

Issue #9: The Precautionary Principle

Central Staff Analyst: Bob Morgan

SUMMARY:

Proposal: In January, a group called the Seattle Precautionary Principle Working Group proposed a Comprehensive Plan amendment to incorporate the “precautionary principle” into the Comprehensive Plan.

The statement proposed by the Working Group is a good short statement of the principle:

“Where threats of serious or irreversible harm to people or nature exist, anticipatory action will be taken to prevent damages to human and environmental health, even when full scientific certainty about cause and effect is not available, with the intent of safeguarding the quality of life of current and future generations.”

Mayor’s Recommendation: The Director’s report states:

“The Mayor’s recommended amendments include new acknowledgement of the relationships between human health and some of the Plan’s policies. New language also more explicitly calls for considering human health in City decisions. This adds a new dimension to the Plan’s policy structure that may have been implied in the past, but now is more directly stated. Also, the Environment Element’s new policy to develop quantifiable goals and a monitoring system specifically for developing indicators related to human health (*is consistent*).”

“The amendments do not use the words “precautionary principle” because in and of itself that term does not have a specific meaning that all readers will understand, and it could therefore be interpreted in a number of different ways.”

Staff Recommendation: There are potential unanticipated legal problems associated with adopting the language recommended by the Working Group, and Staff generally concurs with the approach recommended by the Executive. At the same time, in recognition of this important principal of environmental protection, staff recommends including non-binding language in the introductory discussion to the Environment Element that makes explicit reference to the precautionary principle. (See text below)

Proposal:

In January, a group called the Seattle Precautionary Principle Working Group proposed a Comprehensive Plan amendment to incorporate the “precautionary principle” into the Comprehensive Plan.

The statement proposed by the Working Group is a good short statement of the principle:

“Where threats of serious or irreversible harm to people or nature exist, anticipatory action will be taken to prevent damages to human and environmental health, even when full scientific certainty about cause and effect is not available, with the intent of safeguarding the quality of life of current and future generations.”

The precautionary principle has been developing since originating in Germany the 1970s and has been endorsed by the United Nations, and is included in international agreements including

the Cartagena Protocol on Biosafety of 2003, and the Stockholm Convention on Persistent Organic Pollutants of 2001. More locally it is included in the Washington Administrative Code in relation to development of critical habitat areas, the State Department of Ecology's guiding principles for the Persistent Bioaccumulative Toxins program, and is consistent with a number of City policy statements and programs. These include the City's endorsement of the Earth Charter, the City's Purchasing Policies, and the City's Pesticide Reduction Program.

Mayor's Recommended Comprehensive Plan Amendments;

The Director's report on the Mayor's proposed amendments states the following in response to the proposal:

"The recommended amendments include new acknowledgement of the relationships between human health and some of the Plan's policies. New language also more explicitly calls for considering human health in City decisions. This adds a new dimension to the Plan's policy structure that may have been implied in the past, but now is more directly stated. Also, the Environment Element's new policy to develop quantifiable goals and a monitoring system specifically for developing indicators related to human health."

"The amendments do not use the words "precautionary principle" because in and of itself that term does not have a specific meaning that all readers will understand, and it could therefore be interpreted in a number of different ways."

"The proposal also does not add all the aspects of the precautionary principle, which as the proposal described it, called for the City to:

- Investigate the possible environmental and human health implications of decisions,
- Assess current and potential alternatives using best available science
- Include the public as equal partners in decisions affecting health and the environment
- Make decisions using a health-based, whole-ecosystem approach
- Take preventive actions where threats of harm to people or nature exist, even if full certainty about cause and effect is not available."

"Some of these provisions would add nothing to current City practices. For instance, under the State Environmental Policies Act, the City is required to investigate and publish the likely impacts of City decisions on the natural and human environment. Various statutes (including the state Growth Management Act) and local ordinances require that the City provide the public opportunities for involvement in decision-making processes. The GMA also specifically requires the use of best available science in making decisions about regulations in environmentally critical areas."

"The idea that the City would need to take preventive action against threats to health or the natural environmental even where there is no certainty about the cause could lead to the City taking actions that are not justifiable and that are against its own interests."

Steve Gilbert Comments:

Steve Gilbert of the Working Group, while not objecting to the Mayor's proposal, has expressed continued interest in:

1. Renaming the Environment Element the Environment and Human Health Element;
2. Including among the sustainability measures, reducing obesity, diabetes and asthma; and
3. Including some mention of the precautionary principle in the introduction to the Environment Element.

Options:

1. Adopt Mayor's recommendation as proposed.
2. Change the name of the Environment Element to the Environment and Human Health Element.
3. Include non-binding language in the introductory discussion to the Environment Element that makes explicit reference to the precautionary principle, as shown in below.
4. Add reducing obesity, diabetes and asthma among the sustainability measures mentioned in proposed Policy E18, calling for sustainability measures.

Proposed Amendment for Option 3: Amend the introductory discussion in the Environment Element to add the underscored text as follows:

Discussion:

Environmental stewardship is a core value of this Plan, and it plays an integral role in guiding how the City accommodates growth and provides services. There are many ways the City can protect and improve the environment while acting in its roles as a large employer, builder, landowner and regulator. For example, the City can lead by its own behavior in delivering services, operating its facilities and managing its land in an environmentally sustainable manner.

When environmental goals compete with other City goals, such as those related to economic development, the City is committed to giving just consideration to the environmental goals to protect the functions that natural systems can perform and to prevent harmful effects on human health. The City will continue to engage the community in a dialogue about ways in which the City can give consideration to the "precautionary principle," which generally provides:

Where threats of serious or irreversible harm to people or nature exist, anticipatory action will be taken to prevent damages to human and environmental health, even when full scientific certainty about cause and effect is not available, with the intent of safeguarding the quality of life of current and future generations.

This element of the Plan contains broad environmental goals and policies. Some of the Plan's other elements include goals and policies addressing how environmental values

specifically relate to the topics covered in those elements. For instance, the Land Use Element includes policies governing development near environmentally critical areas such as wetlands and stream corridors, and the Transportation Element addresses possible environmental impacts and improvements associated with transportation choices.

Staff Recommendation: Option 3.

Staff generally concurs with the Executive's analysis and recommendation. As was discussed at the brown bag panel on the principle in April, aspects of the proposal of the Precautionary Principal Working Group could be problematic under provisions of state law that give growth management plans the force of law.

At the same time, environmental precaution is an important concept to which Councilmembers may want to give clearer recognition without creating unintended legal requirements.

Staff does not recommend changing the name of the Environment Element to Environment and Human Health element, since human health is a component of the environment.

Also, staff does not recommend adding specific sustainability measures to policy L18. This policy set the general intent to develop sustainability measures with respect to broad concepts such as human health, and leaves it to further processes for the City to identify and establish specific measures.

UDP Committee Decision: