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Noise Review Board

April 9, 2020 – Meeting using the digital platform (Zoom)

Minutes

Present: Kerrie Standlee (Chair)), Destiny Wright, Ernest Harris, Michael Wallace, Paul van Orden (noise control officer)

Minutes: Katherine Couch; final variance conditions: Paul van Orden

Call to Order: Kerrie Standlee called the meeting to order (no time was announced)

Variance Request: Yang Zhang, on behalf of Bureau of Environmental Services (BES) requests a noise variance to include a total of 23 nights of sewer rehabilitation construction work (15 nights at West Burnside St between NW Trinity Pl and NW 17th Ave and eight nights at the intersection of NW Morrison St and NW 18th Ave). Riley Walsh, BES; Aaron Abrams, BES; Andy Jeffrey, PBOT also attended the meeting.

Yang Zhang, with the addition of a PowerPoint, described the sewer replacement and rehabilitation in the Goose Hollow neighborhood. BES will be using the methods of Open- Cut and Cured in Place Pipe. The project will begin approximately December 2020 and take roughly 14 months to complete. On W Burnside between NW Trinity Place and NW 17th Ave, the 15-night request includes open-cut to install two new manholes and CIPP to rehabilitate 660 ft sewer main. This is located 50 feet from Civic Apartment complex. The 8-night request on NW Morrison & NW 18th Avenue intersection request is for construction activities to include open-cut to replace 35-ft sewer main and CIPP to rehabilitate 120 ft sewer main. The activities here are 20-feet from the Civic Apartments.

Equipment and suggested mitigation measures are as follows:

Equipment

Equipment truck, water jet truck, CCTV truck, refrigeration truck, front-end loader, generators, boilers, air compressors, pumps, lights.

Noise mitigation measures

- Sound barriers will be used if necessary, to reduce the noise level.
- “Smart alarm” back up beepers instead of a standard reverse alarm to be used from 6 pm until 10 pm for all equipment activity.
- Backup alarms to be disconnected between 10 pm and 7 am and spotters to be used to safely back up vehicles.

- Saw cutting will be performed during allowable day time hours; If saw cutting is required during night work, it shall be done before midnight. Saw cutting taking place between 10 pm and midnight will include portable sound barriers being utilized to decrease the noise level.
- Direct connection to power is required to be used whenever possible. Use of gasoline or diesel generators or other stationary equipment will be placed away from residential neighbors when possible, and at all times isolated from any residential neighbors with the safe use of a ¾ inch plywood enclosure that does not impact the need of the unit to be properly ventilated.

BES was asked if there were any anticipated changes, due to the light traffic stemming from the “stay home” order from the pandemic. Andy Jeffrey from PBOT didn’t think that Portland would still be in this mode by December, and PBOT is anticipating a possible uptick in traffic, as people return to work but may not feel secure on public transit.

Public Testimony: There was no public testimony.

Destiny Wright made a motion to approve the variance with friendly amendments made by Kerrie Standlee and Michael Wallace. Ernest Harris seconded the motion. Kerrie Standlee-Aye, Destiny Wright -Aye, Ernest Harris -Aye, Michael Wallace-Aye. Motion passed unanimously, four to zero. Full conditions will be included from Paul van Orden, Noise Control Officer. They will be sent separately and will be attached when the minutes are approved.

Approval of minutes: December 2019 minutes – Kerrie Standlee felt that minutes were difficult to review as written. Destiny Wright agreed that the formatting was problematic, but they were an accurate representation of the meeting. **Destiny Wright moved to approve the December 2019 minutes. Ernest Harris seconded the motion. Since Michael Wallace somehow dropped out of the meeting, Kerrie Standlee called the question. Destiny Wright: Aye Ernest Harris: Aye, Kerrie Standlee: Aye. Motion passed unanimously, three to zero.**

January 2020 minutes – Kerrie Standlee wanted it noted that the first agenda item wasn’t included because Asena Lawrence was not present, owing to the death of Commissioner Nick Fish.

Destiny Wright’s name needed to be corrected, and the acoustics report wasn’t attached. He also, concerning the arrival at Block 216 at 4:30 am, indicated that he was there first, as opposed to the noise control officer. The minutes were to be revisited at the May 2020 meeting. **Destiny Wright made a motion to wait until the May 2020 meeting to approve the January 2020 minutes. Ernest Harris seconded. Kerrie Standlee – Aye, Destiny Wright – Aye, Ernest Harris – Aye, Michael Wallace – Aye. The motion passed four to zero.**

New Business

- Michael Wallace wanted to be sure not to lose sight of the items tabled from an earlier meeting. Destiny Wright agreed.

- Destiny Wright wanted to follow-up with complaint data from the noise office. Michael Wallace also wanted to see the data.
- Kerrie Standlee received a complaint about the Splash & Dash Car Wash on MLK. It is self-service, and open 24 hours a day. Kerrie Standlee wondered if the existing code needed to be modified since this type of complaint isn't addressed in the code.
- Kerrie Standlee brought up the notification requirement in the Noise Review Board's policies and procedures, which currently requires a 7-day NRB notification in the paper-of-record. In current times, the local newspaper only prints 4 days a week (Sunday, Wednesday, Friday, & Saturday). Should the rules be modified to reflect the current reality? This will be addressed at an upcoming meeting.
- Noise Review Board meeting locations: After the meetings can take place in person post-pandemic, Kerrie Standlee asked the board where they would like their meetings. In general, the board was not averse to moving meetings to locations that would be impacted by noise variances. The members did prefer having meetings at City Hall when there was board business only on the agendas, and no variances. NCO Paul van Orden informed the board that the Noise Office was the decision-maker for meeting locations.

Public comments: Tamara DeRidder, Chair of the Rose City Park Neighborhood Association and co-chair of the Land Use Advisory Board, said that she was very disappointed in the latest notification in the Oregonian. It only had the link to the agenda, and instead, focused on the particulars of Zoom meetings. She said that the Noise Office can do better, and not everyone has access to a computer to see the link.

Kerrie Standlee asked her what the Rose City Park Neighborhood Association did to notify people of their meetings. She listed the various ways they notified

- E-blasts
- Next Door app
- Facebook group
- Website
- Hollywood Star

She said that the main issue was the content.

Adjourn: Destiny Wright moved to adjourn the meeting. Ernest Harris seconded the motion. No time was listed.

SYNOPSIS of FINDINGS AND CONDITIONS FOR APRIL 9 2020 NRB HEARING :

APPLICANT: Bureau of Environmental Services, Yang Zhang

REQUEST: From the City of Portland's Bureau of Environmental Services (BES) for nighttime sewer construction work. The two locations in this application request a total of 23 nights of variance work. Location one is West Burnside Street between NW Trinity Place and NW 17th Avenue. BES requests a total of 15 nights of night work (6pm-7am) at this location. Construction activities include open-cut excavation to install two new manholes and cured in place pipe work, (CIPP) to rehabilitate a 660 foot sewer main. Location two is at the Intersection of SW Morrison Street and SW 18th Avenue. BES requests a total of 8 nights of night work (6pm-7am) at this location.

VARIANCE NUMBER: 20 -119962

FINDINGS:

- A. The public's health, welfare and safety could be affected by the anticipated noise levels including possible temporary interference with sleep during later hours at closer-in properties.
- B. The sound source does not predate receivers.
- C. One criterion in reviewing Noise Variances speaks to a sort of "balancing test", in which compliance/non-compliance is measured against the "public good." Will the denying of this application produce hardship without equal or greater benefit to the public? Although "benefit" usually refers to economic gain, the Board also considers the benefits afforded to the public through the regular maintenance and upkeep of utilities in the City. In the present case the denial of the variance application could cause more impact on the public due to traffic impacts and impacts on businesses in the vicinity of the project sites. Therefore, the Noise Review Board finds that a total denial of the requested variance will not benefit the public good.
- D. The applicant had initially offered the Noise Office a draft application that had a more extensive set of work nights. After a meeting with the staff in the Noise Control Office, the applicant adjusted the variance request for the Noise Review Board to be focused only on the louder operations that are more likely to impact the community with their sounds. The majority of the (CIPP) cured in place pipe work was moved to a separate variance.

- E. Community outreach and notification was completed early in the project as a **mailing to 6,600 community members**. Aaron Abrams from the Bureau of Environmental Services offered a report of the outcome of the community outreach to the neighborhood. There were four comments for the first public notices send out to the surrounding community. Three of the comments came from neighbors who were not close to the actual work zones. These folks raised general concerns with the City allowing any night work at all. The last comment came from a neighbor in the Civic Apartment tower. This neighbor said he moved here recently from Brooklyn and was supportive of the night work after hearing the parameters of the proposed work.

DECISION:

A motion was made by Desi Wright to grant a variance to allow up to 23 nights of work between the hours of 6:00 p.m. and 7:00 a.m., with conditions.

Ernest Harris seconded the motion. Desi Wright accepted friendly amendments from Kerrie Standlee and from Michael Wallace in crafting the final decision, which was approved unanimously by the four Board members. The motion passed 4-0.

The Variance is approved with the following conditions:

- A. The variance shall run from December 15, 2020 to February 15, 2022.
- B. There were two locations approved for off hours construction work in this Title 18, Noise Code Variance for a total of 23 nights of variance work. Location one is West Burnside Street between NW Trinity Place and NW 17th Avenue. BES and Yang Zhang were approved for 15 nights of night work (6pm-7am) at this location. Construction activities include open-cut excavation to install two new manholes and cured in place pipe work, (CIPP) to rehabilitate a 660 foot sewer main. The second location approved for night work is at the Intersection of SW Morrison Street and SW 18th Avenue. BES was given 8 nights of night work (6pm-7am) at this location.
- C. All saw Cutting shall be completed by 10 PM using the mitigation efforts outlined in the variance submitted by the applicant.
- D. The applicant shall notify the Noise Review Board at least one month before the work begins, if there are changes in their plans that would increase the noise at night emanating to the community.
- E. BES or the contractor shall use automatic self-adjusting tonal backup alarms, know commonly as smart alarms, between 6 p.m. and 10 p.m. but shall disconnect the alarms and use spotters to safely back up equipment between the hours of 10 p.m. and 7 a.m. the next morning.

- F. The applicant shall give notice to neighborhood residences and/or hotels/motels located with a 500 foot radius, (2 block radius) of the construction site, at least two weeks prior to the work starting. The notice shall include the dates of when the work will occur, the nature of the work and anticipated noise sources that neighbors may hear, and a contact person and phone number for noise-related issues.
- G. The applicant shall track all complaints received concerning construction-related noise and send a log of those complaints, including details about how the complaint was addressed to the City of Portland Noise Control Officer. These logs will be sent no later than the day following the receipt of the complaint. The logs will be emailed to the Noise Office at noise@portlandoregon.gov.
- H. Staging areas will be selected carefully and in consultation with Noise Control Officer.
- I. The applicant shall be prepared to develop a noise mitigation plan with the Noise Control Office should complaints arise.
- J. The noise variance will be reviewed upon receipt of complaints to the Noise Office or those complaints filed with the applicant that were not resolved by the applicant. The Noise Control Officer may modify the variance, as needed, to resolve community noise disturbances.
- K. The applicant shall work to utilize direct connection to power for lights and other equipment utilizing electrical power. Gasoline powered generators and other stationary noise-producing equipment shall be located away from residential neighbors when possible, and at all times isolated from any residential neighbors with safe use of $\frac{3}{4}$ inch plywood enclosure that does not impact the need of the unit to be properly ventilated and reduces the noise level immediately outside all residential structures to a level no higher than 70 dBA

The applicant understands that this variance is subject to review upon complaint.

This decision becomes effective on April 9, 2020

VARIANCE NUMBER: 20 -119962

DECIDED: April 9, 2020/ Board Hearing via a Zoom Teleconference