

---

**URBAN FORESTRY COMMISSION**

Meeting Minutes

January 21, 2016

1900 Building, Room 2500B

---

**Commission Members present:** Chair Meryl Redisch, Vice Chair Barbara Hollenbeck, David Diaz, Mark Bello, Catherine Mushel, Damon Schrosk, Kris Day, and Gregg Everhart

**Commission Members absent:** Vivek Shandas, Brian French, Ex-officio Lola Gailey

**City Staff present:** City Forester Jenn Cairo, Acting City Attorney Tony Garcia, Elizabeth Specht, Natasha Lipai

**Guests present:** Emily Sandy, Stephanie Beckman, and Madison Weakley, Bureau of Development Services (BDS); Jennifer Karps, Bureau of Environmental Services (BES); Marc Czornij, AmeriCorps member; Scott Fogarty, Friends of Trees; Houston Markley, Multnomah Neighborhood Association; Micah Meskel, Audubon Society; Bob Berenstein

---

**Call to Order and Public Comments:**

Chair Meryl Redisch called the meeting to order at 5:30 PM.

**Review of November UFC minutes**

No revisions as of this meeting, as major revisions from earlier have already been sent to Elizabeth.

- Meryl motioned to accept all minutes; Barbara Hollenbeck seconded the motion.
  - Unanimous vote in favor.

**Retreat Wrap-Up: Meryl Redisch**

Retreat was a month ago; summary and plan was compiled with the retreat facilitator and sent out.

**Forestry Report: Jenn Cairo**

Budget cuts for FY 2016-17:

- Five percent cuts must be made for City for homelessness projects, among other issues; initial cut proposals have been seen by Parks board.

- Urban Forestry's (UF) proposed cut package: Dutch elm disease (DED) program, which would eliminate 3 seasonal jobs and one full-time arborist position; eliminate elm inoculations for park or heritage right-of-way elms; UF would not remove infected right-of-way (ROW) elms, which then would become the responsibility of the property owner, same as every other tree removal situation under Title 11 (T11).
- This cut will strain UF services, especially emergency response. Some budget committee members have supported not cutting DED program funding.
  - Public comments can go directly to Commissioner Fritz via email.
- M. Redisch: Budget hearings will be on April 5<sup>th</sup> and April 12<sup>th</sup>, time of day not confirmed.
  - Volunteered self to write a letter to the mayor challenging DED cut package.
- J. Cairo explained that by the time a monitor would need to be hired, UF should know what is happening with the budget and would hold off on hiring.

#### Heritage tree violation:

- Tree number 255, the only Heritage Tree (HT) Program grand fir and a private property tree, was cut without permission and reported by a neighbor.
- The property owner has been contacted and faces a one thousand dollar civil penalty, a 250 dollar retroactive permit application fee, and a 300 dollar inch-for-inch mitigation payment, totaling a little over seven thousand dollars.
- In response to D. Diaz's questions, J. Cairo said that the property owner contacted staff, it was clear that they knew the tree was a Heritage Tree.
- Resources are available to determine the status of a tree and explain restrictions.
- Unknown who cut the tree, but contractor would also face violation process.
- M. Redisch asked about process for placing HT on property deed; G. Everhart explained that process is often long and there can be issues with notary stamp expiration happening before time of review.
  - J. Cairo to verify with Angie DiSalvo the process of adding a HT to a deed and the status of newly-inducted HTs.

#### Nuisance species list hearing:

- Bureau of Environmental Service's (BES) responsibility to maintain the list, which is currently being updated.
  - Public hearing for the list is Feb 9<sup>th</sup>, 5:30-7:30 PM here at 1900 bldg, and more info can be found on the BES website.
- 3 trees proposed to be added to the list as nuisance species in this update: The horse-chestnut, sycamore maple, and an oak; UF was part of this process; UF discouraged adding the horse-chestnut to this list.
- M. Redisch expressed concern about adding the horse-chestnut to the list; B. Hollenbeck recommended discussing heritage trees that are invasive species in the future.

#### UFC clerk staff change:

- J. Cairo announced that Natasha Lipai will be taking over UFC clerking, while Elizabeth Specht devotes more time to assisting permitting staff.
  - Will follow-up about exact date of transition.

#### Meeting business:

- M. Redisch recognized David for creating an informational chart for each proposal.
  - D. Diaz: One helps differentiate between graduated mitigation and inch-for-inch mitigation. Items on the table are each set of proposed amendments, compared with current code; environmental services of large trees quantified using iTree.
- M. Redisch recommended following PSC's format for discussing proposed amendment components.
- Intent of the temporary stop-gap amendments is to allow time and funds for all involved bureaus to revise the tree code with higher and new preservation standards.
- City Council will hear stop-gap recommendations on March 3<sup>rd</sup>.
  - M. Redisch will provide Parks board a letter for them to sign their support.

#### **Presentation: Tree Preservation in Development Situations, by Jenn Cairo (UF) and Emily Sandy (BDS)**

##### Stop-gap amendment background and overview, J. Cairo:

- Arose due to public concern regarding large trees removed in development.
  - Initiated by Commissioner Fritz.
  - Three large sequoias in Eastmoreland and other situations started public conversation.
- No set definition of a large tree.
  - Only 18 trees impacted in a study of 9 months of development permit applications that were 45 inches or greater.
  - Does not account for exempt trees lost.
  - Indicates that trees of this size are not common in Portland.
- Proposal A developed by Parks staff, dated November 3<sup>rd</sup>, 2015.
  - T11 Oversight Advisory Committee (OAC) and Development Review Advisory Committee (DRAC) are aware of the proposals.
- Proposal B developed by Bureau of Development Services (BDS) December 11<sup>th</sup>, 2015; developed after feedback from the OAC and DRAC and the City Infrastructure Bureau.
- Next step: UFC to provide recommendation to council, to be approved in March. The present public hearing, required by code, is the UFC's further effort to take public testimony and then to come to a decision and recommendation regarding the various choices for a stop-gap measure: A, B, PSC proposal, or something else.

##### Stop-gap purpose, J. Cairo:

- The proposed stop-gap amendments address tree preservation in development situations; not for non-development situations.
- Some proposals address street and city trees, in addition to private trees.
- The purpose of the development section of T11: Focus on achieving baseline tree preservation and total tree capacity on a site, considering the anticipated use and level of development.

Current tree mitigation as an incentive to preservation in development, J. Cairo:

- Applies when tree is 12 inches or greater at diameter at breast height (DBH).
  - DBH is a standard metric for describing tree size.
- Applies on lots that are 5000 square feet or greater.
  - If lot is less than 5000 square feet, tree preservation does not apply.
- Proposals would not apply to trees that are exempt, as follows, nor would they change the conditions describing exempt trees.
  - Tree is dead, dying, or dangerous; located on some commercial or industrial lots; or, governed by a land-use decision.
- Typical projects where tree preservation would apply include new residential construction, demolitions, new residential accessory structures, others in non-exempt commercial and residential zones, and some, but not all, City projects.
- T11 requires that 1/3 of non-exempt trees be preserved or that mitigation be provided for them; each tree removed below the 1/3 preservation standard requires a 1200 dollar fee-in-lieu; no public notice requirement in the development permit process.
  - For City and street trees, tree removal is mitigated by planting or fee in-lieu, as per the recent admin rule.
- Pre-T11, preservation standards only applied to new residential constructions, presented to property owner as an option to preserve or plant trees.
  - No current incentive in T11 to target preservation of larger-sized trees.
- Fee in-lieu is based on the current calculated cost of planting and maintaining two trees for two years; also to mitigate for services lost by removal.
- E. Sandy clarified that lots approved for new 85 percent building coverage also happen to be exempt due to industrial or commercial zoning designation.

Proposal A, by Parks, J. Cairo:

- Removal of any tree that is 48 inches DBH or greater would require inch-per-inch mitigation fee in-lieu payment of 300 dollars per inch.
  - Trees removed less than 48 inches DBH would cost 1200 dollars per tree.
  - No mitigation cap for trees 48 inches and greater.
- Inch-for-inch mitigation, which is currently used for non-development tree removal in 11.40.040.
  - Does not have equivalent figure for replacement tree planting.
- 300 dollars per inch, listed in fee schedule.
  - Fee schedule is regularly reviewed and not codified.
- No change to the 1/3 tree preservation standard.
- 30 day courtesy public notice period; no opportunity for appeal; would apply to City and street trees, as well as private trees, per OAC recommendation.

J. Cairo: The 3 sequoias in Eastmoreland, at 86, 88, and 90 inches DBH, would cost 113,334 dollars in mitigation combined, based on iTree calculations.

- Quantifies only some tree benefits
- PSU library is an example of development around heritage beech tree.

Proposal B, by BDS, E. Sandy:

- Threshold of 50 inches DBH instead of 48 inches.
  - Anything higher is subject to mitigation fees and corresponding \$6000.
  - No change to 1/3 preservation standard when trees are smaller than 50 inches.
- Mitigation based on number of trees
  - Cap at 10 trees and \$6000 per tree removed.
  - Chosen gradation for number of trees is for simplicity's sake & to create equity with mitigation requirements for environmental zones.
  - Mitigation still goes toward tree planting and preservation fund, per T11.
  - Based on the cost of planting and maintaining two replacement trees.
    - 1200 dollar value comes from two 2 inch DBH replacement trees at 300 dollars per inch.
- Require 14-day public notice on-site as a courtesy and an opportunity to appeal through public comments.
- BDS recommends not applying same standards to street and city trees due to concerns from infrastructure bureaus about implementation and losing Capital Improvement Project money; analytics tools developed for T11 implementation with CIPs would need to be re-done.

Recommendations from T11 OAC—for prop A:

- Should decrease threshold to 35 inches DBH
  - Data from BDS study of August 2015 permit data shows clear break in the size of the trees permitted at 35 inches DBH.
  - Removals greater than 35 inches DBH are infrequent.
- Increase notification period to 30 days & include direct notice to neighborhood association.
- Prohibit cutting trees of a certain size.
- Establish a sunset date, when amendments would end and either revert back to T11 or implement the comprehensive amendments made before sunset date.
- Stop-gap proposals would not time out the current admin rule.
  - Admin rule will be updated if there are conflicts with stop-gap proposals.
- This proposal was only considered by 7 OAC members, since 4 resigned recently.

Recommendations from DRAC—for both props A and B:

- Supports prop B.
- 36 inch DBH threshold to recognize 35 inch breaking point.
- Cap at 9000 dollars, using graduated scale similar to prop B.
- No change to 1/3 preservation.
- Change fee in-lieu to cost of planting 4 trees.

- No changes for trees less than 20 inches.
- Other recommendations included courtesy 30 days notice for removing trees 36 inches and greater; includes neighborhood association, with no chance to appeal.
  - E. Sandy clarified that public notice may happen at any point during permit process; burden of proof for duration of notice is on the developer.
  - Responsibility for public notice depends on type of development.
- Include street and city trees.

J. Cairo: Displays comparison table for props A, B, PSC, and current code; sunset date for PSC's recommendations is Dec 31<sup>st</sup>, 2019; noted that there is another handout called Comparison of Mitigation Fees in lieu of preservation; not covered.

#### Discussion on T11:

- D. Schrosk asked why mitigation in development is less stringent than non-development situations.
  - Compromise in light of the poor economic climate at the time.
  - Also meant to recognize the competing goals of the City.
  - J. Cairo: Admin rule defines mitigation and tries to bring it closer to matching mitigation in development.
  - Reduction in fees is an attempt to be consistent and strike a balance.
- M. Bello asked how amendments are considered tree preservation, and for background on tree preservation narrative in creating T11.
  - E. Sandy: Proposals are mitigation, not preservation standards.
  - The fact that the proposals address existing trees is the preservation component; preservation not considered pre-T11.
  - M. Redisch: Tree preservation was part of the narrative; recalls a push from the community to emphasize protecting trees.
  - S. Fogarty: was part of the conceptualization of T11; preservation at the time was considered a disincentive to development.
  - J. Cairo, M. Redisch, and B. Hollenbeck: BDS was laying off staff due to recession; bringing this together was complicated.
  - Promotional points for T11 were to improve customer service, improve public services, and bolster UF department, though not codified.

### **Public Testimony**

Public testimony period began at 7:58 PM.

M. Meskel: My name is Micah Meskel. I live at 4927 NE Rodney. I work for the Audubon Society (AS) of Portland, whom I represent today. Thank you for having us here. The AS has been involved in important local policy work for many years in Portland. Our staff worked as a stakeholder in T11. We believe many parts of T11 are working rather well, as Meryl said. But, we're here today because we believe the code needs to be improved upon, specifically regarding the preservation of healthy trees, especially in development situations. We submitted testimony last week during the PSC last week and generally support their final proposal. As a side note, we'd like to thank UFC members and the City Forester in helping them move their proposal along, as it was quite difficult. Our proposed addition to PSC's proposal would be, we believe the 36 inch DBH threshold for

triggering inch-for-inch mitigation is inadequate to protect a significant number of mature trees; we urge UFC to lower that threshold to at least 30 inches DBH, which will lead to better protection, closer to 20 percent of trees removed were that size, based on the October snapshot. We also believe that the mitigation cap for a single tree is much too low at 9 thousand dollars. We believe the cap level should lead to more preservation of large trees, when feasible, during development situations, and we urge the UFC to remove any fee cap and instead require that the ecosystem services are thoroughly mitigated for when the trees are removed, whether that's using US Forest Service's equation to figure that out or not, but really, accounting for all of those services. We do agree with the 30 day public notice period; we suggest 30 inches be the trigger for public notice; we agree that provisions should apply to both private and public trees. For the sunset date, we suggest that it get extended a little further to ensure that the full comprehensive reform processes can take place before the end of the stop-gap. And a final note, in addition to these recommendations, we urge UFC to recommend to City Council to task UF and BDS with proposing comprehensive reforms to T11 preservation standards over the next few years. These reforms should be based on recent recommendations from the T11 OAC and UFC, as well as the new UF-related policy. The City Council should adequately fund this process so that it can truly accomplish the reform that is needed. And, that is it. Jim Labbe had to leave.

B. Bernstein: Hi, I'm Bob Bernstein. 7416 SE Main Street. Ok, I was part of the Eastmoreland protest, you want to talk about protection, you're talk about getting lifted off of the ground by a cop as you come to a peaceful rally. This is not protection, this is mitigation. In my mind, mitigation is what we feed ourselves to make us think we have done something. When you cut down a tree and it's not going to be mitigated for 30 years, 40 years, or 50 years, what sort of mind game are you playing? When you leave out the sense of time, it's totally ridiculous. Let's say I take down your houses and don't start building maybe five years from now, I don't care where you have to go for the next 30 years that it's going to take for me to rebuild your home. But that's what it's talking about. The City of Portland has wonderful wording—"no net loss of habitat," and "increase of the tree canopy." It doesn't do squat about it, it's just words. It doesn't do nada, bupkiss, if you speak Yiddish. Ok, if you think you're going to solve a housing crisis by filling in every damn inch of Portland, you won't, because there's a line that would lead around this block umpteen times and until that line gets smaller and we make Portland as ugly as the rest of the nation, that line will keep coming and prices will keep going up. It is not true that we're going to build our way into affordable housing. The only way you would do that is by mandating rent control or something like that. Don't think of this as short term because it won't be revisited for at least 3 years or more. When you think of homeowner cost, I'm a homeowner, my home has appreciated something like 50 thousand dollars this year. It's a question of liquidity. Find ways for people to offset the pain of these fees until the house changes ownership, or something. It's not a question of wealth. If you cut the small trees, you won't get the big trees. None of these proposals except A would have stopped the chainsaws on those Eastmoreland trees. When you're making 100 thousand dollars a pop on development, you're not going to stop the cutting of trees with caps on penalties. Totally false crap. I'm a little hot over this because I got lifted off the ground and I had to go to the doctor because of this, and I got talked out of suing the City because friends would tell me that I would not get

anything out of this. It's not worth it. It really angers me. If people go in and girdle a tree in violation of 30 day notice, there has to be some real peace—it sickens me that a person can cut down a heritage tree for 8 grand. Maybe 1 percent of their profit in development, what a bunch.

S. Fogarty: Good evening commissioners. My name is Scott Fogarty, 119 NE Monroe. I was a member of the committee that drafted the original T11 changes, which indeed took 3 or 4 years. These were intended to help streamline Portland's tree code, make it more understandable and equitable, and to ensure proper enforcement and mitigation standards where trees were being removed. As a director of a community tree planting organization, I recognize the value in increasing the urban forest canopy. We here in Portland are very fortunate to have a growing city canopy and thousands of volunteers who donate their time to keep it as such. But planting trees, especially in the face of increasing development, is not the only answer to growing and preserving our forest canopy. We need to preserve trees that provide the greatest benefits to our community; the big, old, large, healthy trees. This is true, especially now as our city grapples with increased flow of people into the region. The influx has increase the pressure for infill development and has squarely pitted preservation versus development. While we cannot completely stop this trend, we can be smart about how we continue to preserve and increase our canopy. T11 purpose for trees in development situations calls for baseline tree preservation and emphasizes need to incorporate existing trees in site design and to ensure suitable tree replacement when trees are actually removed. However, the pace of development is putting pressure on this purpose, and is rendering the value of trees much less than the value of new infill homes. I believe, with some strengthening of T11, as intended, can help retain many of these large trees being removed, and the circumstances where they are removed can ensure that adequate replacement of trees is there. Amending T11 until comprehensive reform can help stem the tide of tree canopy loss. To this end, the city should require inch for inch mitigation for trees over 30 inches DBH in development and non-development situations; requiring posting tree removal notification 30 days before any tree 30 inches or greater is to be cut; remove T11 exemptions for commercial and industrial land. Properties where trees are removed 30 inches or greater in non-development situations should have a 12 month moratorium on development on those properties. As our planet warms and more people move into our City, we need to preserve and increase our urban forestry canopy. We can't just plant our way out of this situation. As trees we plant today will save the youth of tomorrow, right now, we need to preserve those trees planted by our predecessors so that they may continue to provide us with clean air and water, and keep us cool in the warming climate. Please consider my comments in making recommendations to City Council for this consideration. Thank you very much.

M. Weakley: Thanks for making time for us to come and talk with you. I did not intend to come and speak, but then I was compelled by learning more. I'm here to support two things. One is the sunset clause. I think that we've only had the code for 13 months now. I think that, well, I learned a lot from the interim admin rule—what was that, like 4 months in? It was not enough time—that's responding more to pressure or to uninformed pressures. I think having a time where we say, come back and look at the data and where we are economically and reevaluate what has happened, is really



important. Neither of the other two had that option, and I throw my support behind the PSC's proposal because of that reason. Also, regarding the top column, which is defining what the largest tree threshold is: I appreciate that this data came from one month of study, but what does August look like for development? Does it look different than January? Are there certain months of the year that have greater removal of trees? To determine the sizes, we need a larger dataset. I'm a data person, that's really important to me. I have, in the last year, worked for both Urban Forestry and BDS, so I just thought it would be good for you all to know that I might be informed by that experience. Anyways, that's all I had to say. For the record, it's Madison Weakley, and live at 515 NE 78<sup>th</sup> Avenue.

H. Markley: My name is Houston Markley. I live at 4629 SW Carson St in the Multnomah Neighborhood. I'm representing the Multnomah NA and we have sent you a letter, which you should have, and I won't repeat that other than to say that we support the AS's proposals. We are particularly concerned about the exemption of lots that are less than 5000 square feet. We can point out examples in the Multnomah neighborhood where developers purchased a 10 thousand square foot lot and divided it into three parcels, three lots, and clear cut the lots. We've taken pictures, it's quite evident. I would just note that the Seattle Parks department found that the average tree coverage per re-developed single family lot fell from 30 to 18 percent; on re-developed multi-family lots, coverage fell from 18 to 5 percent. They found that most of the canopy growth in recent years occurred on single family properties, and most of the lots included city parks. All of the city's parks and lots and greenbelts together held just 21 percent of its canopy acreage; 63 percent grew on single family lots. I'm trying to emphasize the critical need—the heart of the urban forest are single family lot residents. Fifty five percent of the trees on single family lots are in excellent condition and only about two percent are dead, dying, or in critical condition. By contrast, only 20 percent of trees in parks and greenbelts are in excellent shape; about 20 percent are dead, dying, or critical. This was study done by the Seattle Parks department in 2009. And that ends my testimony. I hope you take to heart the concerns of those that live in this urban forest, particularly in neighborhoods like the Multnomah Neighborhood. Thank you.

### **Proposed Amendment Package Deliberation and Decision**

Deliberation on amendment package began at 7:15 PM.

T11 exemption for lots less than 5000 square feet:

- When D. Diaz asked about rationale for 5000 square foot lot exemption, E. Sandy explained that this is the size of most platted lots in inner and North Portland, thus being a natural break point.
  - BDS found in first quarter of 2015 that about 20 percent of lots obtaining building permit were less than 5000 square feet.
  - This threshold is not honored elsewhere in the development code.
- When B. Hollenbeck asked how long it takes for the splitting of a lot to take effect, S. Beckman explained that tree preservation applies to most lot division cases and depends on the facts of the case.
  - T. Garcia: While the possibility does exist, most property owners would not take up opportunity due to difficult process.

- M. Bello proposed eventually discussing lot line assessment process, due to implications on goals to preserve canopy.
- D. Schrosk: Equity imbalance with majority of lots in NE Portland and densely-populated areas being exempt, due to 5000 square foot size threshold

DBH threshold deliberation:

- Audubon and Friends of Trees requested the threshold to be 30 inches
- M. Redisch: Asked for UFC consensus of 30 inch DBH threshold.
- D. Diaz: 30 inch mark seems arbitrary; concerned about current code allowing 2/3 of canopy to be removed without mitigation in development.
  
- M. Bello motions for adoption of 30 inch DBH threshold.
  - K. Day, B. Hollenbeck, C. Mushel, M. Bello, M. Redisch vote yes.
  - UFC does not have motion.
  
- D. Schrosk motions for 20 inch DBH
  - Since it is used in non-development situations; might be easier to understand for public
  - D. Schrosk, D. Diaz, C. Mushel, G. Everhart vote yes.
  - UFC does not have motion.
  
- M. Redisch motions for 25 inch threshold.
  - B. Hollenbeck seconds.
  - M. Redisch, B. Hollenbeck, M. Bello, G. Everhart vote yes.
  - UFC does not have motion.
  
- M. Redisch tabled DBH discussion.
  
- Unanimous agreement:
  - Amendments should apply to all trees.
  - Mitigation per tree instead of per site.
  - 30 day public notice requirement with neighborhood association.
  - Amendments apply to street trees and city trees, in addition to private trees.

Further deliberation:

- D. Diaz: Reconciliation needed for 2/3 of expendable trees in development.
  - M. Redisch said stop-gap measure is only for protecting large, healthy trees.
  
- M. Bello: motions for 24 inches, no cap, inch for inch, 3 years.
  - Motion not voted on; discussion continues.
  
- M. Redisch and M. Bello: 3 years will be a push to get thorough T11 code reviews through public process. PSC is not going to put a budget package into this book

for this year for T11 review; they're waiting until 2017-18; longer sunset might help this process.

- D. Diaz wants to keep 5000 square foot issue on table, since no data exists about how many trees are coming out due to this exemption.
- M. Bello: New motion for 30 inch DBH threshold, with no cap, and reduce lot exemption to below 3000 square feet, inch for inch mitigation.
  - Motion not voted on; discussion continues.
- M. Bello clarifies details of package.
  - Component 1 will be 30 inches
  - 2 will be all trees
  - 3 will be
    - 12-20 current code
    - 20-30 inches inch per inch after 1/3
    - 30 inches and plus, all inch for inch mitigation
  - No cap
  - Posted notice 30 days and neighborhood association notice
  - Applies to all street and city trees
  - Sunset date would be 3 years from the passage of the ordinance.
  - Apply amendments to lots 3000 square feet or greater.
    - Change from current less than 5000 square feet exemption.
  - Unanimous yes vote.
- Unanimous agreement: Will not include the following in the UFC stop-gap amendment package, but long-term amendments to consider later:
  - Removing exemption for industrial and commercial land from T11.
  - Implementing 12-month hiatus between obtaining non-development tree permit and development tree permit.
- M. Redisch: next step is to submit our package to bureaus and commissioners.
  - M. Bello and D. Diaz volunteer to do this; include reason behind 3000 square foot reduction in exemption size.
  - Draft of proposal due next Friday.

Meeting adjourned at 8:09 PM.