establish an Open Data Oversight Committee comprising City staff, citizens and professionals with relevant expertise to advise on policy, practices and priorities. Collaborate with the development community and other data providers to maximize the utility of City data sets.

Policy 2.X4   **Procurement Policies.** Establish policies for City procurement practices to ensure that information systems created by, maintained by or purchased from vendors and contractors effectively provide Open Data.

Policy 2.X5   **Inventory Existing Data Sets.** Create an inventory of existing City data sets and use community input to prioritize efforts to open them.

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Staff recommendation: Staff does not recommend incorporation of these policies into the Comprehensive Plan.

- The proposed policies have implications for public records law, public contracting law and others.

- The broadly worded policy could be interpreted to require public access to data and other information that would be potentially harmful for City to disclose. For example – databases pertaining to litigation, business records, real estate appraisals, police investigations, etc.).
- The terms of contracts with outside vendors to develop computer software or programs for data collection for the City's use may restrict or prohibit the city's ability to make either the program or the data collected pursuant to it "available without restriction" or "freely redistributable".

Staff does recommend a more concise single policy in Chapter 2:

Policy 2.11 Open Data. Planning and investment decisions are a collaboration of many stakeholders, including those listed in Policy 2.1. This collaboration is enhanced and opportunities for innovation and value creation are unlocked when:
- Data collected and generated by the City are shared as widely as possible.
- Data is open by default.
- Staff works with others to ensure awareness and accessibility of the data sets
- The city collaborates with the development community and other data providers to maximize the utility of City data sets

Requested Policy Change 2: Include reference to the City's regulatory role and reference to broadband in Chapter 8 – Public Facilities and Services

Sections of Chapter 8 are shown in the box below with recommended changes to goals and policies in underline:

GOAL 8.L: Technology and communications
All Portland residences, businesses, and institutions have access to universal, affordable, and reliable state-of-the-art communication and technology services.

Technology and communications
Private utilities and companies provide technology and communication facilities and services to the general public. The City regulates limited aspects of these services, such as the siting of new facilities. The City also provides specific technology and communications services to support City and partner agency service delivery. The City promotes access to affordable and reliable technology and communications for all Portlanders.

The policies in this section embrace innovation to ensure all Portlanders are able to access and benefit from emerging technologies and systems that have the potential to make Portland a cleaner, safer, and more efficient, resilient and affordable city. This section acknowledges that information and technology services have become essential infrastructure, and supports investments and partnerships to keep Portland competitive and build on the City's tradition of open-source collaboration and innovation.

Policy 8.113   **Technology and communication systems.** Maintain and enhance the City's technology and communication facilities to ensure public safety, facilitate access to information, and maintain City operations.

Policy 8.114   **Equity, capacity, and reliability**. Encourage regulatory approaches and investments in technology and communication infrastructure, such as broadband, to reduce disparities in capacity, access, and affordability and provide high-performance, reliable service for Portland's residents and businesses.

Requested Policy Change 3: Include in Chapter 8 – Public Facilities and Services specific policies

Staff does not recommend adding these sub-policies to Policy 8.114. Regardless of merit, the proposed policy statements have minimal relationship to land use and are more appropriately addressed through citywide policy outside of the Comprehensive Plan. The existing City broadband strategic plan and policy (UTL 6.01) has 5 goals:

1. Strategically invest in broadband infrastructure re to attract innovative broadband -intensive business and institutions that create knowledge jobs in Portland.
2. Eliminate broadband capacity, equity, access and affordability gaps so Portland achieves near universal adoption of broadband services for all residents, small businesses, and community organizations.
3. Develop highly technology-skilled and employable residents, students, small businesses and workforce.
4. Promote and plan for the use and wide-spread adoption of broadband technologies in government, energy conservation, transportation, health, education and public safety.
5. Create future-oriented broadband policy, modernize government organizations and institutionalize digital inclusion values throughout the region.

Proposed additional Comprehensive Plan sub-policies (not recommended by staff) are shown in the box below:

8.114.a. Explore regulatory improvements and leverage City assets to facilitate providing high performance broadband connectivity to every business, institution and residence in the city.

8.114.b. Provide City financing programs to assist under-served, underrepresented or vulnerable individuals and communities with initial connection costs for broadband services.

8.114.c. Provide municipal broadband services if and where commercial providers fail to provide access or affordability.

8.114.d. Support Digital Inclusion efforts by City bureaus and partner governments and organizations.

8.114.e. Support Network Neutrality and other Open Internet initiatives in the City's Legislative Agenda.

6