



**Comprehensive Plan
Citizen Advisory Committee
Meeting #35**

**April 11, 2013
Council Chambers of City Hall 380 A Avenue
4:00 pm – 6:00 pm**

PLEASE NOTE THIS SUMMARY IS NOT A WORD FOR WORD DOCUMENTATION OF ALL INFORMATION PRESENTED AT THE MEETING. TO SEE THE INFORMATION PRESENTED AND DISCUSSED PLEASE REFER TO THE MEETING MATERIALS ON THE CAC MEETING WEB PAGE: <http://welovelakeoswego.com/citizen-committees/cac-meetings/>

Members in attendance: Jim Johnson (Vice Chair), Dorothy Atwood, Tom Brennan, Christopher Clee, Doug Cushing, Tom Fahey, Nancy Gronowski, Liz Hartman, Lynda O’Neill, Teri Oelrich, Shelly Alexander, David White, and Heidi Schrimsher (alternate NRAB representative).

Members not in attendance: Jeff Gudman (Chair), Bill Gaar, Bob Needham

Staff in attendance: Ron Bunch, Andrea Christenson, Sarah Selden, Beth St. Amand and Laura Weigel

PUBLIC COMMENT

Lauren Hughes, 1871 Westview Dr., spoke on behalf of LO Stewards. She stated that the background report for Healthy Ecosystems contained errors and was misleading. She recalled the history of Goal 5 compliance starting with identification of Distinctive Natural Areas in the late 1970s. She held that Sensitive Lands regulations had gone too far and overregulated some properties while giving others more use and development rights. She disagreed that the current approach was required and that it protected the most significant resources. She asked for the opportunity to provide additional information and have a dialogue with the CAC.

Paden Pritchard, Evergreen Neighborhood, inquired about the CAC position in regard to a motion the City Council was considering (see the related discussion under Agenda Review below).

Carolyn Jones, 2818 Poplar Way, asked for a clear outline of the CAC’s course of action for the Comprehensive Plan background report on Healthy Ecosystems. Mr. Johnson explained the CAC had not discussed it yet.

Dianne Cassidy advocated separating non-land use policies from land use policies in the Comprehensive Plan. She saw a risk that when government became involved in some areas all citizens would end up subsidizing the pastimes and interests of a few. City government should focus on core services that benefitted all.

CAC COMMENTS

None.

REGULAR BUSINESS

- **Agenda Review & Announcements**

The CAC reviewed the March 21 meeting summary. They welcomed Shelly Alexander, the new young adult representative on the CAC.

The Committee discussed a motion Councilor Kehoe had made at the April 2 City Council meeting regarding the updated Comprehensive Plan. The Council planned to continue to discuss the motion at its April 16 meeting. Mr. Johnson read the motion aloud. It directed staff to remove items unrelated to land use; prepare a report on how those items could be addressed separately; remove policies to increase residential densities

and add mixed uses in neighborhood residential zones; remove policies that might obligate the City that had budgetary impacts in the future; and provide a tracking system so the proposed changes to the existing Plan could be clearly understood. CAC members Johnson, Gaar, Cushing and Brennan attended the meeting. They had indicated to the Council that there had been a high level of citizen involvement; there had been healthy discussions about having non-land use-related policies in the Plan; the work they had done to define density requirements actually created better protection for neighborhoods than the existing Plan did; and a comprehensive plan was the community's vision.

Mr. Brennan related he had been shocked at the process that had been used. He related the 50+ Board did not support the motion. Mr. Clee expressed his disappointment. Mr. White related that the Library Advisory Board had approved a resolution to oppose removal of non-land use subjects. Ms. Gronowski pointed out the summary on the City website illustrated how much work had gone into the process at this point. Ms. Atwood reported that SAB was very concerned and planned to respond. Ms. Schrimsher from NRAB was concerned about what would happen to Parks 2025 and the Parks Master Plan if the Comprehensive Plan changed. Mr. Johnson related that some Planning Commissioners wondered if the Commission for Citizen Involvement should discuss it. He advised that deciding what was related to land use or not was a discretionary decision that should be made in an open citizen process, not by staff. He advised that state statutes defined a land use decision, which was basically permitting (applying criteria) and had nothing to do with broader policy. He held the Comprehensive Plan was not like a capital improvement plan. It was aspirations, vision, and direction and did not obligate the City to any budgetary action. Mr. Bunch related that his recommendation to the City Council was not to pursue any work on Sensitive Lands-related policies until the Council heard from Metro and had a clearer idea where this was going. Mr. Johnson asked staff to keep the April 24 joint meeting with other boards and commissions on the schedule for the time being because Healthy Ecosystems was about more than just Sensitive Lands.

The CAC then discussed the following topics (see the April 11, 2013 Staff Memorandum)

- **Police and Fire Draft Goals and Policies (Attachment 3)**

The staff memo listed the few changes that had been made by the Planning Commission after the last CAC review. Ms. Selden confirmed "fire flow" was the correct technical term. Staff recalled that Policy 2.c. which called for police and fire to pay particular attention to building security, had been struck because those agencies did not currently do that and did not foresee doing that in the future. Staff reported that Fire wanted the specific time limit in Policy 7, which called for the Fire Department to strive to reach the location of fire alarms within the city within eight minutes or less. Mr. Johnson observed a policy regarding mutual aid agreements had been struck. That was a good example of non-land use-related policies being taken out of the Plan. The CAC voted unanimously to recommend this set of goals and policies to the Planning Commission.

- **Energy and Environment Goals and Policies**

Ms. St. Amand distributed the most recent (April 8) version of Solid Waste Goals and Policies. She highlighted changes that had been made per the last review and discussed SAB recommendations. The group focused on the following items.

Draft Solid Waste Management and Resource Recovery Goals and Policies
Environment: Solid Waste Management (Attachment 4.c)

Goal: Reduce the community's overall consumption, amount and toxicity of solid waste.

Policies

- 10. Reduce the amount of solid waste associated with City government operations by:**
 - a. Utilizing recycled, resource efficient, low carbon, least toxic and durable materials in both daily operations and capital projects;**
 - b. Maintaining in-house waste prevention, recycling and composting programs.**

The CAC discussed an SAB memo that suggested there was an issue of zero waste, and proposed a definition and options of adding ‘and move toward zero waste’ to the goal; or addressing zero waste in Policy 1; or making no changes. Ms. St. Amand observed the CAC consensus was to not add the term ‘zero waste’ to the goal. The comments included that it was more of a policy than a goal; it would make the goal redundant; the suggested definition talked about zero waste ‘whenever possible’ so there would be no analysis; the suggested definition would make people think it was just about getting rid of trash cans, when it was also about the entire system starting with reducing consumption. Ms. Atwood agreed that Policy 10.b got to the system-wide concept she was talking about:

- 1. Implement a city-wide solid waste and materials management program that:
b. Ensures recovered reusable and recyclable materials are put to the highest and best use*...**

The SAB had asked what ‘highest and best use’ meant and noted that markets might shift over time. Staff had added the asterisk and defined ‘highest and best use’ as follows:

Definitions:

Highest and best use: Prioritizing end use recyclable materials to maximize resource conservation and minimize environmental and economic impacts through diversion for use in commodity markets rather than being placed on the land.

The CAC agreed to make the definition more understandable by just ending the sentence with, ‘economic impacts for reuse.’

The SAB memo suggested adding a policy to promote construction practices that used sustainable building practices, such as materials with recycled content. Staff advised there were green building policies in the Energy section that addressed that. After the CAC discussed using ‘promote’ or ‘encourage’ and heard comments that incentives were necessary to encourage solid waste recycling; incentives could be addressed during action planning; and ‘promote’ could mean education and awareness efforts, they decided not to add such a policy. Ms. St. Amand pointed out the CAC had previously concurred with an SAB suggestion by including Policy 11.

- 11. Use education, incentives and other efforts to increase the use of a) deconstruction during demolition to recover reusable building materials; and, b) recycling to reduce the amount of solid construction waste being diverted to landfills.**

Mr. Brennan asked if sub-policy d should call for the City to ‘meet’ the mandates if the City had a legal obligation to comply with them. Mr. Bunch clarified it was the franchisees who had to meet the requirements to provide the services and facilities to meet the state’s solid waste requirements. Staff agreed to check to see if it was the City’s responsibility to have that in its agreements with haulers and if the existing agreements addressed it. If it was redundant they would remove this sub-policy.

- 1. Implement a city-wide solid waste and materials management program that:
d. Is consistent with regional plans, policies and state law;**

The CAC voted unanimously to recommend this section.

Energy and Environment – Air Quality (Attachment 4)

Goal: Reduce air pollution to protect and improve air quality and reduce greenhouse gas emissions in Lake Oswego and the Portland Metropolitan Area.

The CAC agreed to keep the goal language even though greenhouse gas emissions was dealt with in the Energy section as well. They mentioned that it was common sense to address air quality here; Energy was the approach and air quality was the result; and this was consistent with the federal direction to consider carbon dioxide an air pollutant.

7. ~~**Decrease reliance on fossil fuels and air pollution by encouraging transportation options and opportunities to provide a local energy supply for transportation that is renewable, less carbon intensive and least toxic. (Similar to Connected Community Policy 7.3)**~~
4. **Implement transportation strategies to reduce air pollutants emitted from vehicle travel: (with sub-policies a, b, and c)**

Ms. St. Amand noted the SAB suggested adding a policy to address low carbon fuels and alternative, less polluting, fuels. Policy 7 could be tweaked to refer to it. There was a similar Connected Community policy. The CAC mentioned this was confusing language and Policy 4 could be tweaked to call out low carbon fuels. They decided to do that and delete Policy 7.

5. **Reduce locally generated vehicle trips by supporting mixed-use development* in Employment Centers, Town Centers and Neighborhood Villages to efficiently meet daily needs and encourage local job creation.**

The CAC wanted to distinguish between vehicles that did and did not emit carbon. They anticipated in the next 20 years there would be a greater number of electric, or non-carbon-emitting, vehicles. They agreed to Ms. Atwood's suggestion to call out locally generated vehicle trips that cause pollution.

The CAC voted unanimously to recommend this section. They postponed their reviews of the next two sections in order to hear Ms. Christenson's report related to Healthy Ecosystems.

- **Water Supply, Treatment & Delivery Goals and Policies (postponed)**
- **Wastewater Goals & Policies (postponed)**
- **Review Healthy Ecosystems Background Report**

Ms. Christenson advised this topic included more than just the Sensitive Lands program. Because of community concern about Sensitive Lands she provided an overview of the program. It helped the City meet Statewide Planning Goal 5 (to identify and protect significant natural resources) and Metro Titles 3 and 13 (which protected water quality resources and the related wildlife habitat). Sensitive Lands regulations had been established in 1997 after an inventory and analysis of resources. She described the ESEE (Economic, Social, Environmental, and Energy consequences) analysis process that was used to evaluate conflicting uses and the Habitat Assessment Score (HAS) that was used to determine a resource was significant enough to qualify for protection. She explained Title 3 and Title 13 protections included protecting the water resource and the corridor it was in by limiting the amount of development in the resource and its buffer; applying additional construction setbacks; and in the case of Title 13, mapping habitat conservation areas and taking an avoid/minimize/mitigate approach.

Ms. Christenson advised the City had options for compliance which included adopting the Metro Model Ordinance and map. Instead, the City chose to demonstrate that its own Sensitive Lands regulations and maps substantially complied with Metro's Title 13 requirements. The process of determining what was significant included an ESEE analysis of costs versus benefits of limiting development and a HAS threshold score of 35.

Sensitive Lands were categorized as two types: RP District (streams and wetlands) and RC District (tree groves). The Sensitive Lands code applied to those two districts. They were mapped on the Sensitive Lands Atlas, which was technically part of the Comprehensive Plan Map and the Zoning Map. RP Districts protected a 25' to 30' area around a stream or wetland from development and in addition there was a 10' construction setback. Native plants could not be removed and any new landscaping had to be with native plants. RC Districts protected 50% of a mapped tree grove from development and applied a 5' construction setback. There were approximately 950 acres of RP and RC Districts. 54% was on public property and 46% on private property. 203 acres were located on 1,054 single-family residential lots.

Concern about the impact on single-family residential properties and about how the mapping was done had caused the City to put a proposed map update on hold and create the Second Look Task Force to review the program. The Council then adopted Resolution 1051A. It directed staff to make changes and study additional ways to improve the program. Some of the changes had been made, including a recent change to remove some RC districts on certain tree groves that were not connected to a stream or wetland (referred to as isolated tree groves). The Council was about to propose a more fundamental change that would remove the district from private properties and apply it to more public property; restore resources on public property; create a voluntary incentive based program; create educational programs; and create an acquisition program to buy land from willing sellers in fee or as conservation easements. The Mayor and Council President Kehoe were to present this framework to some Metro Council members on April 24 to get feedback about feasibility. If the City moved forward with it would mean the City would need to revise the related Sensitive Lands code, Comprehensive Plan goals and policies; and Comprehensive Plan and Zoning maps.

Staff was asked if there was precedent for this. Mr. Bunch advised that there was no precedent for going to Metro and the DLCD to request such a change, but there were a variety of programs used in the region that relied on different levels of protection. Washington County's program, for example, was a conservation district approach focused on restoration and rehabilitation. Mr. Johnson advised the new program would have to relate well to statewide planning goals. If not, Metro and the state could appeal to LCDC or the Oregon Court of Appeals. He advised the real question was whether an identified resource was really significant enough to be protected - not whether it was privately or publicly owned. Ms. Christenson was asked if the City would have to find 203 more acres of resources on public property. She clarified that there were not that many acres of resources on public lands that would qualify for the existing program. Mr. Johnson suggested the City might need to look at whether it was protecting land it did not have to protect under the current program.

PUBLIC COMMENT

Lisa Adatto, SAB Co-chair, encouraged the CAC to carry on; supported the process; and emphasized the level of public involvement. She was concerned about the impact of the motion before Council on the Comprehensive Plan process. She indicated the concept of air pollution meant a great deal to her.

Mary Olson asked for a show of hands of those on the CAC who rode transit to work. She noted not one used transit. Ms. Atwood related that she walked. Ms. Olson agreed with Mr. Johnson that the Sensitive Lands question was not whether a property was public or privately owned, but whether it was a resource or not. She explained there were no precedents because Metro did not require regulation of tree groves and no one else regulated tree groves on already-developed single-family residential back yards. She indicated that the staff presentation should have included information about all of the natural areas the City had purchased, such as the Cornell Natural Area and the South Shore overlook, and that some significant resources had been removed from the original map when Sensitive Lands was adopted.

Lauren Hughes said LO Stewards would welcome the opportunity to provide more information to CAC. The CAC should know, for example, that the inventory done in connection with the 1997 Sensitive Lands program

was not the first time the City had conducted a Goal 5 inventory. It had done an extensive inventory in the 1970s when citizens and staff had walked the community in a grid pattern to identify what was significant. The community had reached agreement about what was a significant resource and mapped them as Distinctive Natural Areas. The City's response to Title 3 water quality and flood protection in 1997 was to decide that some areas would get less protection and there would be a mitigation program. LO Stewards wanted the opportunity to provide more information to the CAC to correct the record. They agreed with the original Comprehensive Plan call to protect the significant tree groves in places like Cooks Butte and other natural areas, but they did not view three trees within a back yard as regionally significant enough to be regulated. Title 3 was very specific about what significant water was, but the Sensitive Lands program went as far as categorizing a ditch as a stream. It regulated some areas so that other areas could have more development. Most of the land the map update would regulate were already developed back yards. Most of them had been developed after the land had been looked at in a Goal 5 analysis.

Councilor Jon Gustafson thanked CAC members for their service. He encouraged them not to cancel the April 24 meeting and not to wait for Council to take a position before they sought public involvement about Healthy Ecosystems because there were people waiting to be able to air their views.

Carolyn Jones held the Sensitive Lands program was not good for the environment. She related that one of the recommendations of the Second Look Task Force was to take a watershed approach. She indicated there was a double standard in the community because larger bodies of water, including the lake and the river, had less regulation than stream corridors, which were often actually ditches. That had created a lot of contention. She cited Policy 10 on page 40 of the packet which would "prohibit the construction of structures which include access to public sewer lines and easements." She indicated she hoped that did not mean taking one person's property so their neighbors could build. Mr. Johnson observed that was in the existing plan and the CAC would take a look at it.

Dianne Cassidy, observed that citizens of Lake Oswego made the city as nice as it was by doing things themselves, such as taking care of their yards and supporting the Library. She indicated she felt there were elements of the plan that had no businesses being in it. If the City put some of the policies into practice it would be broke. She cited the examples of the policies to implement strategies to reduce local greenhouse gas emissions from vehicle travel and to encourage the community to reduce greenhouse gas emissions from consumption of materials. That directly involved the government in people's lives and it was not the government's business and a waste of time to try to get her to not consume. She observed a lot of Plan items had no basis in fact or science. She cited the example of ditches being proclaimed as wetlands. She related that she had consulted a state lands staff person. He advised the state provided guidelines for the City to follow and local government did not have to follow any scientific rules. For example, if he looked at a ditch, he could change the boundaries, but not the designation, because no matter how dry it looked that was up to the local jurisdiction.

CAC COMMENTS

Ms. Atwood encouraged staff to keep the April 24 meeting on the schedule and not wait for Council direction. She held that information needed to be a two-way street between the Council and boards and commissions. Mr. Johnson planned to discuss this with Councilor Gudman. He believed the Committee could do work that was not related to Sensitive Lands.

ADJOURNMENT

Vice Chair Johnson adjourned the meeting at approximately 6:12 p.m.