



CITY OF

PORTLAND, OREGON

OFFICE OF NEIGHBORHOOD INVOLVEMENT

CHARLIE HALES, MAYOR

Amalia Alarcón de Morris, Bureau Director

Noise Control Program

1221 SW 4th Avenue, Room 110
Portland, Oregon 97204

Promoting a culture of civic engagement

**Minutes
Noise Review Board
October 14, 2015**

Present: Paul van Orden, David Sweet, Melissa Stewart, Kerrie Standlee

Absent: Carol Gossett, Julie Greb

Minutes: Kathy Couch

Call to order: 6:02

Approve Minutes from the August 12, 2015 meeting of the Board

This item was tabled, since there were only 2 members present who were at the August 2015 meeting.

Review a date extension for the noise variance granted to Slayden/Sundt, which was granted a construction variance from March 15, 2012 through November 30, 2015. The variance application request asks for an extension for dates between November 30, 2015 through December 31, 2016. The work encompasses nighttime and Sunday work on the Sellwood Bridge and OR-43. Work will include finishing the new bridge construction

Mike Pullen, Mel Mott, Michael Minor, and Daniel Kalfoyen presented on behalf of this variance request

Mike Pullen listed the complaints received since May 13, 2015.

A detailed list is included in the minutes.

There were a total of 14 complaints, 8 of which were back-up alarms. The ongoing issue has to do with various subcontractors not following the variance conditions. Mike says that they have now installed signs on both sides of the bridge, stating that back up alarms are to be kept off until 7 AM. It was agreed that Paul van Orden will issue citations, should this be reported again. Additionally, there were 3 complaints having to do with night work, 1 complaint regarding the deck joint that was having ongoing problems, 1 request to relocate the noise meter and 1 non-project related noise source.

Multnomah County did extensive notification about this meeting and got no response.

Daniel Kalfoyen from Slayden/Sundt gave an overview of work in the coming year. He distributed a detailed construction matrix, which is included in these minutes. Most of work will occur during daytime hours, but they are requesting extended hours in case they run over, and also to comply with ODOT's limits to daytime lane closure. Most of the work on the north side will affect the Macadam Bay Floating Community. Although the original request was for 164 nights of work, much of the requested night work is for a cushion. In the previous year, they requested 169 nights of work, but only required 80-90 shifts of night work. Multnomah County sends notices to residents any time there is night work occurring.

Given the numbers of nights used previously, the Board suggested approving up to 100 nights and 4 Sundays, with the understanding that if it appeared this wouldn't be enough, the project may come to another Noise Review Board meeting to request additional nights.

Public Testimony

Sarah Bice – Sellwood resident at Riverview

- Generators for lights noisy
- Night work leaves no chance for a break from the noise
- She hopes that the Board makes a technically appropriate decision and that, contractors use latest technology.
- She is glad that the number of nights was reduced, as it causes stress for wildlife.
- She asked to know about the relocation of the noise meters, and who monitors the dBA level, and was told the location, and was told Michael Minor is the person who monitors the noise.
- A conversation then ensued about back up alarms before 7 am.

Kerrie Standlee makes a motion to approve a date extension for the noise variance granted to Slayden/Sundt, which was granted a construction variance from March 15, 2012 through November 30, 2015. The variance application request asks for an extension for dates between November 30, 2015 through December 31, 2016. The work encompasses nighttime and Sunday work on the Sellwood Bridge and OR-43. Work will include finishing the new bridge construction. Melissa Stewart seconds the motion. The motion passes unanimously, 3 in favor, 0 opposed. Members Carol Gossett and Julie Greb were not in attendance at this meeting.

Conditions listed below (same as the original variance with the exception of condition 4):

1. The noise variance will run from November 30, 2015 to December 31, 2016.
2. The variance will permit a total of 4 Sunday shifts from 8 AM to 6 PM which will be measured at a 66 to 68 Leq dBA FAST, for a 15 minute measurement period.

3. The variance will permit up to 100 nights of work, from 6 PM to 7 AM.. Of these approved nights, up to 75 nights will operate at no higher than at an 66 to 68 Leq dBA FAST, for a 15 minute measurement period; and no more than 25 nights will operate at no higher than a 84 to 86 Leq dBA FAST, for a 15 minute measurement period.
4. Sound data will be submitted to the Noise Control Office after the first 10 variance nights for review, and from then on, upon request.
5. All equipment used shall have sound control devices no less effective than those provided on the original equipment. No equipment shall have an unmuffled exhaust.
6. All haul trucks will meet or exceed the standards outlined in Chapter 34, Section 35 of the Oregon Administrative Rules, Oregon Department of Environmental Quality (ODEQ), April 1983.
7. All equipment shall comply with pertinent equipment noise standards of the U.S. Environmental Protection Agency.
8. The contractor will be required to use “smart alarm” back up beepers, instead of a standard reversal alarm, between the hours of 6 pm and 10 pm and a guide person or “spotter” for backing equipment between 10 pm and 7 am the next day.
9. Slayden/ Sundt and the County will have portable sound level meters on the job at all times for noise level spot checks on specific operations. These meters will be able to collect second by second Lmax dBA data as well as the 15 minute Leq information defined in the conditions.
10. The contractor will be required to provide noise monitoring systems at the closest residential receiver. The location will be determined in conjunction with the neighborhood association, the contractor, and the County.
11. A 24-hour “construction information” telephone number will be provided in the notice. The construction information line will provide current information on planned night work activities. It will be updated on a weekly basis, or as is necessary. The line will be available on a 24-hour basis for neighbors to obtain the current night work schedule or to lodge complaints
12. Multnomah County shall send out updates via email and shall provide answers to citizen questions via email and shall update the project schedule.
13. Slayden/ Sundt’s project manager will send a copy of the construction schedule to the Noise Control Officer at the beginning of the project and provide schedule updates as changes occur.
14. There will be a 24-hour telephone response line (in addition to the Construction Information line) available to the nearest receptors. Complaints will be investigated by the on-site

Multnomah County or contractor supervisor working that night. Complaints will be investigated and addressed within 24 hours or before the next scheduled night work. Multnomah County will notify the Noise Control Officer within 24 hours of receiving a complaint.

15. The contractor may be directed to install temporary or portable noise barriers around stationary construction noise sources should a specific noise impact complaint occur.
16. Multnomah County or its contractor shall maintain a current log of the nights and Sundays of work that have been completed on the project. This log shall be made available to the Noise Control Office upon request.

Commissioner Fritz's Noise Task Force interim report

Claire Adamsick, Senior Policy Advisor for Commissioner Fritz presented. Also present were Task Force members Brad Nile, Andersen Construction and Doug Shapiro, Hoyt Street Properties.

Claire gives an overview of the Noise Task Force commissioned by Commissioner Fritz in response to the last council meeting on noise code related issues in July.

- The Task Force was commissioned by Commissioner Fritz's office to look at 3 issues. There have been 4 meetings so far, with 6 meetings in total.
- The Task Force is comprised of 4 construction representatives, 4 community -at -large representatives, and a representative from the Noise Review Board (Melissa Stewart).
- Claire will be going to the Development Review Advisory Committee tomorrow morning to brief them, as well. She is looking for questions, concerns, or comments.

EX Zones: Address feasibility of changing allowable dBA level in EX zones from Industrial to Commercial to reflect current activity in these areas

Bureau of Planning and Sustainability staff came to discuss the Mixed Use Zones Project, along with the Comprehensive Plan, and how they play out. Claire reported that the Task Force felt the need to address the issue but also felt like they needed a fuller picture of what the industrial uses are and how many businesses it would affect. Representatives from Portland Business Alliance and Central Eastside Industrial Council indicated they wanted more involvement. The Task Force recommends that it's important to consider this and study more the effects to business. Claire is working on more specific language regarding this issue with some members of the task force. Task Force member Brad Nile (Andersen Construction) clarifies that half of the board held a dissenting view and wanted to move forward with the stated change. The group will be coming up with a recommendation and a vote. David Sweet says that the Noise Review Board's original thought was to ease the noise impacts for Pearl residents for the next 18 months, while the aforementioned processes go through, but have no objections if the Task Force votes to hold off until that time.

Noise variance process- including appeals and notifications

Claire explains considerations the Commissioner would like to see addressed:

1. Consider requiring high-impact noise variance applications to be routed directly through the Code Hearings Officer (provides community with more lead time to appeal variance requests and could improve communication (notifications))

Concerns and questions from NRB

- Melissa says that that was the one thing all Task Force members agreed on, there should be better lead time in the notification process, but it never came up to transfer all the variances to the hearings officer. (It was clarified by others that this wasn't something that came out to the task force, but directly from the Commissioner).
- David asks if there is a problem that is being addressed through this process.
- Brad says that from Task Force comments, there is a desire to streamline the process, and as he understands it, there are people who feel they don't have a voice in the appeal of the variance. He would like to hear from staff what they feel the best way to streamline the system would be, as he doesn't understand the process. He isn't sure the task force can make that recommendation.
- The Board explains that with the noise staff as a resource, variance applicants get recommendations from people who are familiar with acoustics can help head off problems through guiding them and setting conditions.
- Doug feels that more noise staffers are needed in order to perform duties in a more effective manner (including robust notification).
- David says with regard to the Hearings Officer, he handles appeals for the most part, and violations. If the Hearings Officer is the first contact for a variance approval or denial, and it gets appealed, then it would go to the Circuit Court.
- David then explains the mandated make-up of the NRB. According to Code, there are 5 members, with 3 being citizens-at-large, 1 being a professional in acoustics, and 1 being a representative of the construction industry. Together, the NRB has much expertise in dealing with these issues, and what kind of conditions to place, to allow something important to the city to happen without it disturbing people. He, and the rest of the Board, aren't sure what the reasoning would be to give it away and take it to someone who doesn't have experience. He states that if it is felt that the NRB is not doing it right, then they would appreciate being told that. He says that unless something wrong, the proposed changes make no sense.
- Brad asks if the Board feels there needs to be any changes to the variance process. David says that the change they would like would be the one they recommended to Council, with appeal of variances going to the Code Hearings Officer, instead of City Council.
- David then further clarifies that according to Title 18, the Noise Code, NRB is charged with the variance process. The public has 45 days to comment or appeal before the start of the project for all Noise Review Board notifications. The Noise Office has done their best with the limited resources they have to post notices. The limitations are a lack of resources to provide for more staff along with inadequate means on the website to make approved variances more easily readable.

Pile Driving

Claire first states that there are no plans to change what was approved before Council. That is, no further restricting of hours. Rather, the question is if there are alternatives to pile driving?

Concerns and questions from NRB:

- David states that, after several months of research, the Noise Review Board proposed what they felt comfortable pushing. David is uncomfortable with setting a dBA level, since in order for it to reflect the typical dBA for driven piles, it would have to be incredibly high, and set a bad precedent. Part of their proposal was to continue to monitor the state of the art and possibly make some amendments as technology becomes more available.
- A discussion then ensued about possible mitigation techniques. Paul (van Orden) had a chance to speak to an inspector from NYC, where they have established a pretty robust construction mitigation procedure. There isn't enough information to see how applicable it would be for the conditions in Portland.
- A possible next step might be when first applying for a building permit, to explain a compelling need to drive piles. The City would review the request.
- Regarding the idea of a noise impact fee- a fee is generally applied to discourage things from happening. Is this what we want?
- Brad gives an example of working with NOAA in Newport to mitigate for salmon and marine mammals. They were limited to no more than 100 hammer strikes per day, with no restrictions on hours or days of the week in order to not cause any damage to wildlife in Yaquina Bay. The only restriction besides the 100 hammer strikes was that they needed to be done by a certain date to avoid harming salmon that would be migrating through the area at that time.
- The last comment was that the increased density causes more complaints.

Open Public Testimony

Sarah Bice – Sellwood resident

- Look to NYC for ideas
- Portland natural resources- take seriously what is happening in Willamette River
- Always keep salmon in mind
- Pile driving is horrifying
- Pile driving is about money
- Don't offload anything on Parks
- Concerned about Sellwood Bridge noise after it opens, and decibels and rate of speed
- 35 mph is too fast
- Important bird area/Pacific flyway
- She appreciates having had notice of the meeting

- Likes the way NRB are doing things and feels they will take the city forward
- She would like more funding for noise staff

Review of request by Asphalt Pavement Association of Oregon, along with ODOT, to enact a pilot project for highway construction regarding safety and back-up beepers

In the interest of time, this item was tabled, with Chair David Sweet and Noise Control Officer Paul van Orden discussing informally possibly piloting modification.

Adjourn: 9:12 PM