
URBAN FORESTRY COMMISSION

Meeting Minutes

September 17, 2015

Lovejoy Room, City Hall

Commission Members present: Vice Chair Barbara Hollenbeck, David Diaz, Mark Bello, Kris Day, Catherine Mushel, Brian French, Damon Schrosk, and Vivek Shandas

Commission Members absent: Ricardo Moreno, Chair Meryl Redisch, Gregg Everhart

City Staff present: City Forester Jenn Cairo, City Attorney Harry Auerbach, Botanical Specialist P's: Jeff Ramsey, Gina Dake, and Nik Desai; UF AmeriCorps members Matthew Downs and Patrick Key, Tree Inspectors: Charlie Carroll, Luke Miller, Joel Smith, Jim Field, Elm Monitor Natasha Lipai, and Elizabeth Specht

Guests present: Jennifer Karps, Bureau of Environmental Services (BES); Marc Czornij AmeriCorps member; Mieke Keenan, Bureau of Development Services (BDS); Van Bogner, John Russell, Scott Weinert

Call to Order and Public Comments: Vice Chair Barbara Hollenbeck called the September 2015 Urban Forestry Commission (UFC) meeting to order at 8:00 am. Ricardo Moreno has stepped down from the commission. Committee reports due to Elizabeth end of October. Time volunteered to the commission due quarterly (March, June, September), please send to Elizabeth.

Vice Chair Hollenbeck reviewed the sign-in sheet and noted that no one signed up to give public comments. She asked if anyone in the audience wanted to give a public comment: Jennifer Karps (BES) introduced Mark Czornij a new AmeriCorps member for BES who will continue the equity and tree canopy work of previous members.

Review of August UFC minutes

Vice Chair Barbara Hollenbeck asked UFC members to review the August draft minutes, asking if any commissioner wished to recommend an edit. With no edits to the minutes Kris Day moved to accept the minutes. Vivek Shandas seconded the motion. The motion and the August minutes were approved unanimously.

The Urban Forestry Report - City Forester Jenn Cairo

- Jenn introduced the two new AmeriCorps members assigned to the UF Tree Plan Project.
 - Matthew Downs and Patrick Key will continue recruitment efforts for the remaining neighborhoods to complete a street tree inventory and plan workshops.
- Elm season is similar to other seasons.
 - The Operations Crew is kept busy with infected elm removals.
- The Paradox walnut is a Heritage Tree!
 - We are ready to help with a press release if the commission would like to capitalize on the Heritage Tree designation.
- There are a number of conferences and trainings
 - Sept. 20-23 in Bend the Pacific Northwest Chapter of the International Society of Arboriculture conference
 - Nov. 16-17 in Denver the Society of Municipal Arborists (SMA) SMA 51st Annual Conference
 - Jeff Ramsey will present a canopy study.
 - Friends of Trees will also present.
 - Nov. 18-19 in Denver the Partners in Community Forestry conference
 - This is a new direction for Urban Forestry; we find we learn more from meeting with other professionals from around the country.
- Botanical Specialist I introductions for Gina Dake and Nik Desai.
 - Gina's background is 12-13 years in urban forestry work specifically with utilities and municipalities. She is a recent part time arborist with Urban Forestry teaching workshops for the Tree Inventory Project. She will focus on community plantings, Learning Landscapes and early detection rapid response pest control.
 - Nik's background is in ecology and public health. He was recently an Inventory Coordinator for the Tree Inventory Project. His focus will be renewing the Neighborhood Tree Steward program, which starts October 17th at the East Portland Community Center. For information about the Neighborhood Tree Steward Program email Nik at Nik.Desai@portlandoregon.gov.
- Reminder, the supervisor position for Education and Outreach, Science and Policy is still vacant.
- Mark Bello asked when the Tree Summit is for the Inventory Project
 - November 7th, mark your calendars; we are always looking to involve more tree advocates.
- UFC calendar--3 decisions made
 - There will not be a December UFC meeting.
 - The December breakfast will happen in January.
 - The UFC Annual Retreat will be on December 10th from 9:00 – 3:00pm
- It was decided to create another Doodle Poll with the previous outline of potential agenda items for the December retreat discussed during the August UFC meeting.
 - Elizabeth will send out the Doodle Poll to all members.
 - Please prioritize-rank the items you think are most important to consider during the meeting.
- Pertaining to the UFC Retreat Vivek suggested creating goals for each agenda item addressed in order to move ahead with the item following the retreat.
- Jenn will research in-house, bureau facilitators for the retreat.

Policy Report on Title 11-Policy Committee Chair Mark Bello

- Oversight Advisory Committee Meeting held September 7th.
 - Approved a letter with the following comments:
 - Tree project goals are missing
 - City Forester discretion is not addressed
 - Type A & B permits conform to each other
 - Not enough public involvement
- What needs to change before the Interim Administrative Rule becomes permanent?
- Committee will end in 2-3 more meetings.
- Kris Day's comments: the Interim Administrative Rule (IAR) and trees in development took up the bulk of the Oversight Committee's (OAC) time, the Urban Forestry Commission should consider their capacity of addressing issues that were not discussed sufficiently by the OAC.
- Change to the IAR will be minor; One tree must be replanted, no longer a clause to avoid replanting.
 - Dead Dying and Dangerous trees do not count as part of density for the lot.
 - October 19th the final rule will be created.
 - Clarification: Title 11 – Adopted code and the Interim Admin Rule – a group of rules that we would appeal. The IAR will dictate a large amount of time going forward.
 - Support to update the code from Commissioners Fritz, Saltzman, and Fish
 - Commissioner Novick and Mayor Hales are wild cards regarding code update.
 - Jim Labbe of the Audubon Society is working to inform Commissioner Novick, and Meryl Redisch is working on a meeting with Mayor Hales for updating the tree code.
- Catherine Mushel made a point to consider the professional landscape designers and architects regarding code language, it should focus on incentive and maintaining room for urban forest growth when development occurs.
 - City Attorney Auerbach stated we do not punish people, unless there is a violation. In the code it is to replace that which was removed.
 - In response to Catherine's comments Jenn clarified that there are two regulatory elements: Title 11, which covers private lot development, and the IAR not related to the sequoias or fir trees, or site development style.
 - The Director of BDS is the lead responsible for administering the code in private development situations
 - The City Forester's discretion for the IAR is specific to private non-development and city development.
 - The IAR is the timely item now, rule outcomes are the ones front and center – something to consider for time allocations.
 - Commissioner Fritz is very interested in large trees and development
 - Mike Hayakawa and the OAC have been tasked with finding what is wrong with Title 11/ private development mitigation.
 - Way of remedying large trees being lost in private development
 - City Forester discretion cannot be higher than private development mitigation requirements.

- Property owners are not concerned with the details of the code, only the impacts.
 - Title 11 code changes inherently take more time, a longer term process.
 - The IAR is front and center and what we end up with will have an impact on the city's canopy and its services, as can be seen in the cases of the Martins Street 3 sequoias and the Division Street firs.

Mike Hayakawa and Mieke Keenan: IAR

- We are now in the public comment period; it is a 2 step process.
 - Just concluded the initial process.
 - Public review graph included minor changes that could be easily implemented.
- Three phases; comments are summarized on the trees website.
- Staff will go to the city council in February with a large report and comments about the code. It will not be addressed as part of the IAR, but will be included in the February report
- Before the close of the IAR there will be a staff response, what worked, what did not work.
- Appeals happen after October 19th, there is no limit on the time after that for appeal.
- Title 3 procedures – public hearing. Combined the open house and public hearing – can give testimony, and question and answer session.

Jeff Ramsey – Report on Non-development Title 11 program evaluation

- We have had a 43% increase in workload from last year to this year.
 - More than what was predicted.
 - More private lots have come under regulations.
- The biggest increase comes from Remove and Replant permits.
 - We have had a lot more requests for removals for 2015.
 - Removal permits issued: up 600%.
- Intake of permit requests has shifted from phone to email.
 - Our response has improved despite increased workload, and a staff shortage.
- The biggest regulation change under Title 11 has been for private trees.
 - Permits issued so far are 888, 95% are A permits which require a 1 for 1 mitigation to plant and remove.
 - The A permit has helped us stay on top of the increased workload while still not fully staffed in the Tree Inspector position.
- Rates of denial has decreased by half
- Automatic removal permits include dead, dying, or dangerous trees; nuisance trees, or those within 10 feet of a structure.
- Size and composition of trees being removed
 - The size of a removal has not changed
 - The type and size replacing the removals are small form and broadleaf deciduous.
 - Private land holds most of our canopy.
- Question: what is the frequency of site visits for A permits
 - Answer: The tree techs are issuing approximately half of the A permits
- Comment from Damon Schrosk: Are large form trees being removed because lot size has decreased and there is not room outside of the 10 foot distance from a structure to replant large form trees?
- What is behind the workload increase?

- We expected a large increase in workload; however we are seeing a 600% increase, so something else is happening.
 - Consider this data, and think about policy changes. What are the implications of losing a lot of large form trees, what are the long range issues that will result from these types of removals?
 - We are working on a regulation compliance strategy in the near future.

New Business / Old Business

- Damon Schrosk asked if there was a contingency for hardship tree situations.
 - We are added to Reach CDC’s funding list for what is needed.
 - We now have a direct link to a referral service for economic assistance for tree services.

Close of meeting 10:17 am

Appeal at 300 NE 94th Ave Portland, OR 97220

Appeals Board in attendance: Chair Barbara Hollenbeck, Mark Bello, Damon Schrosk, Brian French, and Kris Day.

Staff: Tree Inspector Joel Smith; Deputy City Attorney Harry Auerbach; City Forester Jenn Cairo; and Hearings Clerk Elizabeth Specht.

Chair Barbara Hollenbeck introduced the Board and disclosed that three of the committee members visited the site. It was determined that there were no conflicts of interest. The Appeals Board, under Title 11, is an error-correcting body and will affirm, reverse, or remand the appeal.

Inspector Jim Field gave a PowerPoint presentation on the 28” dbh Douglas fir on private property for the denied removal permit. The reason for the original removal request per the application was the Douglas fir was outgrowing space, and made the homeowner nervous. The application states the tree roots are lifting the driveway, and the tree has caused property owner to replace water line to residence. The property owner wants to remove tree to prevent future possible water line damages by the tree roots.

Reasons stated for denial of a removal permit were: the tree is healthy and not dead, dying, or dangerous; tree is not within 10 feet of a building or attached structure; tree is not a nuisance species; and tree is >20” DBH (11.40.040.A.4)

The species of tree is appropriate for its location (11.40.040.B.2.a)

The tree’s growth habit has not developed in a manner that would prevent continued healthy growth or is negatively impacting other trees (11.40.040.B.2.b)

Removal and replanting will impact the neighborhood streetscape and any adopted historic or other design guidelines (11.40.040.B.2.d)

Objectives for use of the property can be met by practical alternatives to removal of the tree (11.40.050.B.2.a)

Supplemental water line repair information provided by the appellant does not relate any root impact from the tree. Looking at the tree from several angles, the tree is straight, there isn’t any leaning, and the tree looks very healthy.

Owner and appellant Scott Weinert stated he feels repairs will be required more than once for the driveway, and the neighborhood has many large trees. Mr. Weinert stated it has caused damage to the water line, and is causing damage to the driveway. There are other large trees in his front yard, and the tree would have to come out if a sidewalk is installed.

Appeals Board member Kris Day asked for clarification in determining if the tree in question was a right of way tree or a private tree. Tree Inspector Jim Field stated if the tree encroaches into the right of way it is a street tree. Deputy City Attorney Auerbach stated from the tree code that a tree within 15 feet of the edge of pavement when a street is paved but not improved. It was decided by City Forester Jenn Cairo that for the purposes of this appeal to maintain the private tree classification of the Douglas fir because it favors the appellant.

From Chair Barbara Hollenbeck, there was no documentation of driveway repairs made in the tree removal application. An effort would need to be made to repair the driveway, using alternatives to the current concrete slab, to retain the tree to see what happens. The appellant said he had only received bids thus far.

A question was asked if the city plans to improve the right of way at this address. It was answered by City Forester Jenn Cairo stating unless there is a Bureau of Transportation project that Urban Forestry is reviewing in or near the right of way, when planting we treat the space as is. Repair methods were discussed; it was suggested to look at pervious pavers or rubber options. Jim Field stated it may be possible to perform root pruning once the driveway is excavated. Appellant stated the water meter had a leak in 2013 because of rigid water lines breaking. Mr. Weinert said the Water Bureau told him it was because of the tree roots moving from the tree swaying in the wind that damaged the lines. Chair Barbara Hollenbeck pointed to documentation provided by the appellant stating that the main water line was “unclogged” in 2013, and then repaired in 2014 where the main line “rusted out”. Therefore, water line damage did not appear to be related to the tree.

Board Chair Barbara Hollenbeck called for a motion at this time to deny the appeal. Motion to deny from Mark Bello, and seconded by Brian French. Unanimous vote to deny the appeal, the city did not make an error in their determination.

Appeal at 237 SW Naito Pkwy Portland, OR 97201

Appeals Board in attendance: Chair Barbara Hollenbeck, Mark Bello, Damon Schrosk, and Brian French.

Staff: Tree Inspector Joel Smith; Deputy City Attorney Harry Auerbach; City Forester Jenn Cairo; and Hearings Clerk Elizabeth Specht.

Site visits were made by the four Appeals Board members present, there were no conflicts of interest stated.

Inspector Joel Smith gave a PowerPoint presentation on the 10.25” dbh White Ash street tree at the appeal address. The reason for the appeal per the application was the white ash obscures all natural light and views to/from adjacent Hallock and McMillen Building, which will be undergoing full restoration to its historic 1857 form. Reasons stated for denial of a removal permit were: the tree is healthy and not dead, dying, or dangerous (11.40.040.A.4)

The species of tree is appropriate for its location (11.40.040.B.2.a)

The tree’s growth habit has not developed in a manner that would prevent continued healthy growth or is negatively impacting other trees (11.40.040.B.2.b)

Maintenance of the tree does not create an unreasonable burden for the property owner (11.40.040.B.2.c)

Removal and replanting will impact the neighborhood streetscape and any adopted historic or other design guidelines (11.40.040.B.2.d)

Photos of the placement and size of street tree gave proximity of where the tree was in relation to the building and its façade.

Deputy City Attorney Auerbach asked how old the tree was and how large the tree would be at maturity. Tree Inspector Joel Smith did not know how old the tree was, but at maturity the tree could be up to 2 x the current height. A follow up question was could pruning lift the canopy?

Property owner John Russell stated he would like to remove this species and replace it with another. Spoke to design review emphasizing the first 35’ of buildings. Mr. Russell had a PowerPoint of historical photos to show what the restored façade will look like. Mr. Russell would like to replant the White Ash with a honey locust to allow light filtration.

Appeals Board Chair Barbara Hollenbeck asked if any board members had questions for Mr. Russell or Joel Smith. Mark Bello asked how the tree is appropriate for the location. Joel answered by stating infrastructure is considered, and there is sufficient root and canopy space in order to reach appropriate mature height. There are no defects in the tree and there would not be unreasonable burden to the property owner for the tree. Mark followed up with the question what constitutes unreasonable burden. The question was directed to Deputy City Attorney Auerbach, who explained in the past there were homeowners who are concerned about the impact of the tree on infrastructure. The dividing line is where there is a significant financial burden of code compliance, and then the tree can be removed. The city in the absence of extraordinary circumstances will not permit the removal of a healthy functioning street tree.

Deputy City Attorney Auerbach stated there are conflicts and competing public policies, however a priority of the Title 11 tree code is to maintain existing trees. He then asked Mr. Russell if he had to go through the Old Town-Chinatown Neighborhood Association for a design review for the building. Mr. Russell said yes, then he came to Urban Forestry.

Appeals Board Chair Barbara Hollenbeck thanked Mr. Russell for his work in historic building preservation and reiterated that the Appeals Board looks at Title 11. The street trees on Naito are all White Ash, and this tree is almost perfect.

There was input from the Old Town-Chinatown Neighborhood Association in support of retaining the tree. They suggested to consider pruning options and retain the tree.

Mark Bello asked Harry Auerbach what remand would mean. A remand returns the decision to the City Forester if new evidence is brought up or there is a correction to be made. Mark Bello asked for reconsideration once the tree is larger. Auerbach clarified that Mr. Russell always has the right to apply for removal in the future. Unreasonable burden has not been considered in historic preservation. Jenn Cairo stated that a tree's impact on historic buildings is more of a policy question.

A motion was called for, Damon Schrosk motioned to deny, Brian French seconded. There was a unanimous vote to deny.

Appeal ended at 11:22 am