

Portland Planning and Sustainability Commission

Tuesday, January 12, 2016

12:30 p.m.

Meeting Minutes

Commissioners Present: Jeff Bachrach, André Baugh, Mike Houck, Gary Oxman, Michelle Rudd, Katherine Schultz, Chris Smith, Teresa St Martin, Maggie Tallmadge

Commissioners Absent: [2 open positions]

City Staff Presenting: Susan Anderson, Joe Zehnder, Karl Dinkelspiel (PHB), Kate Deane (PDC), Jillian Detweiler (Mayor's office), Emily Sandy (BDS), Jenn Cairo (PP&R)

Other presenters: Alan Lehto, TriMet

Chair Baugh called the meeting to order at 12:32 p.m. and gave an overview of the agenda.

Items of Interest from Commissioners

- *Commissioner Oxman* gave an update on the budget advisory process for BPS. The Mayor has asked bureaus to come up with 5 percent cuts out of the on-going general fund, which is about \$400k from the BPS budget. The Budget Advisory Committee was a great group with a diverse membership including BPS staff. It was a good thoughtful process over three meetings. We've looked at a blend of cuts and add requests. We're moving from creating the big picture plans more into the implementation. The BAC provided input for a letter to Council which will be included as part of the bureau's budget submission on February 1.
 - Susan thanked *Commissioner Oxman* for his service on this year's BAC.
- *Commissioner St Martin:* The SAC for the Residential Infill Project continues to work through the project and has an all-day charrette at the end of this month.
- *Commissioner Bachrach* asked about the last hearing on the street vacation.
 - The letter from the PSC was sent to Council with the staff package from PBOT. Staff and resend this to commissioners.
- *Commissioner Smith* noted the TSP that was released. I strongly encourage everyone to review this thoroughly before our hearings start in March.
- *Commissioner Houck:* The PSU Urban Ecology and Conservation Symposium is on February 8 at Portland State University. It last all day. Lots of people come from all over with research they've been engaged in on the urban ecosystem of the Portland-Vancouver region will share the information there. We have two keynote speakers this year, one of whom is from New York City who will describe pre-settlement environment of Manhattan Island and what they are doing to protect/restore biodiversity in Manhattan. <http://www.uercportland.org/>

Director's Report

Susan Anderson

- Our two new PSC members are being confirmed at Council tomorrow morning at 10:15 a.m. Time Certain. Eli Spevak and Katie Larsell. They both will be at the January 26 PSC meeting.
- We are looking to hold a PSC retreat the afternoon of Monday, February 29, 1-5 p.m. Julie O will send out a poll for all commissioners with this date as well as the upcoming PSC meeting

dates for the first half of the calendar year. We are looking to add a May meeting (proposed for May 17), so we'll include options for this meeting date/time as well. Please be sure to respond to the poll so we can ensure a quorum at our meetings and send notices for the projects accordingly.

- The last Comp Plan hearing at SEI was continued until tomorrow (Wednesday) afternoon at 4 p.m. at Council Chambers. We'll then start work sessions with Council at the end of this month.

Consent Agenda

- Consideration of Minutes from the December 8 and 15, 2015 PSC meetings.
- R/W #7900, NE Alderwood Dr

Commissioner Smith moved to approve the Consent Agenda. *Commissioner St Martin* seconded.

The Consent Agenda was approved with an aye vote.
(Y9 – Bachrach, Baugh, Houck, Oxman, Rudd, Schultz, Smith, St Martin, Tallmadge)

Documents and Presentations for today's meeting

Written Testimony submitted

Powell-Division Local Action Plan

Hearing / Recommendation

Presentation

Joe Zehnder, Karl Dinkelspiel, Kate Deane

Joe provided an overview of the Portland Local Action Plan for the Powell-Division corridor. Part of the feedback we got at the first PSC hearing was about whether the program and funding was commensurate with what we want to accomplish for the corridor. We've revised it as noted in the table provided to PSC members. This is part of a larger P-D transit project. The action plan are actions designed to help us hit the ground running once the transit project is completed. It allows us to get ahead of economic changes that may happen with the new transit.

The Local Action Plan is focused on housing and economic development. The adequacy of the plan is best appreciated in the context of the other benefits that come from the project. The transit benefits we believe that will flow from the project will be good for the region as well as the many transit-dependent transit households on the corridor. We expect to see improved access to services, education and employment as well.

The steering committee for the project put a particular emphasis on equity and addressing the concern for how change might affect households on the corridor. And looking at how transit can help the corridor in terms of housing and economic development.

Local actions include:

Housing

- Housing options that are affordable
 - 300 affordable housing units (est.) based on 10k units city-wide that the Comp Plan proposed. Prorated to the area that might be in proximity of this corridor.

- Better multi-dwelling standards
- Stronger tenant protections

Economic Development

- Business retention and improvement
- Development resources
- Catalyst projects
- Workforce navigation
- Community outreach
- Access improvements

The funding strategy includes:

Transit

- \$75M Federal Grant
- \$75M Local Match (still to be determined)

Development

- \$5.5M Existing URA (Central Eastside) for housing
- \$500K PHB (prorated portion of Federal funds)
- \$310K Metro CET
- \$1M NPI TIF (controlled by the two NPI districts for community-led business development investments)
- \$240K Metro CET (initial funding to expand the business and technical assistance from PDC as well as funding for some community outreach and for the NPIs to look at development opportunity studies for about 8 property owners)
- \$415K GF (share of City investments that comes through PDC for grants to the NPIs and also the business technical assistance dollars for these districts)

We know the funding is fairly inadequate for the project and the need. PHB is working on other opportunities (citywide) to address displacement including:

- Asking for inclusionary zoning
- Incentive zoning for the City (along with the Comp Plan)
- AirBnB tax
- Linkage fee
- \$10M PHB East Portland projects asks for the FY16-17 budget
- Code enforcement opportunities
- URA
- Land banking strategies in other areas of the city

Karl also noted the letter signed by a number of interested parties that references the N/NE Strategy. This strategy recognizes displacement that has occurred in N/NE Portland. On this corridor we have the opportunity to address this in front of investments and development actions. We also know the City can do better outreach to the community to figure out our work and promises in terms of addressing displacement.

Kate shared the program background, which is based on the two Neighborhood Prosperity Initiatives (NPIs – Jade and Division-Midway) districts in the area. This plan is mostly focused on businesses on the 82nd and Division corridors. It will bring more capacity to this corridor with focused efforts around workforce development for appropriate work and resources to try to raise the incomes of people who come to us through better jobs.

Joe: The other piece of context is that this is seeking Federal funding, which might provide a match. Transit performance, engineering and actions and impacts like the community development plans are looked at in this application as are the breadth and local support for the plan.

Discussion

Commissioner Smith asked about the math. You note that we're looking to add 10,000 affordable housing units citywide and 300 on this corridor.

- The area on the corridor includes a half-mile buffer area. This 300 number of units is for the first 5 years.

Commissioner Smith: What's the potential for the URA in this district?

- Jillian: We are in a preliminary stage to see if a URA is an appropriate tool to use in this corridor. The Mayor has asked PDC to look at numbers; it wouldn't be a huge URA, perhaps a \$100M maximum indebtedness.

Commissioner Tallmadge asked about the NPIs and URAs on the corridor. What portion does these cover and are there gaps?

- The Central Eastside (CES) URA is a small portion of the western end of the corridor. The Jade and Division-Midway NPIs are very small, and we anticipate those will have ~\$1M in TIF that can be spend for capital over 10 years. One of the reasons we're looking at how we can knit the areas not covered by a URA is to cover gaps. URAs are one of many tools we can look into using.

Commissioner Oxman asked about the development resources: do they all play out over 5-10 years?

- Resources for housing are available now. Metro resources are available now as well.

Commissioner Tallmadge asked about the N/NE housing strategy. What other tools are we pulling out of that? Do we have an analysis of how many households we have along this corridor versus East Portland? Are they similar enough to use this as an analogy?

- In terms of the overall outreach strategy, we would like to have a similar kind of engaged conversation with community members; that hasn't happened as much in these early stages of this corridor project. The principles are good, but clearly the specifics for this corridor will be different based on the community needs.
- There are both rental and low-income homeowners in this area. One of the more interesting parts in this is the opportunity for affordable housing preservation, which is one of the most intriguing things about this corridor for us.

Commissioner Tallmadge asked about better multi-dwelling structures. What about current housing?

- The \$5.5M funding would likely go for new construction. New funds would be a split, which is always a debate for PHB. When we listened to the community, we heard lots of reasons people are getting displaced. Lots of those things can't be addressed with TIF, so one of the things PHB sees as an opportunity is to look at non-TIF opportunities to address these issues (e.g. general fund).

Chair Baugh asked about new versus existing funds for development.

- \$1M NPI TIF will be generated over the next 5 years.
- The \$500k PHB funds represent a portion of the sources we receive.

Chair Baugh: To create a new URA, how long does it take to build in general?

- Approximately one year, but depends on how much community outreach would be needed.

Timeline for the transit project:

- Construction starts in 2018 and 2020 for opening.

Commissioner Tallmadge asked about land banking as a tool to prevent displacement.

- Joe: Here we've identified sources rather than programs. This is something we're doing in N/NE, and I expect this would be a tool to use in this corridor as well.

Testimony

1. Duncan Hwang, APANO / Jade District: This project and the BRT is important for us and could potentially transform our district. There is substantial support from the community and for the access to more opportunities. All business owners are supportive of the BRT property acquisitions. However, we do recognize that displacement is a true threat, as is protecting our local businesses. Speculation is already happening, and we've already seen huge rent increases and businesses being bought. We don't want to say no to the project, but we need to see the mitigation strategies funded.
2. Kevin Marks, EPAP rep for the P-D Steering Committee: Development of the project will have an impact on whether or not people along the alignment will be displaced. The history of TriMet, when putting in HCT, is that the local service is eliminated. If local service is eliminated, then there will be huge impacts on the people who use this service. Shared potential displacement figures for local riders; methodology based on total on-offs provided by TriMet, compared to proposed BRT stations, and subtracting those not near a BRT stop. Provided these numbers to TriMet. Many of the people along this alignment are elderly, disabled, people of color and families that are heavily transit-dependent. TriMet's current position is that they have not made a decision, but we must take a leap of faith; the BRT stops decision is March 28, but local service won't be discussed until 2018.
3. Lori Boisen, Division-Midway Alliance: welcome opportunity for tools to stabilize our diverse community. Thanks to BPS and other staff for their work. The proposed URA appears to help meet the funding gap. I also have to look at the proposed BRT line in the view of the local businesses and residents, and we don't have enough information to either support or deny the URA to make sure it works for our community. Given past URA models, how can we be guaranteed that East Portland will receive equitable investment? That funding will be spent on economic development and housing? How can we be sure we have involvement in this URA? My biggest concern is the guarantee that a good plan will be followed through. Work with us to continue to establish a funding model and plan that will meet community needs.
4. Nick Sauvie, Rose CDC: Please don't open the door to the transit changes until we know our community will be safe. We are concerned about displacement. Transit design is a concern. We need to provide the local service as we have today. There are lots of potential benefits, but let's make sure it's good for everyone.

Commissioner Smith asked about the 300 housing units and if that's the right number for this corridor.

I was surprised the number was this small and inadequate to cover displacement and get ahead of the problem. I think if you look at the 10k people displaced on the Interstate line, I think we're looking at thousands of people.

- Jessica Howard, PCC SE Campus president: I look at the project through the lens of educational opportunity. This is a corridor that could be termed the education corridor. The transit opportunities are not limited to safety and place-making, but the plan also offers tremendous opportunities to connect people with educational resources. This is a promising project, and this cooperative, community-driven planning is wonderful. I know we've heard lots of voices and have lots of interest in anti-displacement measures that need to come with it.

Chair Baugh asked about how many people at PCC SE are from the corridor?

The majority come from south and southwest of the campus... at least 60 percent. We are the most diverse of the PCC campuses. Our average student age is about 29.

Chair Baugh closed testimony.

Discussion

Alan Lehto, TriMet, shared information about the trade-off between BRT and local service. 20,000 rides/day on the lines on this corridor (#4, #9). We are looking at both the idea of BRT as well as what happens to the bus lines with the introduction of this service. Both these current lines are frequent-service, which is a policy commitment we continue to meet, regardless if we have a BRT on the same line. We look at if we end up with duplicative service that we could transfer to other areas that are either not getting service or ones that are in need of additional service. Typically the final service plan is done in the last 18-24 months before a project opens so we ensure we have the most accurate ridership information.

Commissioner Smith: We haven't looked at the transit project yet, but we will in February. Will we have preliminary station location proposal by then?

- Yes, that is something we can provide.

Commissioner Smith: Regarding the \$150M Small Starts Federal Grant, is the \$75M the middle or high range?

- We are in the \$150M range, but we don't yet have this built-out. \$250M would shock me, but this was part of the discussion because it used to be the max project costs.
- 50/50 is the current trend in Federal costs matching.

Commissioner Smith: There are parallel bus corridors right now, but the BRT will cover a piece of each, but not either fully. How will the current bus service be changed?

- The portion of Division west of 82nd would continue to have the #4 running as frequent service; Powell east of 82nd would continue to have the #9 frequent service.

Chair Baugh: There appears to be a timing issue between TriMet's schedule and the community. Can TriMet delay the project to get the funding to match up?

- What's partially driving the schedule is the hurry-up-and-wait nature of Federal funding. We are moving towards getting the LPA with the mode determinants now is because we need an FTA approval this calendar year, so we need to get the project to a certainty level. There is another window to submit a project each year, but costs go up with inflation.

Commissioner Tallmadge asked about other sources of funding and when we might know some of those funds.

- If the URA happens, there is an opportunity to borrow some funds on the front end to get some funding at the beginning.
- The \$5.5M in the existing URA funding is available. Other funds like transit lodging tax could happen this year, but it would have to be reallocated to housing in order to be able to use it.

Commissioner Schultz: With other similar transportation projects, once they've gone into service, how long before the area get affected by the service being in place?

- On this corridor and across the city, the main driver of housing cost increase is not the project; the scale of housing pressure we're seeing now will dwarf the impact of this project. The impact of HCT is mostly a certain radius from a station. For BRT, we don't have enough data to tell. The sooner we can be acting on this corridor, even if not directly related to the BRT, the better.
- *Commissioner Smith* noted that for streetcar projects, we can see impacts on property values when the government commits funding... we don't even have to wait to see it when the lines open. It's incremental over time.

Commissioner Schultz: Due to the incremental nature, do we know at what point the momentum has turned a corridor over?

- We don't have this data and haven't seen it from other areas or cities.

Commissioner Smith offered some suggestions about the PSC's recommendation to Council:

- We recognize and applaud the steering committee's diverse structure;
- The plan needs to look at additional strategies to maximize affordable housing, including land banking and affordable housing retention programs;
- Council should increase the funding level and affordable housing target beyond the current plan level; and
- Council should not support the transit project until it is able to commit to substantially fund the Portland Action Plan.

Commissioner Rudd asked about the housing unit goal. We want equitable distribution of affordable housing in this area; to what extent would increasing commitment in this area decrease options for affordable housing elsewhere in the city?

- The 300 units are a prorated share between now and 2035. We expect 1200 affordable units in this corridor by 2035, but the action plan is only 5 years, which is how we came up with the number. Clearly this corridor is only one area of the city we need to work on. The need to step up is in a variety of places throughout the city.

Commissioner St Martin agrees with *Commissioner Smith* about upping the number of affordable units.

Commissioner Schultz isn't sure what the right number of affordable housing units is appropriate. In general, I'm supportive of the plan, but there is a broader conversation about how much affordable housing to preserve and how much we add.

- Think about this as a goal of \$30M to be spent on affordable housing and preservation over 5 years.

Commissioner Bachrach likes the plan as-is for a preliminary document. At this early stage, it's too early to start tinkering with it.

Commissioner Smith commented that in focusing on units here versus other areas, we'll have to attract more resources than what we have now. We need to have the Council to bring resources to bear that might not otherwise show up. It would be tragic if this only gets funded at \$10M instead of something close to the total. I am open to how we express the desire for more in our recommendation.

Commissioner Tallmadge noted land banking is important, particularly if that is a strategy that can help with affordable housing.

Commissioner Houck agrees with *Commissioner Smith* aside from picking a specific number of affordable housing units since I'm unsure of the basis for selecting this.

Chair Baugh's issue is timing. This bus is moving with or without us. TriMet's unwilling to delay a project because of people doesn't seem reasonable to me. We are talking about the margin of people who will be displaced. We don't know that number, but we know it's big. I am not willing to take a risk about putting together a funding strategy that will take care of our needs above what we have today. This project creates future needs, and we need a complete plan that's funded with a strategy to move forward. We need to put people first in the decision-making project instead of the project schedule. We have an opportunity to do the right thing and address the housing crisis. I ask you to vote with me on saying no on this plan, not because staff hasn't created an admirable plan. But it's only preliminary, it's not funded and we know the harm of displacement. The project will continue, but we need to give a voice to the community with our vote. We need to have a cohesive timeline that fills any gaps and gives the community leverage.

Susan asked if *Chair Baugh* is suggesting a no vote with a list of recommendations.

- *Chair Baugh*: Correct, this is the list that *Commissioner Smith* suggested.

Commissioner Oxman wants to see the project move forward but shares *Chair Baugh's* concerns. I think that this bus is already moving, and we as the PSC is sitting without a coherent strategy to address the human issue. I want to vote yes on a package that has accountability and recommendations included in it. But saying no may not be the best strategy to get us there.

Chair Baugh is not trying to micro-manage the process. We have an incomplete plan, and the only leverage the community has is if there is disagreement in the competitive process around the Small Starts grants. With a no vote, the community has an opportunity to leverage TriMet and the City to say "let's do better". I'm trying to incentivize the political community to address the issues at hand before moving ahead.

Commissioner Smith knows this region has been good at moving regional transit projects. What I hear is that you [*Chair Baugh*] want a "no" in the column that rates us on community consensus. What is the bar you want to have cleared? That we have a better, smarter plan; one that has greater commitment to fund the resource level expected?

- *Chair Baugh*: Correct. The plan is definitely better than the earlier discussion we had. But there are still gaps. I want to go forward, flesh this out more and fill in the gaps so we match the need with the desire of the community.

Commissioner Schultz understands the statement, and I get the understanding of the community. But I would hate to kill the project if we vote no. I am still more on the side of being positive with strong recommendations.

- *Commissioner Houck* agrees with *Commissioner Schultz's* comments. I heard enthusiasm with a "but it's also a leap of faith" from the community. I am very familiar with that issue based on my experience as well, but I heard strong support from the community. So I don't know if our saying no does anything different than expressing concerns in our yes recommendation.

Motion

Commissioner Smith moved to recommend the plan to City Council and note that we recognize and applaud the steering committee's structure; that the plan needs to continue to look at additional strategies to maximize retention of affordable housing; Council should increase funding level beyond current plan; and don't support the transit project until it is able to commit to substantially fund the Portland action plan. *Commissioner Houck* seconded.

(Y8 – Bachrach, Houck, Oxman, Rudd, Schultz, Smith, St Martin, Tallmadge; N1– Baugh)

Tree Preservation in Development Situations

Hearing / Recommendation

Susan provided an overview of the history of the Tree Code (Title 11) and the project. Instead of having just one proposal today, we have two proposals that complement each other with some decision points between the two. We aren't going to open up this work to all the tree issues right now; this is specifically about very large trees. We will begin to prioritize other issues in the next couple of years for Council to move forward.

Emily gave background about Title 11, Trees. Urban Forestry (UF) implements the code in non-development situations; BDS implements it development-related tree situations, however UF does implement in City-owned and managed property and trees in the right-of-way (ROW).

"Large" is defined by tree diameter at about 4.5 feet above the ground.

Proposal A was developed by PP&R. It was presented to the Tree Code Oversight Advisory Committee (OAC), Urban Forestry Commission (UFC), and Development Review Advisory Committee (DRAC). Proposal B was developed by BDS, developed after feedback from Tree Code Oversight Advisory Committee (OAC) and Development Review Advisory Committee (DRAC) and City infrastructure bureaus (PBOT, BES, Water).

Both the PSC and the UFC hold hearings. The PSC *may* provide input to the UFC, which is why this hearing is first. Then each body makes a recommendation to Council.

Commissioner Houck asked why the project doesn't go to the UFC first. They have the expertise we lack to give us a basis for our decision.

- It's the way the code was written. In particular for development-related situations, having it come to this commission first highlights the more holistic view of the PSC. Our interpretation of the code is that the PSC can provide input to the UFC as well as to Council. The outcomes/recommendations can be the same or different from the commissions.

For this project, we are talking about tree preservation in development situations only. We are addressing tree preservation on private property, but depending on which proposal you apply, it may or may not also address tree preservation on City-owned or managed sites and in the public ROW.

The current code applies to:

Private Trees:

- Preserve one-third of non-exempt trees on site
- Each tree removed **below** the one-third standard requires a fee in lieu of preservation (replacement, replanting and maintaining two trees for two years)
- Fee in lieu = \$1,200 per tree (linked to current cost if the City plants 2 trees for each removed below the 1/3 requirement)
- No notice requirement

On average, we are planting two-inch caliper trees.

City and Street Trees:

- Tree Removal mitigated by planting or fee in-lieu per Admin Rule 10/19/15
- \$300 per caliper inch, according to the current fee schedule

This part of the code doesn't give preference or incentive for species or size of tree to preserve.

Jenn gave the overview of Proposal A (PP&R). The main points include:

- The only new trigger is the size of the tree (48" diameter or larger). A fee based on inch-for-inch replacement would be required to remove any tree this size or larger - no cap.
- There is no change to the one-third preservation standard and \$1,200 fee in lieu of preservation for trees at least 12" in diameter.
- Public notice will be posted on-site for 7 days as a courtesy posting.
- Applied to City and Street trees as well as Private trees.

Commissioner Houck noted the yellow sheet (tree distribution sample: residential new construction and demolition permits issued, August 2015) showing that there are very few trees that are 48" or larger. Why wouldn't we look at the trees in the 20-35" range too? The definition of "large tree" is my question. 20" trees are actually quite large.

- There is no forestry threshold to look to, so it is a policy question. Code thresholds in Title 11 are 12" and 20".
- *Commissioner Rudd* noted we'd need a much larger public process if we are going to change the definition of "large trees" to go as low as 20".

Commissioner Houck noted the yellow sheet (tree distribution sample: residential new construction and demolition permits issued, August 2015) showing that there are very few trees that are 48" or larger. Why wouldn't we look at the trees in the 20-35" range too? The definition of "large tree" is my question.

- There is no forestry threshold to look to, so it is a policy question. Code thresholds in Title 11 are 12" and 20".
- *Commissioner Rudd* noted we'd need a much larger public process if we are going to change the proposals to address "large trees" to include much smaller trees.

Emily gave the overview of Proposal B (BDS)

- The new threshold for this proposal is a 50" diameter tree. All trees at least this size that are removed would trigger a payment in-lieu of preservation.
- This fee continues to be tied to the cost of a number of replacement trees. The current structure is for the cost of 2 replacement trees.
- The fee is capped at \$6000, so after 50", it doesn't increase if the tree gets bigger.
- There is no change to the one-third preservation standard and \$1,200 fee in lieu of preservation for trees at least 12" in diameter.
- There is a tiered fee schedule (slide 21).
- Requires notice of 14 days.
- Does not apply to City and Street trees.

The BDS proposal notes:

- Formal and informal feedback about opening up the discussion about paying more attention to more medium-sized trees, but the immediate situation is about especially large trees.
- Fee is not in excess of what's required in E-zones. We are trying to create some parity but not in excess.
- Considers more of an on-balance policy review.

Commissioner Smith: Is it not possible that a 4' tree in development situation could have more benefits in a development situation than something in an E-zone?

- Emily: I would agree with this; but under our current policy framework, E-zones have the most protection. If we want to create the same policy-level protection for the biggest trees in the E-zone, that is not outside of the realm of possibility, but it's a project for the future.
- *Commissioner Houck* had a similar question and also commented on the need to update the E-zone code for lots of reasons, and timing issues for creating policy.

Feedback from the two primary advisory committees included:

Tree Code Oversight Advisory Committee (Feedback on Proposal A)

- Decrease size threshold to 35" in diameter or greater
- Increase notification to 30 days and include direct notice to neighborhood association
- Consider prohibition of large-size tree removal
- Add a sunset date

Development Review Advisory Committee (Feedback on Proposal A and Proposal B)

- Support Proposal B

Discussion

Commissioner Schultz asked about why PP&R included Street Trees and BDS didn't.

- Street Trees weren't part of the recent problem sites, which were more about private trees. There is concern about this not being consistent with the recently-adopted Administrative Rule, and it had questions from other bureaus. The argument about having parity between public and private property is well heard.

Commissioner Bachrach asked if I'm not seeking a development permit, these changes don't apply, correct? Yes. If either one of these is adopted, will it be implemented under 040?

- Yes, the changes only apply to development projects. They don't apply if I have a tree in my backyard and I just want to remove it.
- There are no fees noted in Title 11. The fee schedule is something that bureaus review each year. The code looks at the quantity or size of the tree removed; the fee schedule is where the cost is assigned.

040 says if I remove a tree, the payment is based on the adopted fee schedule. Is that different from the proposed fee schedule?

- Yes, the recent Admin Rule interprets this part of the code. Proposal A would require the administrative rule fees to be updated.

Susan: These proposals are a stop-gap measure in response to citizen concern about especially the removal large trees. You need to think about this as a temporary decision that would end in "x years" when we look at some of the components of the project again. If we start diving into all the pieces, we won't have enough time for and from the public to review at this point. In this case, we're working at the direction of Council to provide a temporary solution.

Commissioner Bachrach: What will this do to infill and affordable housing? What about specifically focusing on demolitions of full homes (not, for example, for removing trees for building a deck)?

Commissioner Oxman: Is there a deep policy goal here? Or just a stop-gap?

- The PSC should be thoughtful in your decision, but this is also in response to things at the edge that are upsetting to people and have had impacts on neighborhoods. The other issues are important, but we will want to address those in a more extensive process.

Commissioner Houck asked about recommending a broader review, but my understanding is there will be a broader review of Title 11 in the future.

- A Title 11 review is not currently in the FY16-17 budget, and there has not yet been an add package proposal because there are other things that are priorities the City wants to get done. But after that, this could be a big contender for getting a proposal in.

Testimony

1. Mark Bello (also on behalf of Kris Day), Urban Forestry Commission: UFC is happy to work as partners with the PSC. Over the last year, too many large or will-be large trees have been cut. We have not talked about the form of trees, and code recognizes the difference between types of trees. What are we protecting? Large trees that are part of canopy, not just trunks. We need a sunset clause with this project because this is an emergency, quick fix. We need to go back and take another look to be sure we're protecting the urban forest. *See written testimony.*
2. David Diaz: Member of UFC and a forestry data scientist, looking at putting a value on natural services. Something is wrong with how we're permitting trees to be removed in the city, so we need an update. Different types and forms of trees provide different values to the city. More trees are being removed than are being planted on private property, and the majority being removed are large-form, while those being planted are not. With the current policy and BDS proposal, none of the planting scenarios will be fully mitigated. Emergency rule-making is fine, but a longer-term solution is necessary. I would like to see the inch-for-inch mitigation (proposal A). *See written testimony.*
3. Bob Bernstein: The premise that you're going to build your way out of the affordable housing crisis is a false premise. This is like you're trying to get into a movie theater and scalpers will charge based on the length of the line. This is not a closed-system problem. We need to focus on protection, not mitigation. Can mitigation money be taken out when the house changes

ownership? What is the survival of the mitigation trees?

Commissioner Houck asked if the UFC is being formally represented today. When we have sister advisory committees, they should be invited testimony, and we should allot time for them to speak. I posed that question in the past and believe we agreed that they would be invited testimony, correct?

The UFC has had consensus that we need a stop-gap measure.

4. Lola Gailey, PBOT: I was unaware of Option A being considered today. When we worked with BDS in the development of Title 11, the purpose of the public ROW was for public infrastructure. PBOT was given a lesser mitigation requirement so we could construct streets and sidewalks. The standard is represented in recent the Admin Rule; two trees for one tree removed up to 12". PBOT provides transportation improvements to meet the needs of all citizens and our Vision Zero goals. But some Title 11 and Vision Zero goals come into conflict. We do try to design around trees, but transportation projects are usually very linear. If the mitigation requirement is increased, we'll then have less safety dollars. PBOT has been a good partner and we routinely plant street trees. I request a no vote on Option A.

Commissioner Smith asked about the connection between Vision Zero and trees. I think you were specifically commenting on trees in Capital Improvement Project (CIP) situations, yes? Street trees correlate to people driving more slowly, which helps in Vision Zero's objectives. How often do you have to remove trees for CIPs?

ROW is usually established, so if we have a full, built-out street, if there are any trees in the ROW, we'll be impacting them. We are typically impacting trees along the edge of the ROW.

Commissioner Houck asked about the City's responsibility to be held to the same standards as are Portlanders. We need a new paradigm in terms of how we think about public ROW which accounts for 40 percent of the city's area. We need to ensure we're protecting the tree canopy regardless of the situation.

5. Tim Larson: Portlanders and Oregonians have an image of ourselves, and the rest of the world has an image of us. We don't cut down trees; we're famous for hugging trees. This proposal fails to protect the environment and the wishes of the people of Portland, the health of our trees. Immediately open this for new policy review for the community and experts to come in and help. This is a program by which you're allowing developers to cut down trees for financial gain only. Forested areas of the city are the most valued.
6. Meenakshi Rao for Vivek Shandas: Current code mitigation fee structure seems arbitrary at best. The City's Climate Action Plan recognizes the role of trees in reducing climate-induced stressors. The loss of the urban forest suggests a need to develop a process for revising the code. We need to have greater time for notification of tree removal. *See written testimony.*
7. Micah Meskel, Audubon Society of Portland: Audubon to help create Title 11, and we feel that many aspects have been working well. But the preservation of large healthy trees in development situations isn't working. It fails to achieve goals of preservation and does not cover large swaths of the city and urban canopy. We recommend that Council adopt A with the modifications noted in the *written testimony*.

Commissioner Smith commented on the merits of a 30 day notice versus 7 days.

In 30 days, there is opportunity for discussion with the developer to potentially alter the development. There is also merit in allowing neighborhood associations (NAs) time to discuss,

which can sometimes help save trees.

8. Douglas Fix: Don't accept either proposal, but change in consideration of the Audubon's suggestions. For stop-gap measures, require inch-for-inch for 30" and larger and require a 30-day notice. Trees are not equal. Most trees are smaller than 10", and 90 percent of trees are smaller than 20" in diameter, so changes being proposed are stop-gap to deal with very large trees only. Trees take time to grow but we also see that they are cut down very quickly.
9. Daniel Newberry, Johnson Creek Watershed Council: I support and agree with the Audubon's proposal. Consider looking at something not in either proposal: the stated goal of large tree preservation doesn't seem to be part of this; it's about mitigation and fees allowing you to cut trees down. I don't know where the 48" or 50" threshold came from. It should be 30". Remove the exemptions for commercial and industrial lands. We plant about 20,000 trees per year throughout the watershed (about 40 percent are in Portland), mostly in riparian areas, so I'd like to see something in the code that recognizes trees that provide real riparian shade. We should open more of Title 11 up to public comment.
10. Wendy Hambidge: Strongly supports Audubon's suggestions.
11. Paul Steele: Tried to preserve the trees at 41st and Clinton; lost one but managed to keep two due to the forbearance of the developer. Support the testimony from Audubon. There is a deep sense of outrage over this in the neighborhoods. Neither proposal meets basic needs.

Commissioner Houck asked about Steele's reference to the developers' forbearance that resulted in the saving of two of the three trees. I assume you're interested in the 30-day notice requirement?

Yes. We were successful because Richmond neighbors were interested and concerned and could act quickly, but more notice would help others to do the same.

12. Gregg Everhard: At 20 years, some of the largest and fastest-growing trees are up to 20". We need to look at smaller trees, even below 30". We are protecting "our elders" in terms of trees, but this is a minimal percentage of trees we have. We need the younger trees to help us in the future.
13. Meryl Redisch, UFC: Many of the Tree Code components are working really well. The UFC submitted comments to Commissioners Fritz and Saltzman about things we wanted to see about in the PP&R proposal: the 30" size, 30-day notice and to strengthen the code in its entirety. We strongly urge you to request Council provide the funding to make this happen. The PP&R budget includes a Title 11 review and revision.
14. Wesley Bird, inspector and plans examiner for BDS. My job is about ensuring life safety. Large trees, 20" and greater, kill people when we have large storms. I love the large trees in forests, not stand-alone. What's more important, human life or plant life? We can create a great place as well as maintain it.

Chair Baugh closed testimony.

Discussion

Chair Baugh reminded the Commission this is a stop-gap recommendation, not a full discussion about Title 11 changes.

Commissioner Houck asked about the work program and budget for BPS for conducting a full review of Title 11. Apparently PP&R has funds in their budget?

- Jenn: We are at the beginning of the annual budgeting process for FY16-17. PP&R has a one-time add package request of \$100k that is intended to help us comprehensively review and update Title 11. Ideally, BDS and BPS would also have funding to help in this process so we could work together.

Commissioner St Martin noted the 30” size suggestion... is this a good or bad idea?

- Emily: If your intention is to keep within a narrow scope to address the specific problem at hand (especially large trees), the lower the threshold goes, the bigger policy decisions are included. A 36” threshold covers a bit more, but not that significantly.

Commissioner Rudd: What about incentives versus charges (e.g. rebates on SDCs, given we are saying trees provide a community-wide benefit)? Where would these strategies live? I’m concerned about the potential burden to individual property owners.

- In a more comprehensive review is where we would include this. At this point, it’s beyond the scope of this stop-gap, but this was a suggestion. BDS is responsible for the private development part of the code, and PP&R is about public development and City-owned trees.
- In terms of who would be leading a future comprehensive project, ideally BPS would help us lead.
- Susan: A more thorough review of SDCs by each bureau would be necessary.

Comparison Table discussion (slide 26)

Commissioner Bachrach commented on the two proposals and that people are unhappy with either in its entirety. In this environment, I would pick Proposal B. I think for us to try to craft something different would be futile in the short-term.

Commissioner Schultz thanked staff for their work. This is a frustrating process, but I appreciate staff’s work. With the narrow focus of this as a stop-gap, I would also start with Proposal B. I have no sense of what size of tree is right, and I would say the same thing about the dollar figures. I don’t feel like we’ve had enough information or data to determine this. I am supportive of a longer notice and a sunset date. I would include City and Street Trees too. But I’m supportive of an incremental framework.

Commissioner Rudd is supportive of *Commissioner Schultz*’ comments and changes as well as including City trees.

Commissioner Oxman prefers something like the Proposal A. When you look at the dollars, we are talking about developments in a new house that are costing developers lots. So putting on an extra \$10-15k doesn’t kill a project, but it gives a strong signal.

- *Commissioner Bachrach* noted a homeowner wanting to build a deck may not be able to afford the costs like a developer could.

Size of Tree

Commissioner Smith proposed 36” as the threshold. We know there is a deep set of policy considerations we can’t get into. We need to help solve the issue of neighbors getting upset about large trees getting cut down. Looking at the frequency and distribution of large trees, the top 7 percent is better than the top 1-2 percent.

- *Commissioner Oxman* concurs with this size suggestion.
- *Commissioner St Martin* would advocate for 30” but understands the 36” idea.
- *Commissioner Houck* was thinking 20” but is willing to go to 30”.
- *Commissioner Rudd* is not supportive of decreasing the size without further public process.

Commission Oxman: Is there a way to distinguish between additions/modifications versus full redevelopment?

The two-thirds by right can be cut down anyway as long as they are not the large tree size. If you have three trees on your property and could maintain one, you won't have any fees.

Commissioners *Oxman, Smith, Tallmadge, St Martin* and *Baugh* are comfortable with 36".

All trees or only those subject to the one-third preservation

Commissioner Smith noted it has no affect if it doesn't apply to all trees. This is a common element to both proposals.

Commissioners *Oxman, Rudd, Smith, Tallmadge, Houck, St Martin* and *Baugh* are comfortable with this.

Mitigation fee in-lieu of preservation structure (graduated scale of 12-20", 20-35", 36+")

Commissioners *St Martin, Oxman, Houck, Tallmadge, Smith*

Emily: If we did this, you could suggest it being 10 replacement trees with a \$6000 fee.

Jenn: At the 35" threshold, you could say you want it inch-for-inch. But choosing numbers that aren't divisible by \$300 is difficult.

Adjust to a graduated scale: *Oxman, Rudd, Smith, Schultz, Bachrach, St Martin*

\$300/inch cost

Number of replacement trees required, the number of 2-inch replacement trees, which is in the current adopted fee schedule of \$300/inch. We'd be changing the number of mitigation trees.

Per tree or per site?

Per tree (all agreed).

No cap on fee

Chair Baugh: Who supports no cap on items 1-5 as we've discussed?

- *Oxman, Smith, Tallmadge, St Martin, Houck*

Emily: If you're not capping, are we moving to inch-for-inch at this point?

- Yes.

Notice requirements

30 days and notification to NAs.

Pertain to City and Street trees?

Yes.

Who bears the costs? Usually the City would bear the costs. In LIDs, then the private owners would pay. Whoever initiates the proposal is usually who pays.

Sunset date

Commissioner Houck: What was the rationale for not having a sunset date?

- This was not deliberate, it just didn't happen as part of the proposal. There is also a legal question about putting a sunset clause into City Code.

Commissioner Houck: We don't know when we have a full look at Title 11, so I'm not sure what the sunset date would be.

- *Commissioner Smith*: A sunset date would force Council to fund and push this forward.

- *Commissioner Bachrach* cautioned a sunset date could come and go, then these recommendations would be lost if Council hasn't done anything to push the changes and full look at Title 11.

Commissioner Houck noted that this is important in terms of documenting the full program. Is it useful for us to think about collecting data over the next few years?

- Jenn: Yes, and also when we look at canopy impacts, this is a longer-term assessment. There is a report to Council scheduled in late February in terms of how we've done with Title 11, so PP&R is continuing to track and collect data.

Chair Baugh proposed a 3-year sunset timeline. *Commissioner Oxman* suggested 2 years, but isn't sure if this provides enough time and data to analyze and have a thorough public process.

- Susan: If we don't get funding this July 1 to do this project, we are looking at starting earliest in July 2017, so we'd be looking at least 3 years from now to have a full process. I would hate to have the sunset clause come in mid-stream.

Commissioner Rudd asked about the next parts of public process and how broad the public notice would be.

- Susan: There is the hearing at the UFC on Thursday, January 21. Then there will be a Council here that will be noticed by standard Council notification. This is a 2-week notification process (minimum).

Discussion of proposals and changes suggested by PSC members

- 36" and greater
- All trees (private, City-owned, Street trees)
- Graduated fees
 - Modify 35" to 36".
 - Modify the last line of the Proposal B mitigation fee in-lieu schedule to 15 trees / \$9000 (cap)
- 30 day notice with NA notice.
- Sunset date of 3 years.

Commissioner Schultz suggested leaving the size and cost/fee structure to the UFC.

- The PSC is recommending to Council, so if the UFC goes in a different direction, we don't have a suggestion.
- *Commissioner Rudd* noted DRAC supported Proposal B, so we should consider that proposal had support from a group with both neighborhood and developer representation.

Emily: Proposal B was created as a package, looking at the more medium-sized trees with a not-as-high fee.

Susan: Given that DRAC is a more balanced committee, if you're concerned that \$6000 is not enough, you could change the 36"+ 10 tree fee replacement to 15, which would mean \$9000 as the corresponding fee in-lieu of presentation. Commissioners confirmed this suggestion.

Commissioner Smith noted inch-per-inch is too expensive at 36" but seems about right for 48".

Chair Baugh is concerned about going down and adjusting the lower level without data and public process.

Proposal / Motion "C"

- Includes trees 36" and greater
- Applicable to all trees (private, City-owned, Street trees)
- Graduated fees
 - Modify 35" to 36".

- Modify the last line of the Proposal B mitigation fee in-lieu schedule to 15 trees / \$9000 (cap)
- 30 day notice with NA notice.
- Sunset date of December 31, 2019.

Commissioner Houck moved this proposal as discussed above. *Commissioner Oxman* seconded.

(Y7 – Baugh, Houck, Oxman, Schultz, Smith, St Martin, Tallmadge; N2 – Bachrach, Rudd)

PSC members also want to be sure to include a strong statement in their recommendation to Council for a thorough review of Title 11.

PSC Officer Vote

Decision: PSC Members

Chair Baugh proposed the slate of officers for 2016 as *Chair Schultz*, *Vice Chair Smith* and *Vice Chair Baugh*.

Commissioner Houck moved to recommend this PSC slate of officers for 2016. *Commissioner St Martin* seconded.

The motion passed unanimously.

(Y9 – Bachrach, Baugh, Houck, Oxman, Rudd, Schultz, Smith, St Martin, Tallmadge)

Adjourn

Chair Schultz adjourned the meeting at 5:32 p.m.

Submitted by Julie Ocken, PSC Coordinator