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**URBAN FORESTRY COMMISSION**  
Meeting Minutes  
November 20, 2014  
Lovejoy Room, City Hall

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- Commission Members present:** Mark Bello, Kris Day, David Diaz, Brian French, Barbara Hollenbeck, Secretary Catherine Mushel, Stephen Peacock, Joe Poracsky, and Chair Meryl Redisch
- Commission Members absent:** Bryan Burch, Ex-officio Lola Gailey, and Ricardo Moreno
- City Staff present:** Chief Deputy City Attorney Harry Auerbach and Deputy City Attorney Tony Garcia; City Forester Jenn Cairo, Urban Forestry Permit Supervisor Casey Jogerst, Jim Gersbach, Danielle Voisin, Elizabeth Specht, Tree Inspectors Luke Miller and Joel Smith, Tree Techs Joseph Welliver and Michael Pina, and recorder Anne Kroma, Parks & Recreation (PP&R)
- Guests present:** Tom Carter and Pat Easley, Portland Water Bureau; Roberta Jortner, Bureau of Planning and Sustainability (BPS); Mieke Keenan and Lauren Wirtis, Bureau of Development Services (BDS), Jennifer Karps, Bureau of Environmental Services (BES); Noelle Studer-Spevak, Gregg Everhart, and Michael Hayes.
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**Call to Order and Public Comments:** Chair Meryl Redisch called the November 2014 Urban Forestry Commission (UFC) meeting to order at 8:07 am. Noelle Studer-Spevak was recognized to provide public comments. Noelle attended the recent Street Tree Summit and was very impressed with the hard work and continuing efforts of the inventories. Noelle is also a new member of the Policy Committee.

**Review of October UFC minutes:** Chair Meryl Redisch requested a short review of the final October draft minutes including corrections by Secretary Catherine Mushel and an email from David Diaz requesting additional changes. Mark Bello moved to accept the minutes, with the edits. Barbara Hollenbeck seconded the motion and it was approved unanimously.

### **The Urban Forestry Report - City Forester Jenn Cairo**

Jenn Cairo reported on an exceptionally busy month for Urban Forestry. The crew responded to 89 emergency tree call-outs in four days from the high winds the first week of November. They also responded to another 65 tree emergencies over the Veteran's Day holiday. Jenn is working through the procurement process with our emergency services people to provide a method for backing up UF staff when they are maxed out.

November 5<sup>th</sup> was the Dig-It event to mark the beginning of the tree planting season. Catherine Mushel, Bryan Burch and Emma Gray joined Karl Dawson, Larry Maginnis and about a hundred students to make it official by planting seven new trees at West Powellhurst Elementary School.

Tree Permit Fees came before the City Council and the payment in lieu fee for development remains at \$1200. Commissioner Steve Novick expressed concern about any inequity between developers and private homeowners. Commissioner Amanda Fritz is looking at the possibility of a cap or ceiling on fees. It was clarified that Programmatic Permits are not issued to non-profit agencies. There is also concern that property management companies are not applying for tree permits for multi-unit residential properties. Outreach will help educate everyone and make them aware of the regulations that protect the urban canopy.

Jenn Cairo continued by stating that while she expects these fees to be approved by City Council, she feels that cost recovery will need to be looked at when going forward. Having the fee schedule available online should be helpful to the public. The Oversight Committee will be able to recommend changes in July when these type of fees typically are updated by City Council. An accompanying briefing document for Commissioner Fritz in July could include all relevant points expressed by the UFC.

Jenn introduced Joe Welliver and Michael Pina, the recently hired Tree Techs, attending their first UFC meeting. They spoke about their training, mentioning that SPOC (single point of contact) is a term that has been replaced by "tree tech." Their desks will be located at the 1900 Building, along with Tree Inspectors Luke Miller and Rick Faber and Permit Supervisor Casey Jogerst who are co-locating and splitting time between UF and BDS headquarters.

### **The UFC Chair Report – Meryl Redisch**

Chair Meryl Redisch reported on a meeting with Commissioner Amanda Fritz that included a discussion about permit fees. Some UFC members feel that paying a fee for a tree permit shows the applicant's commitment to replant and take care of the replacement tree. Meryl and Amanda had a conversation about the need for large trees and a citizen's right to plant the kind of tree they want if it's not on the nuisance list. Commissioner Fritz saw that property owners would want the right to plant street trees of their own choosing, and went on to illustrate that considering the type of trees already on a property can be a significant factor. She gave the example that having two mature American Chestnuts on a property contributes significantly enough to the canopy provided by her property and balances her desire to plant a smaller-maturing flowering cherry in the right of way.

The Urban Forestry Management Plan (UFMP) is due to be updated this summer and the City Forester would like to have as wide a range of people as possible involved. The process will begin in March and everyone should review the plan for what should be left out as well as what new material should be added. Planners from the Parks Bureau and outside consultants will be working on the update and a public involvement plan will be required.

The UFC Calendar will start in January and include Oversight Committee meetings.

Meryl mentioned an Oregon White Oak Heritage Tree on an acre lot that is on the market. The neighborhood is trying to raise the million dollar asking price for the property through a Metro Neighborhood grant and other funding methods. The Heritage Tree designation ensures that the tree cannot be removed without the UFC's request to Council for removal of the status. Thanks were expressed for Phyllis Reynolds in originating the Heritage Tree program.

City Forester Jenn Cairo requested the opportunity to provide an overview of the budget process. The Parks Bureau BAC (Budget Advisory Committee) has begun meeting. Meryl Redisch is representing the UFC, although she will not be able to make tonight's meeting. The BAC's work is to submit direct and indirect budget packages that request funding for positions and projects not in the current budget. The direct packages for new staff are for an Education and Outreach supervisor where the position itself must be created, and for additional Arborist I and Arborist III positions to handle park tree maintenance, and the Urban Forestry Management Plan update with cost estimates for canopy targets. The indirect package is an expansion of the YCC (Youth Conservation Crew) and Grunt (Greenspaces Restoration and Urban Naturalist Team) programs.

Catherine Mushel asked if the new Education and Outreach (E&O) supervisor would be at the same level on the org chart as Casey Jogerst and Larry Maginnis. This position would have that same level of authority, but it was pointed out that any discretion indicated in the code would be the responsibility of the City Forester. A decision about staffing this E&O position will be made in June when the budget is adopted. Catherine felt it is critical to elevate outreach to the same level of importance as permit issuance and maintenance.

### **Policy Committee Report – Kris Day**

Committee Chair Kris Day gave an update of the Policy Committee's recent work, which focused on comments about the Comprehensive Plan Update draft. Committee members attended one of the work sessions held in August with Roberta Jortner. The committee wanted stronger language in the green infrastructure portion to entail creating space for trees. Trees are so often an afterthought and not the guide for design, as many feel they should be.

The Policy Committee recommends reducing allowable development on slopes and retaining the trees that now help hold those slopes in place. They also felt that West Hayden Island, although not within the city limits, represents something completely unique in the Metro area and could not be mitigated if used for development.

The Policy Committee will have a letter for the public record ready to send to the Planning Commission by the end of the month.

Catherine Mushel was recognized to express that she liked the point of view, but hoped it could be more specific in the idea that the city is a place that should be designed for trees as well as for gray infrastructure. Mark Bello was recognized to point out that design has many meanings and code may refer to the verb “develop” more often. Joe Poracsky asked what place Environmental Overlay Zones have in this discussion and was referred to the body of the plan.

Secretary Catherine Mushel moved to accept the draft recommendations letter with the discussed editing. Barbara Hollenbeck seconded the motion and it was approved unanimously. The letter by the Policy Committee commenting on the Comprehensive Plan will be submitted for the record, with everyone copied.

The makeup of the Oversight Committee that is being formulated was described: two members will be from the UFC, two members from DRAC (Development Review Advisory Committee), and three members at large. They will meet monthly throughout 2015 and monitor the implementation of Title 11. This committee will provide a Report to Council sometime in 2016.

The UFMP (Urban Forestry Management Plan) is due for its ten year update and will be heavily influenced by Title 11. Jenn Cairo asked the Commission to review the original 2004 document, the 2007 Action Plan and successive annual updates, the 2005 BES Watershed Management Plan, as well as the Climate Action Plan and the Portland Plan.

Mark Bello mentioned that the work on updating Title 33, the Zoning Code, will begin in February 2015. This major work will include a revision of zoning related to commercial developments and multifamily residential properties and Mark pointed out that these too have an impact on trees, and Title 33 should be added to the list of documents under review.

#### **Mt. Tabor Reservoir project – Tom Carter**

Tom Carter, Senior City Planner from the Water Bureau, provided a PowerPoint presentation that he and Senior Engineer Pat Easley prepared to update the UFC on this major project.

Tom reminded the UFC that the reservoir disconnection project is required by a federal mandate to stop using open air drinking water reservoirs without installing treatment systems. The new seismically strengthened underground reservoirs at Kelly Butte and Powell Butte will hold the majority of drinking water from Bull Run. The first few slides of the presentation show the current water distribution system and the way it will function after construction - the drinking water will bypass the open air reservoirs. Reservoir 7, which is enclosed, will continue in service.

These iconic reservoirs (with national designation as Mt. Tabor Park Reservoirs Historic District in 2004) can still hold non-potable water, be filled and periodically refreshed, and drain to the sewer system. The disconnect project is under a Type III Historic Resource Review and Environmental Review. The Historic Landmarks Commission has scheduled the hearing on December 1<sup>st</sup> and written testimony may be submitted in advance to be included in the public record. If the hearing is appealed as expected, it will probably come before Council in February 2015.

This project is under the prerogative of Title 20, which requires tree mitigation. The landscape is considered a contributing historic resource. After the Land Use Review is completed, more work regarding mitigation will be determined during the Non-Parks Use Permitting process. Water Bureau staff worked with Parks staff in determining planting proposals. Neighbors have attended many meetings and would prefer all mitigation (in the form of planting or payment to the Tree Fund) be devoted to Mt Tabor Park, though Tom surmised that tree plantings on neighborhood streets would please the neighborhood as well. It is the park users and surrounding property owners that will deal with the negative impacts that a large scale construction project can inflict on a neighborhood.

The Mt Tabor Park Invasive Plant Control and Revegetation project is a part of the Tabor to the River program, which has funding through 2017.

Discussion then focused on the Tree Impact Summary, which shows twelve trees to be removed. They plan mitigation for ten more trees that are expected to be able to be retained. The Mitigation Planting Summary gives details of the tree species and sizes, and shows that approximately 260 native shrubs plus ground covers will also be planted.

Tom Carter encouraged the UFC to submit comments to the Historic Landmarks Commission or attend the hearing on December 1<sup>st</sup> and follow the progress on the Water Bureau's website.

### **Tree Mitigation Policy – Jenn Cairo and Jim Gersbach**

City Forester Jenn Cairo expressed her appreciation for the work on this policy paper by Roberta Jortner and Morgan Tracy of BPS, Harry Auerbach and Jim Gersbach. Bureau of Development staff, as well as Urban Forestry staff and Parks Bureau managers also contributed to this effort.

The document is still in draft form with a final version to be in place for January 2<sup>nd</sup>. The City Forester is asking for the Urban Forestry Commission's input, especially on the portion covering discretion in decisions. Jim Gersbach has done a lot of research and framed the guidelines to be practical. The document is not designed to be read cover to cover, but used to look up specific situations.

Barbara Hollenbeck was recognized and commented that if she were a property owner trying to use this, she would still be confused about what the code actually requires. She suggested some level of narrative on the code information or a link to the complete code.

Jenn Cairo reminded her that Title 11 will be online, but without the appendices or commentary available before adoption.

Chair Meryl Redisch felt that narratives often help a lay person understand the policy or legislation involved. Jim reported that Mieke Keenan's FAQ will remain online and could include more details. Mark Bello suggested hyperlinks to the code within the policy document.

City Forester Jenn Cairo stated that this is intended to be a policy document to guide those situations that are not defined under code or where code gives the City Forester discretion. She will follow up with City Attorney Harry Auerbach to ensure the same format as previous Parks policy documents.

Barbara Hollenbeck asked where policy lands in the scale of guidelines (more like suggestions) and standards (more like requirements). Jenn indicated that policy is stronger than guidelines. Roberta Jortner was recognized to speak to the struggle over these kinds of details that went into the development of the new Tree Code. She felt that standards imply code but are not code. Protocols call for more transparency when the decision is other than 'tree for tree' mitigation. Administrative rules (written more like a user's manual) are adopted by the Bureau Director, not City Council, and can be changed in a much easier process when needed.

City Forester Jenn Cairo reminded the UFC that this discussion is about where code says the City Forester 'may' do something or when the outcome is at her discretion. There must be some consistency in deciding those situations so that the tree inspectors, as front line contacts, can know the policy and consistently educate the public.

Kris Day, speaking as an arborist, thought this document was wonderful and creates accountability. But she felt it is better as an internal staff document and that an online version of the code with comments would be better for the public. She felt having the mitigation policy online would require instructions on how to use the document and spell out what it is intended to provide.

City Attorney Tony Garcia suggested a legal disclaimer with any practical guide designed for the public and using the website for the outreach aspects. He will check with Harry regarding limiting liability for decisions made using the City Forester's mitigation policy.

UFC Chair Meryl Redisch pointed out some of the complexities involved with tree removal and mitigation decisions, such as solar access and the desire that permit fees not be a hardship to people. Jim Gersbach provided current code information that defines the elderly demographic as over age 62 and financial hardship (for nuisance abatement) takes into account age and ability. Gregg Everhart, recognized by the Chair, mentioned that larger Parks programs have fee waivers in the form of scholarships.

UFC Chair Meryl Redisch suggested including language about requiring replanting within the same year as the removal and letting the public know that it will be checked.

Jenn Cairo stated that this would be communicated on the website and examining data as to whether replacements are actually occurring will be a responsibility of the Oversight Committee. Tree Techs will be the first contact and be able to direct a caller to the specific part of Title 11 relevant to their situation, indicating that the tree techs may refer to the Mitigation Guidelines when answering calls.

Jenn continued by stating that the majority of the tree permits under Title 11 will be Type A and be decided by the inspector. Jim Gersbach agreed that having brochures and adjunct documents in the most accessible form, such as in graphic formats, would reach the widest audience. Nobody likes to read pages of fine print.

Joe Poracsky asked about determining the significant condition of a tree. He pointed out that there can be valid reasons for removal besides dead, diseased or dying. Conversely, there can be valid reasons for leaving a dead tree standing instead of removing it.

City Forester Jenn Cairo encourage more comments and requested that they be forwarded to Anne Kroma in the next couple of weeks.

### **New/Old Business**

Chair Meryl Redisch announced that the December meeting would be shortened and the Urban Forestry Commission would meet first for an Appreciation Breakfast at a location to be determined.

Chair Meryl Redisch adjourned the business meeting at 10:25 am.

### **Appeals Board:**

20.42 Appeal by Anna Dvortcsak of denied removal permit at 2476 NW Kearney St

Appeals Board Chair Stephen Peacock called the board into session at 10:32 with Barbara Hollenbeck, and alternate Mark Bello. Also in attendance: City Forester Jenn Cairo, City Attorney Tony Garcia, UF Permitting Supervisor Casey Jogerst, Tree Tech Mike Pina, UFC member Joe Poracsky, Tree Inspector Joel Smith and Anne Kroma.

Chair Stephen Peacock explained the format of the hearing and Tree Inspector Joel Smith began with PowerPoint slides showing photos of the Sitka spruce in the backyard. Joel explained that the property is zoned R1 so this tree falls under the jurisdiction of the Tree Cutting Ordinance. There is minor damage to the patio and retaining wall, but it can be repaired without removal of the tree. The tree is in good condition, but showing some tip

die-back on the south side. This large tree is an example of ‘significant canopy’ within a neighborhood.

Barbara Hollenbeck asked if the yellowing needles were the result of this summer’s intense heat. Mark Bello asked about the grade of the property.

Anna Dvortcsak stated that she has lived in the home since 2010 and had the patio installed in 2011. She cannot repair the patio by replacing the paver because of a large root in the way. She expressed her safety concerns for children, if the pavers are not level. She also explained that the tree overhangs part of the roof, allowing moss growth, and resulting in more expensive roof maintenance.

Stephen Peacock stated that he saw nothing to alert an arborist to believe that the tree is struggling with its health. Barbara Hollenbeck also inspected the tree and noted that it looked pretty healthy. She thought the pavers worked well for drainage but moss on the roof is common in Portland. She suggested limb pruning to discourage moss and removing a few of the pavers to give the tree more space.

Ms. Dvortcsak felt she meets all the requirements for a permit, and provided a letter from an arborist stating that removal of the tree will not result in erosion issues. She states that they have considered trimming the tree but that still would not allow her to have a table on the patio. She believes her property value is increased by the patio and is willing to replace the spruce with four or five ornamental cherry trees. She spoke to three neighbors who support her request for removal, but they were not in attendance and did not provide written comment.

There was discussion that although mitigation is not an option in this situation, it would be inch for inch with only a slight reduction for the tip dying. The tree measured 32.5” dbh (diameter at breast height) and at \$300 an inch, mitigation would be very expensive.

Stephen Peacock stated that he believed that this spruce tree is one of the largest trees in the neighborhood, and removal would significantly impact the character of the canopy. He also explained that cherry trees have very aggressive roots and could have even more impact on the patio.

Barbara Hollenbeck moved to deny the appeal and uphold the decision of the inspector and City Forester. Mark Bello seconded to motion and the appeal was denied.

The Urban Forestry Commission’s Appeals Board adjourned at 10:53 am.