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**Smith and Bybee Wetlands Natural Area  
Management Committee**

*Dave Helzer, Chair*



**METRO**

600 NE Grand Ave.  
Portland, OR 97232-2736

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**Smith and Bybee Wetlands Management Committee Meeting**

5:30 p.m. - 7:00 p.m., Tuesday, November 30, 2010  
Metro Regional Center, 600 N E Grand Ave., Room 270  
Portland, Oregon 97232

**AGENDA**

Welcome and introductions	(Dave Helzer)	5:30 – 5:35 pm
Approve October's meeting notes	(Dave Helzer)	5:35 – 5:40 pm
Update on the new Comprehensive Natural Resources Plan	(Janet Bebb)	5:40 – 5:45 pm
Draft policies for the update	(Janet Bebb)	5:45 – 6:30 pm
People experiencing Smith Bybee	(Janet Bebb)	6:30 – 6:55 pm
Soft surface trail proposal from John Fitchen	(Janet Bebb)	6:55 – 7:05 pm
Wapato Facility land use update	(Janet Bebb/Dave Helzer)	7:05 – 7:10 pm
Merit Oil / DEQ update	(Dan Kromer)	7:10 – 7:15 pm
Adjourn		7:15 pm

**MEETING SUMMARY**  
**Smith and Bybee Wetlands Management Committee**  
**November 30, 2010**

**In Attendance:**

Dave Helzer (Chair)\* .....Portland Bureau of Environmental Services  
Troy Clark (Vice Chair)\* .....Audubon Society of Portland  
Larry Devroy \* .....Port of Portland  
Patt Opdyke\* .....N. Portland Neighborhoods  
Susan Barnes\* .....Oregon Dept. of Fish & Wildlife  
Dan Kromer\* .....Metro Parks & Environmental Services  
Dale Svart\* .....Friends of Smith & Bybee Lakes  
Sara Henderson\* .....St. Johns Neighborhood Association  
Janet Bebb .....Metro Sustainability Center  
Paul Vandenberg .....Metro Parks & Environmental Services  
Stephanie Bailey .....Metro Sustainability Center  
Dan Moeller .....Metro Sustainability Center  
Jeffrey Kee .....Friends of Smith & Bybee Lakes  
John Fitchen ..... Audubon Society of Portland  
Eric Tonsager ..... Oregon Bass & Pinfish Club  
Jane van Dyke .....Columbia Slough Watershed Council

\* Denotes voting SBWMC member

The meeting was called to order at 5:35 p.m. Introductions.

**Approve October Meeting Notes**

Patt Opdyke moved to accept the minutes as written; Dan Kromer seconded. The minutes were approved unanimously.

**Update on the New Comprehensive Natural Resources Plan**

Janet Bebb met with Susan Anderson, Roberta Jortner and Chris Scarzello who gave her a proposed Comprehensive Natural Resources Plan (attached). It fulfills most of the Committee's needs – especially the need to make adjustments to the plan without a legislative process. Adoption would be a land use decision, and it is possible for all land use decisions to be adopted in one fell swoop. It's a new Code Section, not yet in force, so can still be adjusted. Planners anticipate it will be available in July 2011. Sun-setting the current Plan will need to be done legislatively at about the same time as the new Plan is adopted.

The current NRMP is actually adopted into Portland's Zoning Code. For all Smith Bybee decisions it supersedes the current Code. Under the new Plan, zoning code gravitas will be lost. However, the new Plan can be amended easily, and projects mentioned within it can be developed at a later date without needing a detailed description of the work in the Plan itself.

Janet asked that the members review the proposed Plan and get comments to her by mid-January; discussion of it can be made part of that agenda if the Committee would like.

## **Draft Policies for the Update**

The current NRMP contains nearly 30 separate policies, Janet began. A subcommittee met recently and looked over the existing policies, eliminated several outdated items, tweaked some language and developed a new draft. A memo consolidating those proposals was handed out for the group's reference, as well as a complete list of the proposed changes.

Patt Opdyke explained the new language memo and the process the subcommittee went through. She walked the committee through the policy addressing the role of the Management Committee, which was redrafted. They wanted to ensure that the new language more clearly expresses what the Committee actually does. It also includes improved project monitoring. New, expanded roles for the group are proposed, such as participating in funding and education to create more community investment in the area.

Troy Clark remarked that the proposed changes are a good start, but they don't go far enough. Metro has made decisions historically without any consultation with the group at all. He said that the Committee itself should help define what they want to be involved in, and what doesn't need their consultation. He suggested that it could be included in the policy portion of the Plan. Employee work plans are a good place to take a look and see what type of work is going to happen in the area. Changes in Metro operations often affect Smith-Bybee Lakes.

Patt suggested that this be spelled out under Roles and Responsibilities of Metro. It's a tricky line to walk to get the Plan right without it becoming a tool for micro-management. Troy pointed out that while not everyone will agree all of the time, the group should at least be informed of events such as when pesticides are going to be used. Dave cautioned that the group shouldn't overreach. Natural area professionals will always be employed to take care of the day-to-day management, but the Committee membership will change – and with that will come differing and even conflicting opinions and levels of expertise. Dan explained the staffing: Jonathan Soll oversees Elaine Stewart and the large restoration projects. Dan Moeller now oversees the technician who does ongoing natural area management, and Dan Kromer oversees the ranger, who takes care of facility operations and maintenance such as enforcement, structures, signage, etc.

The Committee could look at the work proposed for each year, Janet suggested. Funding, of course, is not always available for everything, and the Committee's help would be invaluable for searching out possible grants so that more work can be accomplished. Dave Helzer suggested creating a policy statement to divide Metro and Committee responsibilities. Patt, Sara and Dan will work with Janet on proposed language.

The members discussed whether the Committee should be involved in the budgeting of the Trust Fund monies. The fund was originally part of policy. Metro feels confident that it is providing wise stewardship, having nearly doubled the fund since then. However, Troy and audience member Jeffrey Kee voiced that they would like the Committee to be more involved. Patt offered that this would be a good item to include in the roles and responsibilities.

The group discussed the policy on committee roles further, agreeing to keep item B, clarify item G, and to think about item F, which would involve coordination. Dave suggested the group "advise," or "recommend," or perhaps "support" rather than "coordinate" environmental education. However, Patt feels Metro staff needs extra support. Troy feels that's all done de facto, and therefore may not need to be specifically called out in the policies. Several people agreed that the word "support" would be sufficient.

Regarding Committee membership, the Oregon Bass & Pinfish group would like to make sure they are notified of meetings. Patt would like the Committee to possibly include someone from Portland BES and Parks & Recreation. Dave agreed, saying that the two areas operate completely separately. Agreed. The St. Johns Landfill should also have official representation, perhaps Paul Vandenberg. It was agreed to leave that up to Metro. Janet asked if the group would like to add Columbia Slough Watershed Council representation. The group approved asking them if they would be interested.

On a different note, Dale expressed frustration that the meetings aren't currently scheduled consistently. Janet explained that while the Plan is being updated, meetings have been project-driven, so hopefully meetings will be more consistent before too long.

Janet referred to new language in the memo, and asked that the members look it over and get comments to her. She hopes that the new Plan will inspire a deeper partnership between Metro and the Committee, expanding the Committee's role in funding and public outreach. A higher level of mutual trust and better communications are essential.

Dale asked that the draft language for all the new policies be discussed at the next meeting. Most of the group agreed.

### **People Experiencing Smith-Bybee**

Stephanie Bailey explained how the attached timeline was developed. Janet added that the idea of protecting the area has developed slowly over that time, after years of being open to hunting, camping, etc. Troy suggested showing 1990 enumerated because that's when Smith-Bybee was drawn into the City limits, which was hugely significant. Audience member Jeffrey Kee asked for the addition of events such as the Clean Water Act, oil spills, areas being filled-in, etc. Dave said it might be better placed in the introductory portion, since this timeline deals specifically with the Smith-Bybee Lakes area. Sara suggested adding building of the jail. Individual members felt strongly about more items that should be included, but others liked the simplicity of the graph. Janet offered that a technical appendix could be included.

### **Soft Surface Trail Proposal from John Fitchen**

Janet showed a map of a proposed soft-surface trail that would give a view of the lakes, and introduced John Fitchen. Mr. Fitchen is an avid birder and said that N. Bybee Lake is a wonderful shorebird / mudflat habitat. The number of birds observed is extraordinary, he said. He suggested a trail to that area for viewing access to two mudflats in Bybee Lake. Larry had concerns about permitted right of entry, which is technically required. Would the trail require fill, he asked? If so, that area is all wetland, and state statute prohibits fill. In addition, Western Painted Turtle activity is also very high near that area and are very sensitive to disturbance. Both migration windows Mr. Fitchen is interested in would, unfortunately, interfere with the turtle's migration.

Mr. Fitchen said that it's important that the public have the opportunity to experience the view in order to gain an appreciation of the birds and the habitat. However, Larry cautioned that there is a danger of over or misuse, which would be counter-intuitive to creating the natural habitat that has encouraged the birds to be there. The group discussed different possibilities. Janet suggested perhaps an off-shoot from the trail or bridge by Wapato Jail. If a spur / boardwalk was built off the hard trail, it may be a good compromise, Larry agreed. Troy countered that allowing that would

mean changing fundamental policy that strictly protects Bybee Lake. Patt, too, had concerns that people would be tempted to go beyond the marked boundaries.

The group discussed further. Sara suggested that perhaps Audubon groups could be permitted to that area; this idea was well-received by the Committee. Mr. Fitchen conceded that would be better than nothing, but from a birding perspective, repeat visits are needed. Long-term, he hopes that a birders' license could be established, which would also be a revenue generator.

### **Wapato Facility Land-use Update.**

The Hearings Officer agreed to include the vegetative buffer and its maintenance along with a rule requiring no new lighting. No Good Neighbor agreement is mandated, but there is a formal mechanism to have a dialogue with the Committee.

### **Merit Oil / DEQ update**

Mark Pugh, DEQ, emailed the Committee and said that the DEQ staff report regarding Merit Oil should be posted by end of next week. There has been a change in DEQ's recommended remedy. Rather than encapsulate all contaminated soil under a cap, DEQ's current recommendation is for soil/sediment with hotspot levels to be disposed off-site. This involves approximately 700 tons of soil. DEQ is proceeding with a public comment period in January. The public notice is posted at: <http://deqapp1/WebDocs/forms/webload.aspx?SourceIdType=11&SourceId=673&Screen=Load>.

The meeting adjourned at 7:40 p.m.

Next meeting: January 25 (4th Tuesday)

gbc

Attachments

M:\rpg\parks\projects\SmithBybee\Management\_Committee\meeting notes\_agendas\2010 notes\_agendas\Smith-Bybee 113010 Summary.docx

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**Recommended Amendments to City Codes**

**CHAPTER 33.860**  
**COMPREHENSIVE NATURAL RESOURCE PLANS**

Sections

- 33.860.010 Purpose
- 33.860.020 When a Comprehensive Natural Resource Plan Is Allowed
- 33.860.030 Duration of a Comprehensive Natural Resource Plan
- 33.860.040 Procedure
- 33.860.050 Amendments to a Comprehensive Natural Resource Plan
- 33.860.100 Application Requirements
- 33.860.200 Approval Criteria
- 33.860.250 Overlay Zone Map Refinement

**33.860.010 Purpose**

For sites within one or more of the City's natural resource overlay zones, a Comprehensive Natural Resource Plan is intended to allow for the following:

- A. Comprehensive consideration of future plans for sites where multiple development actions are anticipated over time within one or more natural resource overlay zones. An adopted resource plan may substitute for case by case Environmental Review, Pleasant Valley Resource Review, or River Review. Comprehensive Natural Resource Plans may be completed at various levels of detail. Generally, the more specific the plan, the less review will be required as the future development is built;
- B. Comprehensive consideration of the long-term cumulative impacts of development within a natural resource overlay zone, with attention paid to site-specific goals and objectives. With a Comprehensive Natural Resource Plan impacts to natural resources may be avoided by coordinating the timing of different development actions;
- C. Mitigation and resource enhancement strategies that occur throughout the life of the plan, with greater flexibility for when and how specific mitigation actions occur in relation to specific development impacts;
- D. A more integrated structure for considering overlay zone mapping refinements; and
- E. Greater coordination with local, state and federal agencies.

**Commentary**

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**Recommended Amendments to City Codes**

**3.860.040 Review Procedure**

Tentative proposals may be identified in a Comprehensive Natural Resource Plan. These are development actions that are generally anticipated, but lack sufficient detail to evaluate the details. For example construction management plans may not be available until the specific designs are completed. These tentative proposals can be approved subject to a second Type 1 review to evaluate those details.

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**Recommended Amendments to City Codes**

**33.860.020 When a Comprehensive Natural Resource Plan Is Allowed**

A Comprehensive Natural Resource Plan is allowed as an alternative to Environmental Review, Pleasant Valley Resource Review, or River Review for sites that are fully or partially within one or more of the following natural resource overlay zones:

- A. Environmental Protection;
- B. Environmental Conservation;
- C. Pleasant Valley Natural Resource; or
- D. River Environmental.

### **33.860.030 Duration of a Comprehensive Natural Resources Plan**

The Comprehensive Natural Resource Plan must include proposed development and possible future development that might occur within the next three years and up to 10 years. An approved resource plan remains in effect until development allowed by the plan has been completed or the plan is amended or superseded.

### **33.860.040 Procedure**

A Comprehensive Natural Resource Plan is processed through a Type III procedure. Some proposals in a Comprehensive Natural Resource Plan may be identified as tentatively approved, and subject to an additional Type I procedure at a later date. The additional review will evaluate more detailed proposals and ensure conformance with the plan.

### **33.860.050 Amendments to a Comprehensive Natural Resource Plan**

Amendments to a Comprehensive Natural Resource Plan are required for any development within the boundaries of the River Environmental, Pleasant Valley Natural Resources, environmental conservation, or environmental protection overlay zones that is not in conformance with the approved Comprehensive Natural Resource Plan. Amendments are not required for development listed as exempt from the relevant overlay zone regulations. Amendments are subject to the same approval criteria as the initial resource plan, plus the additional criteria in 33.860.200. The thresholds and procedures for amendments are stated below.

**A. Type III procedure.** Unless the resource plan specifically provides differently, the following amendments to a resource plan are processed through a Type III procedure:

1. Any proposed development within the environmental protection overlay;
2. A proposed reduction in the area of the environmental protection overlay;
3. Proposed development to be added to the site that was not included in the original resource plan;
4. Substantial changes to conditions of approval; and
5. Proposed development that was previously reviewed, but was denied because it was found not to be in conformance with the approval criteria.

## **Commentary**

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### **Recommended Amendments to City Codes 3.860.100.C Application Requirements**

Comprehensive Natural Resource Plans may be completed at various levels of detail. Generally, the more specific the plan, the less review will be required as the future uses and development are built.

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### **Recommended Amendments to City Codes**

**B. Type II procedure.** Unless the resource plan specifically provides differently, amendments to a resource plan not specifically stated in Subsection A. above are processed through a Type II procedure.

### **33.860.100 Application Requirements**

An application for a Comprehensive Natural Resource Plan must include the following components:

**A.** An inventory of identified significant natural resources and functional values present within the site. Identified resources and functional values are those identified and described in the applicable City-adopted Natural Resources Inventory. The applicant may choose to provide a site-specific environmental assessment, prepared by a qualified consultant, to more precisely determine the location, type, extent, and quality of the City designated natural resources on the site. This assessment may verify or challenge the site feature information in the City's inventory. Site features include, for example, physical aspects of the site such as streams, wetlands, seeps and springs, topography, floodplains, vegetation, special habitat areas, or use of the site by plant/animal species of interest;

**B.** A description of proposed natural resource overlay zoning map refinements to be approved with the adoption of the resource plan.

**C.** A list of proposed development within natural resource areas to be approved with the adoption of the resource plan. The list must identify the development that will be allowed without further land use reviews, and the development that will be tentatively approved.

**D.** Other information necessary to understand the natural resource impacts associated with the listed development proposals.

**E.** A list of management objectives and strategies that will be used to maintain or enhance identified resources and functional values.

**F.** A description of the specific natural resource enhancement and mitigation actions proposed with the resource plan. This may include actions to be taken both on and off site, as well as specific physical actions and programmatic actions related to natural resource conservation and protection.

**G.** Site plans and other maps necessary to understand the listed development and mitigation actions anticipated over the life of the resource plan, including maps of areas where mitigation and enhancement will occur and where development and uses will occur.

**H.** Timetables for the development and mitigation actions;

**I.** A summary of anticipated state and federal permits required for the proposed development and mitigation actions; and

**J.** The supplemental application requirements that would be required if the proposal were going through Environmental Review, River Review, or Pleasant Valley Resource Review.

## **Commentary**

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### **Recommended Amendments to City Codes**

#### **33.860.200 Approval Criteria**

The approval criteria for a Comprehensive Natural Resource Plan have been modeled on the approval criteria for a Conditional Use Master Plan. The criteria focus comprehensively on the proposed development actions that will occur over the life of the plan. The criteria address the cumulative impacts of development over time, mitigation and phasing for mitigation actions, and the integration of resource conservation, protection and enhancement into the overall goals for the site.

**33.860.200.D** This criterion describes how to balance the need for detailed plans with the level of detail possible with a comprehensive plan. It allows certain actions to be identified for additional review. Tentative approval is appropriate for development that is generally anticipated but lacks specific development plans at the time of the resource plan submittal.

This is a new chapter. For ease of readability the text is not underlined.

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### **Recommended Amendments to City Codes**

#### **33.860.200 Approval Criteria**

A Comprehensive Natural Resource Plan, or an amendment to a Comprehensive Natural Resource Plan, will be approved if it meets the following approval criteria:

**A.** The plan establishes coordinated phasing of the development actions within the natural resource overlay zones, with the goal of avoiding impacts that might arise if each action were planned separately. The plan includes the timing of anticipated construction access routes, building construction sequencing, and disturbance area boundaries for the site as a whole;

**B.** The plan will integrate natural resource conservation, protection and enhancement with other site planning plan goals and objectives;

**C.** On balance, the proposed mitigation demonstrates that all anticipated significant detrimental impacts on identified resources and functional values will be compensated for within the life of the plan. Each mitigation action is not required to directly correlate with a specific development proposal, but the overall mitigation plan will be evaluated against the overall list of anticipated uses and development actions, including cumulative impacts. The mitigation plan must include performance standards for judging mitigation success, a specific timetable for mitigation actions during the life of the plan, and a specific monitoring schedule;

**D.** The plan must demonstrate that all relevant approval criteria that would apply if the proposal was proceeding through an Environmental Review, Pleasant Valley Natural Resource Review, or River Review, including approval criteria from an adopted Natural Resource Management Plan, are met. Consideration will be given to the level of detail provided with the plan application. Proposals that address most of the relevant approval criteria, but are not detailed enough to address all of the relevant approval criteria may be identified for tentative approval. Conditions of approval may be imposed to list those aspects of the plan subject to tentative approval and to specify which approval criteria need further evaluation through a later review.

Smith and Bybee Wetlands Natural Area Timeline DRAFT

