



City of  
**PORTLAND, OREGON**

Development Review Advisory Committee

**Development Review Advisory Committee**  
**Meeting Minutes**  
**Thursday, January 19, 2017**

**DRAC Members Present:**

Claire Carder  
Michael Harrison  
Dana Krawczuk  
Justin Wood

Hermann Colas  
Rob Humphrey  
Jennifer Marsicek

Maxine Fitzpatrick  
Maryhelen Kincaid  
Kirk Olsen

**City Staff Present:**

Fred Deis, BDS  
Mark Feters, BDS  
Kurt Krueger, PBOT  
Dora Perry, BDS  
Elisabeth Reese Cadigan, BES  
Paul Scarlett, BDS  
Jody Yates, PBOT

Rebecca Esau, BDS  
Elshad Hajiyev, BDS  
Phil Nameny, BPS  
Andy Peterson, BDS  
Marshall Runkel, Comm. Eudaly's Office  
Deborah Sievert Morris, BDS

Rick Faber, Forestry  
Anne Hill, PBOT  
Mitch Nickolds, BDS  
Christy Pierce, BDS  
Nancy Thorington, BDS

**Guests Present:**

Nick Daniken, Builder  
Daniel Forbes, Independent Journalist  
Jim Kitchin, InterWorks LLC

**DRAC Members Absent:**

Jeff Bachrach  
Mitch Powell

Dave Humber  
Joe Schneider

Christopher Kopca

**Handouts**

- Draft DRAC Meeting Minutes 11/17/16
- Inter-Bureau Code Change List
- Non-Cumulative Cost Recovery Report
- BDS Major Workload Parameters
- BDS FY 2017-18 Budget Information
- LTIC Administrative Rules Draft Changes
- Upcoming City Council Agenda Items

### Convene Meeting

DRAC Chair Maryhelen Kincaid convened the meeting and welcomed DRAC members, City staff, and guests. A quorum was not yet present, so minutes from the November 2016 DRAC meeting could not be approved.

### Director's Report

BDS Director Paul Scarlett discussed impacts from the recent inclement weather. Inspections are delayed about a week due to the inability to safely perform inspections; a message has been left on the inspection request telephone line informing customers of the delay.

On January 3, 2017, Mayor Wheeler reassigned BDS from Commissioner Dan Saltzman to Commissioner Chloe Eudaly. Mr. Scarlett said he is excited about the change and looking forward to working with the new Commissioner. BDS will continue to focus on its vision and mission, providing the best services possible.

Mr. Scarlett reviewed the handouts **Non-Cumulative Cost Recovery Report** and **BDS Major Workload Parameters** and discussed the ongoing growth in the bureau's workload and revenues. Andy Peterson (BDS) said that two OHSU projects made up a large part of a recent significant increase in permit valuation and revenues.

DRAC members and BDS staff discussed the recent \$51 million loan from BDS to the Housing Bureau. BDS Finance Manager Elshad Hajjiyev confirmed that the money will come from BDS financial reserves, but the Housing Bureau can repay the loan because they already have a bond. BDS will make \$500,000 in interest from the loan. Ms. Kincaid expressed concern that the loan will set a precedent for other bureaus/agencies to go to BDS's reserves for loans. She was also concerned that there was no prior public discussion. Mr. Hajjiyev said that BDS's reserves are in essence always being loaned out (invested) by the bank; in this case, BDS is loaning the money directly to the Housing Bureau.

DRAC Member Rob Humphrey said that a lot of people asking how the loan happened, since BDS has said repeatedly that permit revenues can be used for only certain things that do not include loans to purchase affordable housing. Mr. Scarlett said that this is the first time this type of situation has occurred in his 11 years as BDS Director. He noted that the City Council made the decision, and that it is a short-term loan, it's related to housing emergency, and it presents a great opportunity to take a significant step to address housing needs,

Marshall Runkel (Comm. Eudaly's Office) said the Mayor views the City as one enterprise, rather than 23 separate bureaus. In this case, a bureau that had already passed a bond measure was asking for a loan to get an advance on the money from the bond. Ms. Kincaid said that she is not opposed to the loan or affordable housing, but she noted that the lack of notice or opportunity for public comment is resulting in lots of questions.

DRAC Member Justin Wood said that he called the State Building Codes Division (BCD) when he heard about the loan, because State statutes govern the use of permit revenues. The BCD told him that this falls in a gray area; temporarily loaning the permit revenues is not expressly prohibited, and this loan has legislative (City Council) approval.

Mr. Hajiyev noted that during the recession in 2008-2009, BDS received two loans to help tide the bureau over. Mr. Runkel added that Mayor Wheeler has expressed concerns with the process in this case, and as similar situation would probably be handled differently in the future.

#### Budget Update

Mr. Scarlett distributed and reviewed the handout **BDS FY 2017-18 Budget Summary**. BDS will produce the required 5% cut in General Fund monies by cutting nuisance abatement funds, but will backfill the cut from program reserves. BDS intends to ask for 15 fee-supported positions through the 2017 Spring Budget Monitoring Process (BMP) in order to fill positions sooner. The number of positions is still under review and may change.

DRAC members expressed support for BDS's budget request, and Mr. Scarlett asked the DRAC for a letter of support to submit with the Requested Budget on January 30. A draft letter will be circulated to DRAC members for review and editing prior to the budget submission date.

#### **November 2016 Meeting Minutes**

A quorum was present, so members reviewed and approved minutes from the November 17, 2016 DRAC meeting.

#### **Pulse of the Industry**

Ms. Kincaid asked DRAC members to review and comment on the handout **Draft DRAC Letter to Mayor Wheeler and Commissioner Eudaly**. After discussion, members approved finalizing the letter and sending it to the Mayor and Commissioner.

Mr. Wood raised an issue related to a recent experience. He had a question on a project that he felt was relatively straightforward, but he had to go through the Early Assistance (EA) process to get an answer because staff working at the counter in the Development Services Center couldn't give him an answer. He said he would like to see a third option, for questions that can't be addressed at the counter but don't really need a full EA appointment.

Mr. Humphrey cautioned that offering something "in the middle" could be problematic, because a question that looks simple initially may turn out to be more complex. Also, offering a third option may cause some questions that could be answered at the counter to be referred to the third option.

Ms. Kincaid suggested that the DRAC Fees & Regulations Subcommittee meet to take up the matter. A meeting will be scheduled within the next few weeks.

#### **Local Transportation Infrastructure Charge (LTIC) Project**

Kurt Krueger (PBOT) reviewed the handout **LTIC Administrative Rules Draft Changes** and gave an overview of the changes. The changes are meant to make the LTIC process work better. The idea of a cap/maximum fee is under debate and will come up before the City Council later this year. Since June 1, 2016, only about 5% of assessed LTIC fees have been collected. He said that he would like to come back to the DRAC with an update in March or April 2017.

DRAC Member Michael Harrison asked whether thought has been given to raising money from local residential streets, but spending on arterials – assuming there will never be enough money to pave all streets. Mr. Krueger replied that there are some legal challenges that have to be addressed. They want to make sure that the LTIC doesn't become a secondary SDC.

DRAC Member Kirk Olsen asked if there are geographical constraints on where the LTIC money can be spent. Mr. Krueger replied that it's reasonable to suggest that money collected from a geographical area should remain there. However, only \$150,000 has been collected so far; he said he sees potential for combining LTIC money with SDCs and/or other funds to address larger projects.

Mr. Humphrey suggested that LTIC funds aren't being collected because the costs of trees, LTIC, and other regulations are too high for applicants to get their permits issued. LTIC was originally meant to be an "in lieu of" fee, for situations where street improvements didn't make sense at the time, but would happen eventually. Now LTIC fees are being assessed for projects on streets that will never be developed. Guest Nick Daniken said his company has walked away from 10 projects in the last 6 months because of LTIC, trees, and other fees.

Mr. Krueger clarified that Accessory Dwelling Units (ADUs) are exempt. He said that the proposed code changes are being made in order to give some relief for "unbuildable" streets.

Mr. Wood suggested starting with a base charge of \$600 per foot, with the option of going through an appeal process to argue for a lower fee based on the specifics of the project/lot.

### **Design Overlay Zone Assessment (DOZA) Project**

Phil Nameny (PBOT) distributed and reviewed the handout **DOZA Project Overview** and gave an update on the program. He reviewed the project consultant's findings and preliminary recommendations. A DOZA workshop will be held on February 8<sup>th</sup> from 5:30 – 8:00 p.m. in Room 2500 in the 1900 Building. A final report from the consultant will go to the Design Commission, Planning & Sustainability Commission, and the City Council in April 2017.

DRAC Member Dana Krawczuk said that Design Advice Requests (DARs) need to be evaluated; they've become almost mandatory. She questioned whether they are appropriate for every project.

Mr. Olsen asked how DOZA will sync up with the Comprehensive Plan. Mr. Nameny said the Comprehensive Plan will be effective in 2018, and they may split code and guideline updates.

Ms. Kincaid asked why the proposal to create a second Design Commission is not a priority. Mr. Nameny said the thought is that if other changes are made, it can address the Design Commission's workload issue without having to create a second commission. The vast majority of the Design Commission's caseload is in the central city, so a second commission would need to be based on something other than geographic location.

Mitch Nickolds (BDS) asked how “good urban design” is defined in DOZA. Mr. Nameny replied that in discussions with staff and the Design Commission, they talked about the three “tenets” of design: context, interaction between public and private, and the quality/permanence of materials.

DRAC Member Claire Carder proposed that the DRAC send a letter of comment/support for DOZA to the City Council, and have BPS come back to the DRAC with more information. Mr. Nameny suggested that DRAC members attend the February 8 workshop and bring information back to the DRAC meeting on Feb. 16.

### **2017 DRAC Chair & Vice Chair Positions**

Mr. Scarlett noted that the DRAC Chair and Vice Chair positions are filled by a vote of DRAC members at the beginning of each year. The Chair and Vice Chair serve one-year terms, and can be renewed for additional terms.

After discussion, Mr. Wood nominated Ms. Kincaid and Mr. Humphrey continue in their respective positions for 2017. DRAC members approved this unanimously.

The next DRAC meeting is scheduled for Thursday, February 16, 2017.  
Minutes prepared by Mark Fetters (BDS)