

TO: Neighborhood Tree Team members and tree advocates
FROM: Bruce Nelson, Cully Tree Team October 21, 2020
RE: Portland Urban Forestry Commission Meeting October 15, 2020:
 Summary and Comments

NOTE: This document is not an official document of the Urban Forestry Commission. I am a private citizen who is a volunteer member of the Urban Forestry Commission. I write as a private citizen.

These meetings occur on a monthly basis, on the third Thursday of the month. Official minutes of the meetings are available at the website for the Urban Forestry Commission, once they are approved by the Commissioners (usually 1-3 months after the meeting). <https://www.portlandoregon.gov/parks/60405>

The decisions made at these meetings often affect the volunteer tree advocacy work being done in Portland. I am sending you timely commentary on these monthly meetings. If you do not wish to receive this, let me know.

Italicized text indicates my own point of view and/or items not necessarily expressed during the meeting. Red bold text is used for my required statement that this is not an official or adopted statement from the Urban Forestry Commission. Bold text is also used for subject headings and occasionally to identify who is saying what.

The monthly Urban Forestry Commission meeting was held Thursday, October 15, 2020, 9:30 am – noon, as a Zoom meeting due to COVID 19 demands.

Urban Forestry Commissioners Present - Vivek Shandas (Chair), Anjeanette Brown, Gregg Everhart, Barbara Hollenbeck, Bruce Nelson, Daniel Newberry, Damon Schrosk, Megan Van de Mark

Urban Forestry Commissioners Absent - Brian French, Lorena Nascimento

Urban Forestry Staff Present - Jenn Cairo (City Forester, Portland Parks & Recreation, Urban Forestry division); Brian Landoe (Analyst 1, Portland Parks and Recreation, Urban Forestry division)

Deputy City Attorney- Tony Garcia (tony.garcia@portlandoregon.gov ?)

Other City Staff - Erin Mick (Senior Program Manager, Portland Water Bureau, erin.mick@portlandoregon.gov 503.823.7368); Sarah Santner (Water Efficiency Division Manager, Portland Water Bureau, sarah.santner@portlandoregon.gov 503.823.7444)

Conflict of Interest Policy –

“Members of City advisory bodies are public officials, based on State law ORS 244.020(15), and as such are required to disclose conflicts of interest. Under the Oregon Revised Statute 244.020(3), an appointee has a conflict of interest when participating in an official action which could or would result in a financial benefit or avoidance of detriment to the public official, a relative of the public official, or a business with which either is associated.”

9:30 am Public Comment

Matt Froman has been working in different ways to restore/redevelop the Phoenix Pharmacy at 6615 SE Foster Road (northwest corner of SE Foster and SE 67th Ave) since at least 2014. Currently he has permits to do roof improvements and seismic upgrades to the building. (2019-210059-000-00-CO; IVR441311). As part of that permitting process Urban Forestry inspections have occurred. Matt is concerned that Urban Forestry staff is recommending an 8’ x 8’ right-of-way (ROW) sidewalk cut-out for planting of a large-form tree, specifically a giant sequoia, *Sequoiadendron giganteum*. He is not opposed to trees but is concerned about the potential damage the tree might do to the foundation of the building. He also does not want to block the view of the building from the street. He is hoping there are other options available. Jenn Cairo, City Forester, said she would check on this situation and get back to Matt Froman with more information.

The Phoenix Pharmacy was the original location for John Leach’s pharmacy. The building, built in 1922, was used as a pharmacy for many years by Leach. It was touted at one time as the “largest suburban pharmacy” on the east side (of the Willamette River but still in the Portland area). John Leach was the husband of renowned botanist Lela Leach. Their former home was what is now Leach Botanic Garden (part of Portland Parks and Recreation parks system), near SE Foster and SE 122nd. Matt Froman’s dad, Buck Froman, purchased the Phoenix Pharmacy property years ago, hoping to develop it as a museum of wood stoves. Since at least 2014 Matt Froman has been working in different ways to try to restore this vacant neighborhood landmark. The property has CM2 zoning and is going through the permitting process as part of this project. The Oregon State Preservation Office awarded a Diamond in the Rough Grant for work that is being done in this effort. The owner of the property is listed as Foster the Phoenix at 906 NW 23rd Ave., Portland, OR 97210.

9:45 – 9:50 am Minutes Review Brian Landoe (Analyst 1, Portland Parks and Recreation)

The minutes of the August 20, 2020 meeting were reviewed and accepted with minor changes.

9:50 am City Forester Report Jenn Cairo (City Forester, Portland Parks and Recreation)

1. The Portland Bureau of Transportation (PBOT) Streets 2035 Master Planning is progressing. Matt Berkow of PBOT will likely be presenting information to the Urban Forestry Commission (UFC) in the upcoming months. This will likely include information about Portland Water Bureau needs pertaining to the ROW strip.
2. Casey Clapps of Urban Forestry has been working with PBOT on a project at SE 80th and SE Mill Street that involves road improvements in the locally named Lake Mill Street area. The result of this collaborative effort has been the preservation of some large trees growing in the middle of a previously unimproved road. You can read press reports on this project. This is a success story for now. <https://montavilla.net/2020/06/11/se-80th-improvements-complete/>

<https://bikeportland.org/2020/08/28/city-drains-lake-millstreet-as-part-of-major-makeover-of-se-80th-and-mill-320206>

3. The appeal of the Sabin sequoia issue to the Code Hearings Officer is complete. The Code Hearings Officer has found that City Officials in Urban Forestry did not violate any City Codes in making the decision to have the sequoia removed. Commissioner Fritz and her staff are trying to work with the owner of the property at 4058 NE 12th Avenue to see if there is any way to preserve the tree. The co-owners of the shared tree (at 4066 NE 12th Avenue) have some time to appeal the decision of the Hearings Officer. If no appeal is made then the tree must be removed since it threatens the safety of the house at 4058 NE 12th Avenue. *City Code requires that it be replaced by one 1.5” caliper tree. The loss to the neighborhood is forever. Codes need to change to prevent this potential loss from happening again. Currently the co-tree owners (Claire Bollinger and Shay Rohanid) residing at 4066 NE 12th are planning to take the case to the Multnomah County Circuit Court. They are hoping that some of the findings of the Code Hearings Officer will open the door to a more tree-friendly decision in the Circuit Court for this giant redwood.*

Claire and Shy greatly appreciate the support they have received from community members and local tree advocates. Current Tree Code rules, as followed by Urban Forestry staff and upheld by the Code Hearings Officer, may result in the loss of this large community asset located on private property. It likely took 70 or more years for this tree to attain its current size and bring its many benefits to the neighborhood and city residents. I hope that a better result can come from the Multnomah County Circuit Court and from Portlanders organized to defend this giant in our urban forest.

4. The Urban Forest Action Plan 2019 is available at <https://www.portlandoregon.gov/parks/article/765841>

This document addresses actions that occurred from July 1, 2018 – June 30, 2019 by Urban Forestry on behalf of Portland’s urban forest. Jenn is hopeful that in the future the template for this document will change.

I briefly looked at this document. The Urban Forestry Management Plan was adopted in 2004 and has not been modified since then.

<https://www.portlandoregon.gov/parks/38306?a=184641>

It outlines goals for Portland’s urban forest. Urban Forestry each year produces an annual Action Plan that summarizes the progress made in the previous fiscal year (July 1 to June 30th) in addressing the goals of the Urban Forestry Management Plan. Certain specific types of data are included each year. In reading the Action Plan issued in September 2020, I completely agree that a different template is in order. The information insufficiently informs the public on progress to improve the urban canopy of Portland. Hopefully future Action Plans will include information about changes in canopy coverage; gains and losses of trees by neighborhood; changes in administrative rules and code regulations that affect urban canopy; losses and gains of trees by size class due to development; losses of trees on private property not related to new development; and areas unable to be addressed due to funding constraints.

5. Arbor Day in Portland is Friday October 16, 2020. Due to Covid-19 constraints, Urban Forestry has developed a celebratory video for the public that celebrates trees and recognizes the 2020 Bill Naito Community Tree Award winners. Linda Robinson is the individual award winner, and the Tree Emergency Response Team (TERT) is the group winner. *Their efforts help our urban forest and serve to inspire us all what concerned citizens can do.*

<https://www.portland.gov/parks/portland-arbor-day>

UFC Commissioners had several comments and questions regarding the City Forester's report.

Megan: Is there any data from the Portland Water Bureau (PWB) on how many trees will be lost if and when PWB implements rules regarding tree distance from water meters? **Jenn (City Forester)** – Not much information is available yet.

Gregg: When will the Action Plan for 2020 be available? **Jenn** – Maybe October 2021.

Vivek: The sharing of the 80th and Mill road improvement story about saved large trees is a wonderful example of collaboration between agencies. **Jenn** – There has often been collaboration but the outcomes have not always been favorable for our urban forest. In this particular case trees fared well. There is increased receptivity to the importance of trees on the part of other bureau staff.

10:00 am **Update on PP&R/Bureau of Environmental Service Tree Planting Stakeholder Group** **Vivek Shandas, Todd Lofgren (Deputy Director, Portland Parks and Recreation)**

Vivek: There were 3 meetings that PP&R and BES held with 11 different stakeholders from community organizations. These meetings focused on determining values (reframed during discussion) as they relate to tree planting in Portland. Discussions also included concepts like life cycle management strategies for trees. Building trust among City bureaus was identified as being very important which includes identifying shared values. Discussions provided valuable opportunities for all. A written document will be forthcoming and available to the public.

Todd Lofgren: There is hope for broader cooperation between BES staff and PP&R staff. The stakeholder group stressed the importance of focusing on black, indigenous and people of color (BIPOC) communities, as well as desired outcomes for city tree planting activities. He viewed the discussions as going to very “rich” places.

Vivek: viewed the goal of this stakeholder group as being much broader than a narrow discussion of where the City tree planting activities should be housed.

Megan: Has any decision been made about where City tree planting activities will be housed?

Todd Lofgren: The memo between the directors of PP&R and BES , written in February 2020, expressed the desire to transfer all BES tree planting to PP&R/Urban Forestry. There is currently no formal agreement between these bureaus as to the specifics of this transfer. This decision will likely be made under the watch of the next PP&R City Commissioner overseeing the bureau. Currently Commissioner Amanda Fritz is serving in that role. A new City Commissioner will be assigned to that role in January 2021. There will be a new City Commissioner in charge of the Bureau of Environmental Services in January 2021, as outgoing City Commissioner Amanda Fritz also serves in that role.

10:15 am UFC Role Refresh Vivek Shandas (UFC Chair), Jenn Cairo (City Forester, Portland Parks and Recreation Urban Forestry Division)

There have been requests from UFC Commissioners in the past for clarification of the role of UFC Commissioners.

Jenn shared that Title 11 and the Urban Forest Management Plan provide the guidance for UFC's role. *No mention was made of the role that UFC bylaws play in this.* The key roles Jenn stated are listed in 11.20.020.E below.

Within Title 11, the role of the Urban Forestry Commission is addressed in:

11.10.010 A. 4.d. 1 receive from the City Forester "a monthly report on the Urban Forestry's Program's activities for UFC review."

11.10.010 A. 4. d. 2 accept from the City Forester various "budget proposals, programs and projects that could substantially affect trees or the urban forest...."

11.10.010 C.4 review or become involved when the Responsible Engineer in consultation with the City Forester, have identified "city programs and capital projects or significant budget proposals that would substantially affect trees or the urban forest....."

11.10.040 B "UFC shall hold at least one public hearing for proposed amendments to this Title before"

11.15.040 receive from the City Forester "an annual report.... at the end of each fiscal year" on tree fund reports

11.20.020 E.

1. *“Providing assistance in the development, periodic reviews and updates to the Urban Forest Plan and submitting said plan updates to the City Council for Approval.”*

2. *“Reviewing and providing input on plans, policies and projects developed pursuant to other City Code provisions which contain elements or which affect matters related to urban forestry and other matters to ensure that the policies of the Urban Forest Plan are fully considered.”*

3. *“Advising the City Forester, the Director and Commissioner-in-Charge of the Bureau of Parks and Recreation, and Citizen’s Budget Advisory Committee on the preparation and contents of the annual Forestry Division budget request.”*

4. *“Considering and making recommendations to the City Council pertaining to a. Proposed amendments to this Title; b. Heritage Tree nominations; and c. Other City bureau budget proposals that substantially affect programs relating to trees and the urban forest.”*

5. *“Preparation of an annual report which specifically addresses the relations with and concerns of the various City bureaus and other matters brought forward by the City Forester.....”*

11.20.030 *serve on the Urban Forestry Appeals Board*

11.20.040 *may request technical assistance of City as needed relevant to proposed actions and planting schemes*

11.20.050 *play a role in the development, update and implementation of the Urban Forest Plan.*

11.20.060 D *make recommendation to City Council for new Heritage trees*

11.20.060 F *make recommendations to City Council for removal of Heritage tree designation from tree (s)*

11.20.060 H *Receive from City Forester any knowledge about unauthorized pruning, injury or removal of Heritage trees*

UFC Discussion on Role of UFC

1. **Vivek:** UFC Commissioners need to think about areas where they think they can be most effective in their roles as UFC Commissioners.

2. **Daniel:** It would be good for UFC to develop more direct relationships with different City Commissioners.

3. **Barbara:** It is possible that trees are just not high on the list of priorities for the City Council. However, it is often very hard to evaluate effectiveness of actions taken by UFC.
4. **Vivek:** There really is no community forum in which discussions about trees in Portland's urban forest occur.
5. **Brian Landoe:** There is a lot of activity within Portland around trees. UFC has played an effective role in helping to bring to City Council the amendments to Title 11 that City Council will discuss at the October 29th meeting.
6. **Jenn:** UFC has helped push changes to the tree code.
7. **Megan:** How can UFC Commissioners advise on "our priorities" that do not get addressed at UFC meetings, since they frequently get superseded by timelines of various City bureau plans that include presentations at UFC meetings?
8. **Gregg:** Does Brian keep recordings of past UFC meetings? She would like to hear again the testimony that Ted Labbe made requesting more discussion in UFC meetings.
9. **Damon:** We keep getting derailed. Our big mission is to champion trees in the urban environment. The example of the Portland Water Bureau just charging away with policy changes that adversely affect the urban forest is just one more example.
10. **Jenn:** Advocacy work is not specifically called out as a role for UFC Commissioners in Title 11. However, in the commentary (*I do not know what this refers to*) on Title 11, advocacy is mentioned. Title 11 does call for UFC to work with City Council members and specific City bureaus on tree-related issues but does not call for work on interagency operations.
11. **Vivek:** The big conversation is more about how to steward a healthy respect for Portland's urban forest. The necessary work of community members, governmental agencies, and many others are all part of this effort. UFC is not any kind of enforcer or "cop" but rather is a "pulse" of what is happening within the community of Portland residents.
12. **Daniel:** Can Vivek, Daniel, and Bruce reach out to specific City Commissioners to urge their support for the proposed BDS Title 11 amendments and the removal of the exemption from tree code requirements for IH zones?
13. **Brian Landoe:** As long as what is advocated for follows the positions taken in the letter previously sent to City Council, that is permissible.
14. **Gregg:** Former UFC Commissioner Meryl Redisch regularly met with members of City Council and their staff while she served on UFC.
15. **Brian Landoe:** He is willing to work with UFC Commissioners and City Council offices to facilitate those meetings.

10:45 am UFC Annual Report 2019 Approval Vivek Shandas

Vivek asked if Commissioners had any comments or suggestions for modification to the UFC Annual Report for 2019 that was written by Bruce Nelson. Barbara made a motion to accept the report. That was seconded and approved by UFC Commissioners. Urban Forestry staff will work on adding pictures and modifying layout before the report becomes public.

10:50 am Portland Water Bureau Title 21 Proposed Amendments relevant to the Urban Canopy Erin Mick (Senior Program Manager, Portland Water Bureau); Sarah Santner (Water Efficiency Division Manager, Portland Water Bureau)

There have been ongoing discussions with Jenn Cairo concerning some of the proposed changes to Title 21 of the City Code that pertain to trees in the right-of-way (ROW). Title 21 specifically deals with the operations of the Portland Water Bureau (PWB). Erin Mick and Sarah Santner of PWB presented some general ideas being considered as part of a much needed review of Title 21, Water Code. Title 21 code amendments were presented for public review in early July 2020. The public comment period closed in late August. One issue of ongoing concern for PWB is the complaint from renters living in multi-unit complexes that their water bills are too high and do not reflect their own water usage. This occurs because many multi-unit residences do not have water meters for each individual unit. Rental property owners and managers decide on some procedure to use in order to divide the water bill among all users. PWB has tried to give some rate reductions to low-income residents but is currently unable to do this if there is no specific water meter tied to a specific water user. An additional problem PWB sees is that with only a master water meter for a complex (commercial or residential), it becomes difficult to promote water conservation since all of the separate users at the complex do not feel directly related to the water use and bill amount. It also complicates locating water leaks in pipes.

In light of these issues PWB is considering **requiring separate water meters for each unit on new construction projects involving 8 units or less**. *A written memo to Commissioner Amanda Fritz from PWB Director Gabriel Solmer dated October 16, 2020 states that multi-family housing (10 units or fewer), detached accessory dwelling units, or other multi-customer developments shall each have their own separate water meters unless they can't be accommodated.*

PWB has received much stakeholder comment on this proposal. Concerns have been raised by the housing industry about the increased construction costs that will occur with this new requirement. PWB continues to explore how those costs may be reduced.

The benefits of individual meters from PWB's perspective are: a) a better ability to assist low-income individuals, since PWB will now have a more direct relationship with all of its users, b) better tenant equity in terms of water users paying directly for what they actually use, c) enhancement capabilities of water leak detection since each water user will be isolated by their water meter, d) greater water conservation since water users will see their direct water use and may be able to adjust their water usage habits appropriately, and e) a more direct relationship with PWB customers. PWB is working hard to have a net cost-neutral proposal. PWB staff are looking at their System Development Charges and their rate structure for services delivered.

At this point it would have been appropriate to list the challenges of doing individualized meters but that was not done. PWB is working to address some of these, which can be seen with revisions they have made for proposed changes.

Potential problems that remain include:

- 1. more space needed in the right of way utility zone for more water meters;*
- 2. increased construction costs from running multiple water lines from right of way strip to each separate water user;*
- 3. no financial benefits result for renters in new residential complexes with more than 10 units;*
- 4. no financial benefits to residents or businesses in existing buildings;*
- 5. increased construction costs by requiring separate water meter and plumbing for landscape, if landscape includes irrigated area of 1,000 square feet or more;*
- 6. increased overhead costs for PWB to service larger customer base and meter reading needs (PWB considers this minimal);*
- 7. increased staff time to deal with requests to **not** install multiple meters due to inability to accommodate them in the utility strip;*
- 8. lack of clarity as to how decisions may be made regarding limited right-of-way space.*

PWB is continuing to refine the Title 21 proposed changes. The current schedule for the Title 21 review is: October 27th City Council work session – an opportunity for Council to hear the proposals and invited testimony on the proposals; November 25th - first reading of the Title 21 amendments; December 2nd - second reading of the Title 21 amendments; July 1, 2021 - Effective date of all City Council approved Title 21 amendments.

Building managers have a lot of latitude as to how water use costs are allocated among users. PWB currently has no way to give any sort of credit to folks that do not have a separate meter, according to Sarah Santner.

Erin Mick stated that PWB would need permission from the owner to enter a property to view meters not in the right-of-way. Additionally, the City Attorney has advised PWB that water meters placed on private property would be a “takings” and would open the city to legal issues. *(No explanation was given for how the electric companies and the natural gas provider get around this, as their meters are generally on private property that needs to be accessed for meter reading.* Erin conceded that for new construction, the use of multiple meters could reduce tree planting space.

Current Portland Urban Forestry Street Tree Planting Standards, which were update 2.28.2020, specify that “Trees shall be spaced no less than the following distances from existing infrastructure: Fire hydrants: 10’ from fire hydrants. Water meters: 10’ from water meters and water quality sampling stations for large planting sites; 5’ for medium and small planting sites. Underground utilities: 5’ from underground utilities, e.g., water pipes.”

Combine the above standards with PWB placing more water meters in the strip. Add up the space taken up by the additional water meters and compare it to the space that would have been used for the master water meter. Come out 5-10’ on both directions depending on the width of the strip to figure out how much potential tree planting space is lost, keeping in mind the many other constraints placed upon tree placement in the planting strip. The use of the term “planting strip” may be more appropriately called the utility furnishing zone.

Next Urban Forestry Commission Meeting: The next Urban Forestry Commission meeting will be 9:30 a.m. – noon, Thursday, November 19th, as a Zoom meeting. Check the link below later this month for meeting agenda, meeting materials, how you can gain access to this Zoom meeting, and how to make public testimony: <https://www.portlandoregon.gov/parks/80167>