

City of Portland
Noise Task Force

Meeting Minutes
Thursday, October 29, 2015

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

Members Absent: Brad Nile

Guests: Patrice Hanson, PDNA Livability Committee/Friends of the Pear Foot Patrol; Stan Penkin, PDNA Livability Committee; Sally Mize, Pearl District Resident; Raihana Ansary, Portland Business Alliance; [Name inaudible, no sign-in], Oregon Zoo/Arbor Lodge neighbor

Staff: Jasmine Wadsworth, Claire Adamsick, Paul van Orden, Theresa Marchetti, Kathy Couch, Amy Archer

Facilitators: Theresa Logan and Sandy Bacharach, Resolutions Northwest

Introductions and minutes

Task Force members, staff and guest introduce themselves. Due to feedback from Task Force members, Theresa Logan and Sandy Bacharach from Resolutions Northwest will be facilitating the remainder of the meetings.

In review of the October 8th meeting minutes, Claire said that Patrice Hanson, requested a correction on her public comment statement that 1 builder in the Pearl switched to auger after saying they had to use the impact hammer due to soil conditions; the clarification is that several (3 or 4) switched methods.

Melissa Stewart asked whether she'd stated on October 8th that the application for a variance to the Code Hearings Office would mean that the appeal on a variance would go to Circuit Court. Claire recalled that Melissa made that point in the Noise Review Board meeting on October 14th. Melissa's comment will be captured in today's meeting notes for the record.

No further comments on October 8th minutes. Discussion concluded.

EX Zones Recommendation: comments and approval

Tina Penman volunteered to read the EX Zones Recommendation which was drafted by Task Force members Maryhelen Kincaid, Doug Shapiro and Melissa Stewart with input from Noise Office/Commissioner Fritz staff.

In areas of the city that have been transformed from industrial sites to predominantly residential and/or mixed use areas, the zoning designation and concomitant decibel level

City of Portland
Noise Task Force

restrictions in the Noise Code should be changed from Industrial (EX) to Commercial (C) such that an appropriate reduction in permitted sound levels may be achieved.

The collateral effect of such a zoning change would bring in to line the designation with the tax obligations and protections that describe similar but earlier established neighborhoods.

Any proposed change must include outreach to and input from potentially impacted stakeholders. It must also take into consideration the City's current efforts in the Comprehensive Plan and Mixed Use Zones Project. Staff expects designations to change over the next several years. For example, an area zoned CM1 may maintain a significant portion of residential characteristics that would require that area to maintain a residential decibel level standard.

Task Force members took a poll in support or opposition to the recommendation. Members in opposition of recommendation commented that their opposition is due to language and use of the word concomitant, in addition to not knowing the businesses that would be effected by this change.

Ryan Hyke asked whether BPS staff had followed up with data on industrial uses in the Pearl. Claire informed Task Force members that she had shared employment data provided by BPS at a previous meeting, indicating that the Pearl currently has 101 industrial use sites, which could also include office space for industrial companies. Maryhelen Kincaid commented that she needs to know the impact on stakeholders and know what the outreach will be before she can support the recommendation. She also suggested changes to the CM1 example used in paragraph 3 and asked if Title 18 requires notification of impacted properties. Paul answered that notification is not required and he also specified that the Task Force is not changing the zoning code, just the allowed decibel levels in Title 18.

Theresa Marchetti informed Task Force members that “concomitant” means “associated with to a lesser degree.”

Public Comment on EX Zones Recommendation

Raihana Ansary, Portland Business Alliance, commented that any policy change should be addressed in the Mixed Use Zones Project currently underway. She agrees with Maryhelen regarding concerns that there has not been enough outreach. There should be a process for stakeholders to influence the outcome. It would be better to work with businesses to address issues of displacement. She also suggested creating a noise mitigation plan and offer incentives for noise mitigation techniques so businesses are not adversely impacted. She asked how the Task Force will determine how an area is predominantly Mixed Use.

Stan Penkin commented that he is happy that the Task Force has reached the point of a draft recommendation. He commented that the two major EX zones are the Central Eastside and the Pearl District, and believes that the Task Force is in general agreement that the Central Eastside would not be included in any recommended changes to the Noise

City of Portland
Noise Task Force

Code – he would like to see that specified. He emphasized that noise is a problem for his district and does not want to see a lost opportunity to make important changes.

Claire informed the Task Force Members that the recommendations will go back to Commissioner Fritz for her review and further discussion.

Task Force members voted on EX Zone Recommendations as written, with one wording change “concomitant” to “associated”

Vote: No 2, Yea 6, 1 Absent.

The 2 “No votes” were Maryhelen Kincaid and Ryan Hyke, on the basis of their concerns described in the notes above.

Pile Driving Discussion

Overall proposal presented by Commissioner Fritz’s staff in 10.29 agenda: restrict the use of Pile Driving in construction in Portland due to the high impact on human health because of the jarring noise involved in the impact hammer style of pile driving, constituting a noise disturbance as defined in Title 18.

Sandy Bacharach and Theresa Logan, Resolutions Northwest, set up four stations based on four proposed courses of action on pile driving from Commissioner Fritz. The Task Force and members of the public had been sent the proposals and discussion questions in advance of today’s meeting.

Task Force members and members of the public spent 20 minutes commenting on the proposals, asking questions, and interacting with one another’s feedback on flip chart paper. Participants were invited to write a comment, question or concern on each statement for 20 minutes.

The outline below lists the proposed action items and summarizes group comments and subsequent discussion. All comments captured are included in the **Appendix, attached to these minutes.**

Proposed Action #1: Eliminate pile driving from the list of exempt equipment in the Noise Code, and replace it with the Continuous Flight Auger (CFA). Any equipment that exceeds the decibel level of the auger method would require a noise variance.

Brief summary of written comments: Task Force members commented on lifting the exemption of pile driving to require a variance, concerns about making a decision too soon, and questioned whether or not a variance fee would be successful in addressing/stopping the noise that people are concerned about by discouraging pile driving from occurring.

Proposed Action #2: If auger method is not used, require applicants to demonstrate that there is no alternative to impact pile driving on a project – starting with the permit process.

City of Portland Noise Task Force

Task Force members asked for geotechnical information, commented that BDS currently reviews building permits, and that BDS could be included in geo technical reviews. Independent geo techs is important for clients, but should be verified and balanced. Asked if peer review could work, and commented that expert testimony may be an abuse of resources, time, and money. *No further discussion due to time limitations.*

Proposed Action #3: Noise Review Board should be the body to review noise variance applications for impact pile driving.

Brief summary of written comments: Task Force members asked for confirmation that all foundation options have been given un-biased review; suggested 35 or 45 day notice for hearing on variance; that NRB review/recommend variance with appeal of decision to Hearings Officer; mitigation strategies should be defined and established prior to implementation of variance. They also commented that geo tech engineer reports should be indisputable regarding soil conditions requirements, and notification requirements. *No further discussion due to time limitations.*

Proposed Action #4: Adjust fee schedule to allow for additional staff support of variance processing and on-site monitoring.

Brief summary of written comments: Task Force members commented that fees should reflect cost of inspection, enforcement, actual costs, enforcement needs more qualified staff and involvement of police for verification of citizen complaints. A member also suggested additional staff being measured on performance. *No further discussion due to time limitations.*

Large Group discussion on Proposed Action #1 and Pile Driving in General

After the Task Force completed the written feedback exercise, facilitators asked for a volunteer to summarize comments at each of the four stations. Maryhelen Kincaid summarized the comments on the first proposal, leading to the discussion that follows.

Tina Penman wonders about the relevance of certain comments that appear to be trying to change Commissioner Fritz's recommendation. Claire informed the Task Force that the proposed actions reflect the Commissioner's current thinking, but that she is interested in Task Force feedback on these proposals. This can include constructive criticism. Theresa Marchetti informed the Task Force members that currently, like other equipment on the exempt list, pile driving does not have to go through a variance process, so the idea is that removing pile driving from the exempt list would trigger a variance requirement. Claire emphasized that the Commissioner's recommendation is not to ban pile driving outright. Doug Shapiro commented that his project site could be put on hold for a month if forced to go through variance process and would have negative economic and timing impacts on his work.

Mary Sipe distributed a report that documented pile methods used in current and upcoming projects in the Pearl. She also asked if there is clarification that the auger is within 85 dB.

City of Portland
Noise Task Force

Jim Brunkhorst and Paul van Orden discussed the lack of limitations Title 18 puts on pile driving.

Theresa Logan stated that she sees a current division in the group on whether or not it is realistic to remove pile driving from the list of exempt equipment. She asked the group what they would like to take back to Commissioner Fritz. Ryan Pittel noted there was an amendment regarding pile driving in July, and he feels the Task Force is being rushed to a decision, and is furthermore dealing with something that Council already addressed.

Melissa Stewart asked if anything over 85 dB is no longer exempt, would the applications be affordable and asked Claire if Commissioner has discussed a specific fee which Claire informed her she has not. Task Force members discussed whether or not a variance fee schedule stops the noise that people are objecting to.

Mary Sipe feels that the scope of pile driving is too complex and has too many elements. She suggested that the Commissioner and City staff consider an additional Task Force to focus specifically on this issue. She also informed Ryan Pittel that the amendments to Title 18 were only time changes and took Saturday off the table, and stated that those changes did not make a significant difference in livability impacts on neighbors. Ryan Pittel asked if the Commissioner's recommendations would provide relief for community members.

Theresa Marchetti informed Task Force members that the idea is to change the variance process to require a variance for all equipment louder than the auger at 85dB. Tina Penman commented that it was great that the neighbors rallied to convince the developers to change their methods, according to Mary Sipe's distributed information, and questioned why the City needs to be involved at all. Theresa Marchetti commented that not all communities have the voice that Pearl District residents have. Mary Sipe said she didn't know if it was reasonable for residents to be held responsible for contacting the developers to convince them to use different methods.

As time was running out, the facilitators asked the Task Force members to write their final personal thoughts on today's discussion on notecards before leaving. The facilitators will summarize the general response from Task Force members for Commissioner Fritz and will report back what they've heard so far at the next meeting.

Next steps/Wrap-up

Claire said she will follow up with Task Force members in consideration of whether the process needs to be extended – and to gauge Task Force energy for more meetings – in the coming week.

Meeting adjourned 5:30 p.m.