



River Plan / North Reach Summer Stakeholder Meeting Agenda

City Hall, Mayor's Conference Room (location subject to change)

August 12, 2009

8:00 am to 10:00 am

Invited Participants

Stakeholders: Ann Gardner, Susie Lahsene, Bob Sallinger and their invited guests.

City of Portland: Mayor Adams, Amy Ruiz, Skip Newberry, Patti Howard, Sallie Edmunds, Eric Engstrom, Brian Campbell, Mike Rosen, Paul Slyman and other City staff.

Agenda

1. Welcome (Mayor Adams)
Review purpose and desired outcomes
2. Mitigation Bank (BPS staff)
Overview and discuss the roles and responsibilities of the mitigation bank
(see attachment)
3. 15% Vegetated Area requirement (BPS staff)
(see attachment)
4. Next steps

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Agenda Item 2: Mitigation Bank Roles and Responsibilities

Bank Operation

The City of Portland will operate the mitigation bank and rely on the expertise of others for key functions of the bank as follows:

- **Establishing the mitigation bank:** The City will work with an Interagency Review Team composed of representatives of the US Army Corps of Engineers, Department of State Land, US Environmental Protection Agency, US Fish and Wildlife Service, National Oceanic and Atmospheric Agency and the City of Portland (Bureau of Planning and Sustainability, Bureau of Environmental Services, Office of Healthy Working Rivers) to develop the Mitigation Banking Instrument. The City will also develop memorandums of agreement (MOAs) with entities that will play a role in the operation of the mitigation bank.
- **Establishing credits in the bank:** The City, as the bank operator, will either conduct the work necessary to obtain a restoration site and generate credits or will seek partnership opportunities with outside entities. The work to generate credits consists of:
 1. Acquiring sites. The City will enlist help from others on acquisition and real estate issues. This may include other agencies or organizations (for profit and not for profit).
 2. Design, permitting and undertaking the restoration projects. The City will likely handle permitting but may contract out the design and on the ground restoration.
 3. Managing each site over the long-term, including collecting data on the progress of restoration. The City will partner with local non-profit agencies, such as land trusts, and watershed councils, for tasks such as operational and long-term vegetation maintenance, and environmental education.
- **Accounting/auditing/oversight:** The City will contract with a qualified independent third party to be responsible for ledger management, including accounting, assigning credits, and managing the sale of credits. This entity shall have no financial interest or appearance of interest in the bank.
- **Monitoring:** The City, as the bank operator, will be responsible for ensuring that both of the following levels of monitoring occur:
 1. Each restoration site will have to be monitored to ensure that the restoration actions are meeting the restoration plan objectives. The City will collect data on the progress of each restoration site according to the monitoring protocol.
 2. The mitigation banking program needs to be evaluated periodically to ensure that the mitigation and restoration objectives are being met and that the Bank is operating as directed. A third party will be retained to conduct the evaluation.

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Agenda Item 3: Vegetation Requirement and In Lieu Fee Option

Introduction

In the October 28, 2008 draft of the River Plan / North Reach, staff proposed a restoration fee of 1% of project value or \$200,000, whichever was less. The fee would have replaced the greenway setback and greenway setback landscaping standard in the river industrial overlay zone and would have been used to restore off-site locations along the river in the North Reach. Soon after the draft was released, staff was informed that the restoration fee amounted to an excise tax and is not legal.

After discussions with several City Attorneys, staff settled on reestablishing a development standard that can be complied with either on-site or off-site via an in-lieu payment. Staff explored a number of development standards including: 1) a standard aimed at restoration of the riverbank in industrial or non industrial areas; 2) a tiered standard that required different levels of on-site restoration depending on the location of development (in water, in the riparian area or in the upland area); and 3) a standard that requires 15% of each site to be vegetated (this standard includes incentives that reduce the requirement to 10% or 5%). On June 23, 2009 the Planning Commission voted to forward option 3 to the City Council.

Issues

1. Staff has heard arguments that the 15% vegetated area standard will impact the industrial land supply in the North Reach:

Both the current Greenway regulations and proposed River Plan regulations have potential impacts on how much acreage is actually available for industrial riverfront development.

The existing greenway setback affects approximately 140 acres of riverfront land in the river industrial overlay zone. Unless development is river-dependent, the setback area is off limits to development including buildings, paving, storage and other industrial activities, and the setback area must be landscaped.

The River Plan / North Reach proposal erases the greenway setback and greenway landscape standard but applies a vegetated area standard that requires up to 15% of a site to be planted. If a property owner cannot or does not want to comply on site, they can pay to have the planting occur off site.

Based on incentives that are built into the standard, the 15% requirement can be reduced to 10% or 5%. 15% of land in the proposed river industrial overlay zone is 258 acres. 10% of land in the

proposed river industrial overlay zone is 172 acres. 5% of land in the river proposed industrial overlay zone is 86 acres.

In both the existing code and the proposed code, the standards are written so that 100% of the acres affected can be developed depending on the individual circumstances of the property and the proposed development.

The current Greenway code dictates that landscaping must happen in a designated area along the riverfront.

The proposed regulations allow for flexible placement of vegetation on the site, or off-site through the in-lieu-fee option.

2. Staff has heard that it will cost City staff significantly more to revegetate and manage a site than it will cost the private sector and therefore the City's in-lieu fee estimate is too high:

The June 9, 2009 draft of the proposed River Plan code quotes a vegetated area in-lieu fee cost of \$6.70 per square foot. The proposed cost was derived based on the average of the unit cost estimates for revegetation and floodplain restoration, plus a 90% management fee and a portion of the cost for land acquisition. The unit cost estimates are based on a variety of public and private project costs.

Staff asked the Port of Portland to provide costs for restoration work they had conducted so that the Port's costs could be used as an additional source for calculating the revegetation and floodplain unit cost estimates. However, the Port includes soft costs in their calculation of capital costs, which makes it very difficult to compare their cost with the City's estimate.

To address questions about the 90% management fee, BPS reviewed BES's "soft cost" numbers for projects most similar to those likely to be constructed in the North Reach. The range of these costs was between 81% and 92%. These costs include a far more diverse set of activities than the Port included in their "maintenance costs".

(Staff will have details about the costs at the meeting.)