

City of Portland
Noise Task Force

Meeting Minutes
Thursday, October 8, 2015

Members Present: Maryhelen Kincaid, Tina Penman, Jim Brunkhorst, Doug Shapiro, Brad Nile, Ryan Pittel, Mary Sipe, Melissa Stewart

Guests: Robert Pile, TMT Management, Patrice Hanson, PDNA Livability Committee, Molly Dinneen, Friends of the Pearl Foot Patrol, Roger Garcia, PNWRCC, John Wertzler, Resident WFP, Dave Mitchell, PDNA, Brooks Hickerson, Sally Mize, Pearl District resident, David Mitchell, PDNA, Melvin Norman, PNWRCC

Staff: Jasmine Wadsworth, Claire Adamsick, Paul van Orden, Theresa Marchetti, Kathy Couch, Jason Butler-Brown (BDS)

Introductions, minutes and schedule of upcoming meetings

Members, staff and guest took turns introducing themselves. Task Force members discussed potential dates for an additional meeting, which will be scheduled on October 29th. Claire announced future meeting dates for the Development Review Advisory Committee (DRAC) on October 15th and the Noise Review Board (NRB) on October 14th. Commissioner Fritz's office has requested time on both the DRAC and NRB agendas to inform both groups about the work and timeline of the Noise Task Force. Claire commented that the meetings are open to the public, and feels it would be beneficial for someone from construction and community members on the Task Force to attend. She stressed that the November meetings of each of these bodies is even more critical for Task Force members as recommendations will be shared next month. She will double-check dates and get back to the group.

Task force members reviewed minutes and Mary Sipe and Maryhelen submitted clarifications on statements they made in the previous meetings. These and an additional correction on two participants' affiliations with the Pearl District Neighborhood Association will be made and the corrected version will be posted on the web page.

Variance, Appeals, Notification: initial recommendations and next steps

Claire proposed reviewing the first three Noise Task Force Preliminary Recommendations on Variance/Notification appeals that emerged from the discussion on October 1.

Recommendation 1: Staff recommended "low impact" be defined as events or activities which are attended by less than 250 people, and which are reasonably assumed to cause less than a 15dBA increase in the ambient noise level of a residential or commercial use area.

Maryhelen suggested adding language to reach the full impact of an event. Her add would be "events or activities which are attended by or affected by less than 250 people..." to

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reflect people who are in close proximity. Other members felt “affected” was too difficult to define, too open-ended.

Mary Sipe recommended adding “or impact” (a potential number of residents) to the proposed language because she thinks the variance appeal that came to Council in the spring is a strong example of broad-scale impact. She commented that there were 525 units in a building that surrounded a particular project. The noise variance notification requirement often refers to people within a 500 foot radius of the property.

Tina respectfully disagreed, saying that the number of residents could have a negative impact of limiting the power of resident voices. She believes that by keeping the language more open ended, you can have more of an impact as a resident in smaller numbers.

Theresa added that the Noise Code offers additional guidance by using 15dBA as the maximum limit that could be exceeded beyond the traditional allowances of a certain area. She says anything beyond 15dBA assumes that a lot of people will be impacted.

Brad Nile asked if the current system for applying for a variance adequately defines the difference between a high impact and low impact subject. Claire answered that the suggestion from Commissioner Fritz is that these definitions would set the stage for the process of separately addressing high impact and low impact.

Task Force members discussed the second recommendation, which would be to defer “low impact” variance applications to Portland Parks & Recreation where appropriate – and if Parks Management and staffing levels would allow. Theresa raised the example of Street Closure Permits which allowed for the use of alcohol in the right of way, which started first as a lengthy review process through Council. It was later transformed into a more administrative process (after an evaluation of the impacts of alcohol) that meant a permit being granted was an automatic lifting of the prohibition of alcohol use for a street closure event. Something similar could happen here by shifting the administrative burden.

Ryan is concerned about how such a responsibility would play out in Parks. Who will manage this process, and what kind of training or Title 18 knowledge is expected for this level of evaluation? He believes the current process works because currently an applicant is informed that they have a lot of regulations to abide by, and is concerned that in an effort to streamline complaints, we will lose those checks and balances that are currently in place. Theresa and Ryan discussed enforcement protocol including if and what role Parks Rangers could appropriately play in enforcing the Noise Code.

43:08

After further discussion Task Force members voted on recommendation 1 as written:
Define “low impact” events in the Noise Code as events or activities which are attended by less than 250 people, and which are reasonably assumed to cause less than a 15dBA increase in the ambient noise level of a residential or commercial use area.

Vote: No 2, Yea 6

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On recommendation 2 regarding Parks, Claire emphasized that Commissioner Fritz's office would be reaching out to parks permitting staff to discuss the feasibility of shifting certain responsibilities regarding noise variances to Parks staff; certainly capacity and buy-in are essential to implement this recommendation.

After further discussion Task Force members voted on recommendation 2 as written:
"For 'low impact' permit and noise variance requests for events occurring in Portland Parks, transfer decision-making authority to Portland Parks & Recreation staff.

Vote: No 2, Yea 6

Pile Driving Discussion

Tina Penman volunteered to read the problem statement for the Task Force:

In response to community input, including organized testimony from Pearl residents on May 14, 2014, about the negative human health impacts of pile driver noise, the Noise Review Board spent several months examining pile driving. The Board's work included discussions with developers, geotechnical engineers, construction contractors, pile driving contractors, construction workers, affected residents and enforcement bodies in other cities. City Council supported the Noise Review Board and staff's proposal to amend the Noise Code to limit hours and operations of Pile Driving to between 8 a.m. and 6 p.m. Monday-Friday, with a prohibition on operation on weekends. The Code now requires additional notification by pile driving site owners which entails a mailed notice to all residents within 500 feet of the site and within 30 days prior to the start of pile driving operations. The notice must list the expected start and end dates for pile driving and offer a telephone contact number for more information.

Central Issues: Within the scope of the City's Noise Code, Title 18, Commissioner Fritz has asked the Noise Task Force to address:

- (1) The perceived need for more clearly-defined standards around the allowed decibel level, duration and (if measurable) vibrations generated by equipment that is currently exempt in the Noise Code (18.10.060 A)
- (2) The possibility of a "high impact" construction variance applications directly through the City's Code Hearings Officer
- (3) Potential development of a "Noise Impact" fee for approved variances that would be paid to a mitigation fund to provide enforcement staff and grants for neighbors needing assistance

The Task Force discussed the high impact equipment list Paul shared from the Federal Highway Administration, focusing in on equipment that is currently exempted in Title 18.

Paul informed the task force that he had talked to a Noise Inspector in New York, NY regarding that city's Noise Abatement Program. He said they have noise mitigation

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techniques and a much greater stringency regarding pile driving in the City code. He said he would look into what information from New York might be a useful example. Mary Sipe informed the committee that there is a resource document for construction companies in the New York City Code; Claire will share this document with the group prior to the next discussion on pile driving October 29.

Doug asked Jason Butler-Brown, the geotechnical specialist in the room, to clarify limitations on alternatives to pile driving based on soil conditions. He says the neighborhood where he primarily works has soil that is conducive to pile driving – he looked at the reverse circulation method but it didn't work because of the soil characteristics. He says there are measures that can be taken to deaden or dampen the sound from the source, but he stressed concerns that further restrictions on pile driving could result in lengthier operations and more strain on both developers and community members.

Jason Butler-Brown mentioned there are two types of drilled pile: drilled shaft, which is more traditional, and the continuous flight auger methodology. In the drilled shaft methodology, one challenge is that the contaminated soil must be disposed of off-site, while with continuous flight auger you can run into layers of rock or dense material that may be overlying the softer material and can disrupt the process. He says you can monitor the pile with an instrumentation that allows you to understand the load-carrying capacity of the piles. He discussed more difficult sites such as old mill sites and sites with contaminated soil. He said drilled pile is typically more efficient and is easier to use in water (e.g. in projects like bridge work).

Robert Pile from TMT Development spoke to the Task Force about his company's alternatives to pile drivers. TMT and contractor Hoffman Construction used a drilling method and concrete slurry backfill as an alternative to using a hammer drop or hydraulic pile driving. Robert commented that his company chose to use drill pile driving for their projects because the logistics of working in a dense area and noise concerns. He also mentioned that it is more costly, and they use sheet piling when necessary, but ultimately the methods they use depend on the soil conditions.

Brad Nile shared an example of a building constructed in 2006/2007 near the river/Fields Park in the Pearl had soil conditions that only allowed for driven steel pile. He said it was the only solution for building that scale of weight and density.

Maryhelen asked whether equipment is reviewed as part of the building permitting process with BDS, and whether developers must submit soil samples as part of the application process. She also asked for clarification on the term "competent density." Jason said that building permit applications for deep foundation systems would require information on the soil systems at the site and on how much weight the soil can support.

Public comment

Brook Hickerson, Pearl District resident, asked the Task Force to treat impact pile driving noise different from construction noise. He also commented that you can't live or do

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business in your apartment when someone is doing pile driving within 500 feet from where you live.

Patrice Hanson, Pearl District resident, stated that a Noise Mitigation plan should be in place if geotechnical considerations require impact pile driving. She also commented on her personal experience of pile driving projects 50 feet from her residence for a duration of 7 weeks. She is very skeptical about the idea of soil conditions, because there was a construction company that used impact pile driving, but then switched to auger pile driving due to soil conditions.

Sally Mize, Pearl District resident, lives in an apartment building where a lot of sound comes in through the top of the building. She commented that a 500 foot distance from a project is not sufficient when there are no sound buffers to mitigate the noise.

Dave Mitchell, Pearl District resident, commented that there are several projects near his home, siting that he was thankful when some developers were able to use the auger method on recent projects. He knows what the noise does to neighborhoods, but his observation is that pile driving is in a class of itself. He is not here to indict the practice of pile driving, but believes it is the City's duty to impose standards that press developers to provide a documented need for impact pile driving. He concluded that he would like the Noise Task Force to prioritize quieter methods.

Roger Garcia attended in Ryan Hyke (Task Force member)'s absence, and commented that alternative methods could increase the cost of a project threefold.

Mary Sipe read comments as a proxy to Bonny McKnight, who could not attend the meeting in person due to physical limitations. In summary, her comments stated that virtually all construction activity takes place above the ground, on the surface or at a shallow level below ground. This is not true for pile drivers, which hammer deep into the ground and cause vibrations that are different in scope from other construction activity. She says this requires a special way of considering the use of pile drivers. She believes the Noise Code should be amended at 18.10.060 to state that impact pile drivers shall not be authorized for use without a favorable decision from a Hearings Officer.

Claire also summarized a statement from Stan Penkin, Pearl District resident, who wanted the task force to not drop the discussion on EX Zones regarding the Pearl District specifically. He understands some points of view that the Noise Task Force may not be the right venue in which to make zoning changes, but he also does not want to lose the opportunity for change. He emphasizes that EX zoning throughout the city is very likely to disappear as reported by Barry Manning at BPS (except Central Eastside), but he doesn't want to wait for these changes and feels action is needed urgently. He said that the Pearl District is primarily a residential and commercial district with virtually no impact on industrial uses that barely exist anymore, if at all.

Continued discussion

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Task Force had further discussion with Jason about impact pile driving, site development, review of permits, and vibration measurements. Maryhelen asked questions about potential seismic effects on adjacent buildings in terms of attempting to monitor vibrations. Jason described BDS review of proposals in terms of compliance with the Oregon Specialty Structure Code, regarding how buildings would support the adjoining property or the right-of-way. He clarified that a pile driving project adjacent to something like an unreinforced Masonry structure would yield a level of examination to make sure the existing structure is not negatively impacted. Doug discussed projects he had worked where vibrations were measured on adjacent buildings and there were no structural impacts. Jason clarified that the Bureau of Environmental Services reviews the proposed development for compliance for contamination sites to verify that proposed development is in compliance with DEQ requirements.

Claire clarified that Commissioner Fritz has no intention to further restrict the hours of operation for pile drivers as amended in July. Melissa Stewart questioned the value of shifting the variance application to the Code Hearings Officer. She believes that the Code Hearings Officer should be dealing with appeals, not applications. That would remove appeals from the Council workload, which Melissa understands to be a goal of this discussion.

Discussion continued after 5:30 as members of the public exited the room. Maryhelen Kincaid talked about whether a revised process could be modeled after the land use review process at least as far as the Code Hearings Officer addresses certain types of reviews. Paul van Orden emphasized the difference between a noise variance, which is for temporary activity, and a land use decision, which is much more permanent.

General discourse between community and developer representatives regarding how to reconcile longstanding livability concerns with more projects on the horizon with the added costs and time on construction projects, and geotechnical limits on what developers can reasonably achieve. There is not data because each project is so different. Robert Pile said that for the Director Park parking lot, using an alternative method cost 10-15% more than it would have using a traditional pile driving method.

Adjourned 5:40 PM