

## MINUTES OF THE METRO COUNCIL MEETING

August 5, 1999

Council Chamber

Councilors Present: Rod Monroe (Presiding Officer), Susan McLain, Ed Washington, Rod Park, Bill Atherton, David Bragdon, Jon Kvistad

Councilors Absent:

Presiding Officer Monroe convened the Regular Council Meeting at 2:02 p.m.

### 1. INTRODUCTIONS

**Councilor Bragdon** introduced his uncle, Mr. Baird T. Horton, who was visiting from Rochester, Minnesota, and Satellite Beach, Florida.

### 2. PORTLAND ART MUSEUM EXHIBITION PRESENTATION

**John Buchanan**, Director of the Portland Art Museum, thanked Councilor Washington for extending to him the opportunity to make this presentation. He said the project he would be showing them ranked as the most fascinating he had work on in his 30 years in the art business. This project involved organizing with the State Hermitage Museum in St. Petersburg, Russia, an exhibit brought from Russia, to open in February of 2000. It would go from there to Dallas, Paris, and then on the St. Petersburg.

Mr. Buchanan recapped the improvements that had been done to the museum in the past five years, spurred by the anticipated exhibit at the museum of the Great Tombs of China. He noted that detailed records had been kept of the economic activity generated by visitors to the museum for that exhibit. In all, \$92 million dollars in economic activity were contributed as a result of that one exhibition. This sparked an inventory of the museum's contributions and resources, to form a \$20 million capital project. Further, the museum has initiated an attempt to raise \$1 of endowment for every \$1 of capital raised. He said \$39 million, all from private sources, had been raised toward that project. Mr. Buchanan summarized the expansion (a brochure of which has been attached to the meeting record), which would add 60,000 square feet of space to the museum, two new special exhibition halls, 47,000 square feet of space for the Native American collections; for a center to exhibit northwest art; and a new education center and 400-seat state-of-the-art auditorium, new visitor service, a shop, and cafe, capped by an outdoor, and a 15,000-square-foot sculpture mall open and free to the public.

He said opening on November 17 would be the Sara Lee Corporation's extensive collection of late 19th and early 20th century paintings. He said this collection was slated to be dispersed soon after the showing.

Mr. Buchanan summarized the Russian exhibit, which he said would be a first in many areas. He said he had been traveling between the United States and Russia for the past three years with the last surviving member of the Stroganoff family of Russia. The Stroganoffs had been great patrons of the arts for four centuries. During the revolution of 1917, the entire Stroganoff collection had been confiscated and nationalized. This was the largest and finest art collection outside of those of the Czars. This will be the first time since 1917 that all the pieces will be

shown together as they were when they were owned by the Stroganoffs. The museum has been working with nearly every cultural organization in Portland--the ballet, the symphony, the opera, the History Center, and many more--to present a "Winter Fest."

Mr. Buchanan said this would cost about \$3 million, \$1 million of which has been raised already.

**Councilor Washington** thanked Mr. Buchanan for the presentation. He assured the Council that Mr. Buchanan was not there to ask for money, but to share with the Council the exciting happenings at the art museum and to emphasize how happenings there positively affect facilities Metro owns and manages. He praised Mr. Buchanan and his wife, Lucy, for their accomplishments on behalf of the museum.

**Councilor Kvistad** said the arts were important to him and appreciated what Mr. Buchanan had done with the museum.

**Councilor McLain** praised not only Mr. Buchanan's content, but also his presentation.

**Mr. Buchanan** said considerable education materials would be made available, including audio tapes.

**Councilor McLain** said the elementary students who had

**Presiding Officer Monroe** said was personally excited about this exhibit, as he had done graduate work in Russian history and planned to make a trip to Russia some day.

**Mr. Buchanan** said he would be extending an open invitation to anyone in Portland to attend the opening of the exhibit at the Hermitage in Russia in the spring of 2001.

### 3. CITIZEN COMMUNICATION

None.

### 4. EXECUTIVE OFFICER COMMUNICATIONS

None.

### 5. AUDITOR COMMUNICATIONS

**Alexis Dow, Metro Auditor**, introduced Joseph Gibbons, the auditor from her staff who was responsible for the Human Resources Benchmarks and Opportunities report issued last month, and presented the results of that report.

She explained "benchmarking" as diagnostic tool wherein an organization's operations are compared with those of other organizations of similar size. Differences can help pinpoint areas in which operations might be improved. The Hackett Group, which is expert in benchmarking, was hired as a consultant.

The results indicate that Metro's human resource (HR) function has been lean and efficient. The total HR cost per employee was only about one-third of average, with overhead and hiring costs lower than average and top-ranked organizations. Under areas for improvement, she said Metro's HR Department has had a high turnover for several years. She also said the number of job

grades/titles was much higher than that other organizations. The Executive Officer has said that area would be looked at.

Ms. Dow also said the HR staff could be used more efficiently by using them to do agency-wide staff training, employee motivation, and management skills development. To do this, however, the HR department would need more money.

The report concluded by recommending that Metro 1) work with the unions to better manage the number of job titles/grade; 2) to create an interim team for self-evaluation of performance efficiencies; 3) mechanize or put on the Web as appropriate work currently being done by personnel; and 4) use the HR Department as a strategic partner in recruiting and developing the management team. (See handout, attached to the permanent record of this meeting.)

**Presiding Officer Monroe** referred to the figure that Metro's cost was about one-third that of other organizations per HR employee. He asked if the test group used for comparison was public or private.

**Ms. Dow** said it was both, but primarily private.

**Presiding Officer Monroe** asked how Metro compared with other public agencies.

**Ms. Dow** did not have that data. She said the benchmarking data was not able to break that out data for other public agencies.

**Councilor Park** referred to the number of job titles and grades. He asked if Metro's numbers were compared with organizations that had the same scope of responsibilities.

**Ms. Dow** said yes.

**Councilor Park** noted that Metro has several different organizations within the umbrella organization--the Zoo, the regional parks, and REM, for example. Each would have separate job classifications and titles. He wondered if the other organizations covered so many different types of operations.

**Ms. Dow** said companies in the private sector, which made up the bulk of the organizations to which Metro was compared, own a variety of operations. PepsiCo, for example, owns bottling operations, Kentucky Fried Chicken, and a bunch of other companies. She thought Metro showed a large number of grades given its relatively small size.

**Councilor Washington** asked why people were leaving HR.

**Ms. Dow** said did not know, but finding that out would be one of the tasks of the interim management team.

**Councilor Washington** asked whether it would have been appropriate to find out the reasons for the high turnover.

**Ms. Dow** said that would have been outside the scope of the audit but should be investigated. She said the high productivity of the department raised the possibility of overwork. Also, the department has provided mostly administrative services rather than advanced HR skills. This

raises the question of whether people have become frustrated at not being able to use their training.

**Councilor Washington** commented that all too often, the first response in Metro has been to put together a team to study problems when the problem might be addressed more simply and directly. He said he had talked briefly with Ms. Gregory about the department, and it was apparent that if it was to provide more services, it would cost more. He asked how much more and where the funding would come from.

**Ms. Dow** said it must be kept in mind that this was a benchmarking study, designed to pinpoint problem areas rather than solve them. She noted that although having the HR department provide more in-depth services to the agency as a whole might cost money, management inefficiencies and undeveloped talent also cost money.

**Councilor Washington** asked how an audit determines whether a management team is operating at peak efficiency.

**Ms. Dow** said different managers have different strengths and weaknesses. To offer a basic, core training program would ensure that everyone has the opportunity to develop important strengths.

**Councilor Washington** asked what the next step would be.

**Ms. Dow** said Executive Officers had responded to each of the recommendations, indicating the action that would be taken. Those responses can be found at the end of the report. She said the Council would receive a yearly progress report.

**Councilor McLain** thanked Ms. Dow for the report. She asked about the Benchmarking indicators themselves. She said she was familiar with and supported the general concept benchmarking. However, she noted that if the assumptions that underlie the process are ambiguous or poorly defined, occasionally a red flag appear to be raised that are not truly a red flags. She wondered if the assumptions used in this case had included seasonal events and part time or seasonal workers.

**Ms. Dow** said those items had been considered in a number of benchmarks. The ones that raised the red flag did not have those extenuating circumstances.

**Councilor Atherton** asked Ms. Dow about item 45, percent of workdays lost to absence. He noted that Metro employees were about 2% lower than average. He asked whether that could be due to the large number of part-time workers.

**Mr. Joe Gibbons**, Senior Auditor, responded. He said the reason was an agency-wide feeling of dedication and concern about the work. Metro has had a relatively good work ethic, so sick leave tends not to be abused.

## **6. MPAC COMMUNICATION**

**Councilor McLain** said there had been no MPAC meeting that week; it would be August 11th. She thanked Lou Ogden for coming today to participate in Metro Matters. The Metro Matters show included her, Councilor Bragdon, MCCI President Kay Durtchi, and Mayor Ogden. They discussed how people can become involved in the Urban Growth Boundary decisions that will be

made in September and October. Public hearings will begin on September 23, 1999, in Hillsboro at 5 PM.

## 7. CONSENT AGENDA

7.1 Consideration meeting minutes of the July 29, 1999 Regular Council Meeting was postponed until the August 12, 1999 Regular Council Meeting.

## 8. RESOLUTIONS

8.1 **Resolution No. 99-2808A**, For the Purpose of Amending the Metropolitan Transportation Improvement Program (MTIP) to Program the Job Access and Reverse Commute Grant Program between Canby and Wilsonville.

**Motion:** **Councilor Kvistad** moved to adopt Resolution No. 99-2808A.

**Seconded:** **Councilor Bragdon** seconded the motion.

**Councilor Kvistad** explained that this program had been funded through the state legislature and approved by the Joint Policy Advisory Committee on Transportation (JPACT). The program would aim to provide access to jobs by connecting people who are driving to or from work with those who need a ride. This would be a "pre-jitney" experiment. Councilor Kvistad noted some issues with safety had been raised concerning who might be riding or driving with whom. Both JPACT and the Transportation Planning Committee had put in the resolution their concerns with safety and said they would monitor that closely.

**Councilor Bragdon** spoke in support of the resolution and highlighted the two amendments--one concerning an audit of cost-effectiveness and the other addressing safety concerns--that allowed him to support the resolution. He said he approved of experimenting with innovative solutions to transportation problems in the suburban areas where conventional transit has not worked. He had been concerned about what appeared to be excessively high administrative and overhead costs, which prompted an amendment requiring an audit for efficiency of cost/per rider. He had also been concerned about safety, which prompted an amendment that requires some sort of screening or security process to be put in place.

**Councilor Washington** asked Mr. Cotugno to explain to the public what is meant by the term "jitney."

**Andrew Cotugno**, Transportation Planning Director, said jitney has been used generically to refer to a range of alternatives to large, conventional buses with paid drivers. Some examples in other countries include taxis that have the authority to pick up multiple passengers along the way or a privately operated mini-van that has a regular route on a busy street, but can divert from that street to drop someone off. These are sometimes operated by individuals, some by hotels, and some by companies.

**Councilor Washington** asked about the origin of the word jitney.

**Councilor Bragdon** speculated it was a corruption of the term "jeepneys," from the Philippines.

**Councilor Atherton** asked about the status of regulation of jitneys for safety.

**Councilor Bragdon** said inter-city van transportation in Oregon is unregulated in terms of who is served or what is charged. It is subject to ordinary regulations that cover the operation of motor vehicles. Intra-city commercial transportation is regulated by the Public Utilities Commission and by the cities themselves.

**Councilor Kvistad** said this would be an innovative program, it had not been tried before. He thought the safety issue should be monitored, but he urged an aye vote.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

8.2 **Resolution No. 99-2809**, For the Purpose of Amending the Metropolitan Transportation Improvement Program (MTIP) to Program Section 5309 Funds for Rehabilitation and Expansion of the Powell Bus Garage.

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2809.

**Seconded:** **Councilor Kvistad** seconded the motion.

**Councilor Bragdon** said this resolution would create eligibility for reimbursement of federal funds expended on a bus garage project over the next three years. Tri-Met was in the process of seeking federal funds. This resolution would allow Tri-Met to incur expenses now with the potential of being reimbursed under the MTIP when and if the federal money comes through. The application came from Tri-Met and has been approved by the Transportation Policy Alternatives Committee and JPACT. Earlier this year the Council identified this as a priority for the region to the Oregon delegation in Washington DC.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

8.3 **Resolution No. 99-2810**, For the Purpose of Authorizing Release of the 1999 Update to the Regional Transportation Plan for Jurisdictional and Public Comment.

**Motion:** **Councilor Kvistad** moved to adopt Resolution No. 99-2810.

**Seconded:** **Councilor Washington** seconded the motion.

**Councilor Kvistad** quoted the federal regulation that requires Metro to update its regional transportation plan every three years. He said approval of this resolution would direct the Metro transportation staff to complete the final draft of the regional transportation plan (RTP) for review and public comment; it would not approve the plan. Following that review and comment period, there would be public hearings, further review by the Transportation Planning Committee and by Tri-Met. The RTP ties transportation policies with the Regional Framework Plan and with cities, neighborhoods, and determine priorities. Approval of this resolution would initiate the public comment period.

**Councilor Atherton** said the issue of finance had been raised in the Transportation Planning Committee--how the projects would be funded. He said no convenient place for that discussion had been made in this resolution. He said he had suggested in committee that the issue of financing be highlighted by putting it as a topic in Chapter 1, the policy chapter. Councilor Atherton said Mr. Cotugno suggested the finance part should be in the implementation section. Councilor Atherton said in his view, the issue should be highlighted and the word "finance" should appear in the table of contents. After thinking about this issue in the past two weeks, he

said he would like to know why this needed immediate action in light of all of the sections that have not been completed.

**Mr. Cotugno** said the purpose of this resolution was to get closure on the major project, the system maps, and the policy framework--the main components of the RTP. The staff had gathered information from jurisdictions and workshops and had come up with a set of projects that would meet Metro's 2040 goals and concepts. The purpose of this resolution is to put an end to the process and produce a document for comment. He said in his view the finance question remained the major question to be debated before the RTP was adopted. There are fundamental questions on whether this RTP could be funded or whether Metro should set its sights lower. Further, the question not only of whether Metro could achieve these goals but how remains crucial. Should the bills be paid by taxes or fees or users or tolls or by some mix? Mr. Cotugno said Councilor Atherton's question was the big one, but he thought the question of what should be the goal needed to be discussed first.

**Councilor Atherton** asked about the sections labeled as "not complete."

**Mr. Cotugno** said the sections that say "not complete" contain preliminary newsletter intended to provide the content of potential projects. They have not been converted to a form that would be included in a final RTP. The question would be whether this list of projects were the right ones. This would stop the process so the document could be written, knowing full well that every word would be scrutinized changes would be made.

**Councilor Atherton** asked how the amendment process would proceed.

**Mr. Cotugno** said in the past in the past, comments have been made in any form people chose to present them. Some comments have concerned individual words and some have addressed major issues. The comments have been compiled into two packages--consent and discussion. Those in the consent pile have been those that do not need to be discussed in a committee setting. Those in the discussion package need detailed discussion. Occasionally topics in the consent package have been moved to the discussion package.

**Councilor Atherton** said he was concerned about how a citizen might react to the document.

**Mr. Cotugno** said the intent would be to finish writing the document before sending it out for review.

**Councilor Atherton** asked what the federal deadline was.

**Mr. Cotugno** said they did not have a federal deadline. The working deadline to begin the public comment was October 1.

**Councilor Kvistad** said the hope was to have the document completed by the first of next year.

**Councilor Atherton** said he had misunderstood. He had thought the document was to go out as it was.

**Councilor McLain** said it took a great deal of time to reach consensus on complicated projects about which philosophies differ. She said people have expressed impatience to her about having to wait so long to have a document to review. She said the staff had done a good job to date on keeping to a schedule for decision points. She urged the Council to take the action needed to

allow staff to complete the draft for public review. She added with regard to funding, that no one was leaving the subject until last. However, it was difficult to study a moving target. People needed to have a single set of projects with which to work.

**Councilor Kvistad** said the one thing certain about regional transportation planning and the RTP is that it will never be done. There won't be enough money to do all the projects which will necessitate a lot of trade-offs and balancing. Policy decisions will determine how those trade-offs will be made. He recommended Council support the resolution.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed unanimously.

8.4 **Resolution No. 99-2811A**, For the Purpose of Approving the South Willamette River Crossing Study Recommendations.

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2811A.

**Seconded:** **Councilor Atherton** seconded the motion.

**Councilor Bragdon** said this represents the culmination of many years of work on the part of many jurisdictions and the public to address the problem of east-west river crossing between the Ross Island Bridge and I-205. The Sellwood Bridge provides the only crossing in that span. It is a 75-year-old bridge and is overwhelmed by the traffic it must handle. Also, the bridge does not meet current seismic codes. The bridge is maintained by Multnomah County, although it serves traffic primarily from two other counties. The study of how to address the South Willamette River crossing, headed by Chris Deffebach of Metro's Transportation Department, considered several scenarios from both land use and transportation contexts. Those scenarios included expansion of the Sellwood Bridge and construction of new bridges to the south. The recommendations that would be ratified by approval of this resolution were approved by JPACT in July. The major recommendations include 1) keeping the Sellwood Bridge as a two-lane bridge; and 2) changing the designation of Tacoma Street and its accompanying design standard to be consistent with that. The resolution goes beyond not changing the Sellwood Bridge in that it also recommends studying alternatives such as increasing transit service, putting passenger service on what is currently used only for sporadic freight service. It recommends looking at north/south routes that affect the east-west corridor. The resolution also addresses 2040 issues such as the nature of job growth in the eastern part of Clackamas County to balance the housing growth there. He urged an aye vote.

**Councilor Atherton** emphasized that this resolution recommends seeking alternatives, which is a different approach from many of those in the past. He praised the study group for listening to the wishes of the communities involved and for listening to those concerned about the environment.

**Councilor Kvistad** said in his view, in the long-term replacing the Sellwood Bridge with only two lanes would be detrimental to the transportation health of the region. He agreed with the process this study used. He said the bridge should be improved and widened regardless of how land use is changed, as it is only one of three ways to cross the river now and most likely in the future as well. He said he would support this resolution, but he wanted to express his concerns.

**Councilor Park** said his review of citizen's comments revealed strong sentiment for leaving the bridge as two lanes while seeking alternatives. He said, however, that written comments don't

reveal mood. He asked Councilor Bragdon, who had been present at the public hearings, what the mood of the participants had been.

**Councilor Bragdon** said the written comments reflected the mood of those who attended the hearings. He noted that people who oppose an action--who don't want something to happen- tend to attend meetings.

**Councilor Park** said the comments did not include suggestions for adding a crossing somewhere else.

**Councilor Bragdon** said no one wanted a crossing there or in their community, although they seemed to want to cross the river.

**Mr. Cotugno** said the study involved looking at other locations. Early in the study, 20 possible bridge crossings that emerged from a public workshop were evaluated. That number was narrowed to eight. These recommendations are what emerged from a study of those eight, those eight being options for the Ross Island and Sellwood Bridges, a new crossing at Milwaukie or north or south of downtown Lake Oswego. The study included cost, impact, and travel effect. The cost information is what scared people.

**Councilor Park** noted that too often people opposed things without offering other solutions. He wondered if those who had opposed new or expanded crossings in their areas had offered alternatives.

**Councilor Atherton** said he had attended the hearings as a neighborhood association president. He recalled that opposition had come not so much from a NIMBY attitude, but from enthusiasm for investigating other alternatives--the North Willamette Trolley alignment, bike path opportunities, the existing rail bridge crossing. This presented an exciting opportunity to do things differently.

**Councilor Kvistad** said in his experience, with few exceptions the attitude was NIMBY. This resolution represents the best compromise. He suggested that in the future, reason will prevail and the bridge will be expanded for autos, bikes, and pedestrians.

**Councilor Bragdon** said he thought this resolution reflected the desires and land-use aspirations of the communities involved. He urged an aye vote.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

**Mr. Cotugno** thanked those who were key in bringing this study to a close: Commissioner Diane Linn, Councilor Washington, Councilor Bragdon, and Chris Deffebach.

8.5 **Resolution No. 99-2818**, For the Purpose of Appointing Dean A Kampfer to the Solid Waste Rate Review Committee.

**Motion:** **Councilor McLain** moved to adopt Resolution No. 99-2818.

**Seconded:** **Councilor Park** seconded the motion.

**Councilor McLain** thanked Mr. Kampfer for attending. The Rate Review Committee designates two seats for industry representatives, and Mr. Kampfer brings a wide range of experience in the industry to the committee.

**Councilor Park** and **Councilor Washington** appreciated and affirmed Councilor McLain's comments about the candidate. Councilor Washington looked forward to working with Mr. Kampfer.

**Councilor Park** said Mr. Kampfer had been attending the Rate Review Committee already.

**Councilor McLain** asked the council for an aye vote.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

8.6 **Resolution No. 99-2820**, For the Purpose of Reaffirming Policies to Protect Environmentally Sensitive Lands and the Impact of these Policies on the Need to Expand the Urban Growth Boundary.

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2820.

**Seconded:** **Councilor McLain** seconded the motion.

**Presiding Officer Monroe** announced that there would be a public hearing on this resolution as there were citizens who wished to testify.

**Councilor Bragdon** said the purpose of the resolution was to acknowledge but not to resolve some of the inadequacies in terms of how lands were being classified currently as they were going through the Urban Growth Report. The resolution also illustrated some of the limitations of state law in terms of those categories. Under the state law, HB 2709, Metro was required to go through and classify what lands were buildable, what lands were not buildable as well various other categories. Currently there was a lot of uncertainty and regulatory flux in that area particularly as it related to fish and wildlife habitat, stream corridor, steep slopes and other areas. The Growth Management Committee had been wrestling with this a lot and how you classify some of those lands, how you do so fairly, how you do so in the right manner. Currently the staff had put lands into a buildable category for purposes of that law, which illustrated one of the limitations of that law. There had been various misinterpretations of what that meant. This resolution was a placeholder as the Council went through and resolved some of these issues.

There were two concerns that had been raised with that categorization of what land was buildable and what was not. In some of the environmentally sensitive lands going into the buildable category, they had people from the development industry say how could you classify these lands as buildable, when in fact, regulations were in the works or partly in place already which made them, if not unbuildable, less than buildable to the productivity that might prevail on other lands. People in the environmental community were saying how could you call these lands buildable when they shouldn't be buildable. He thought this resolution was an attempt to tell both groups that in fact they were right and the council was working in good faith to try and come up with the proper answer and that the figures would be adjusted accordingly. This resolution also affirmed a similar resolution that this council passed in 1997 unanimously with regards to those same types of tradeoffs. The situation was different now in light of the Endangered Species Act but it was a similar type of tradeoff.

The four things that he was trying to accomplish with this resolution were 1) when, for purposes of state law, we classify lands as buildable that did not necessarily mean that they should be buildable and didn't mean that once these various regulations that were in the works were put into place, that those lands would be buildable but for purposes of the calculation they were classified as such. 2) the work was going on in good faith to try to classify what those lands were and where those lands actually were and that when work was actually completed they would deal in good faith and with all fairness in terms of if acreage was taken off the table, for purpose of an urban growth boundary decision, for environmentally constrained lands and that they should be, then that would be dealt with fairly in terms of additional acreage that may come out through the calculation as needed elsewhere. 3) within the limits of their authority they were trying to say that, in the meantime local jurisdictions ought to be cautious that having lands in a buildable category was not necessarily a green light to have a land rush and build on these lands today, 4) they were also inviting the public's and industry's involvement in resolving those issues through the hearings that were being scheduled for this fall with regard to the urban growth report itself as well as the consequential decisions that would be made about the urban growth boundary. They would deal with those issues of acreage in an intellectually honest fashion. He appreciated the council's support.

**Presiding Officer Monroe** opened a public hearing on Resolution No. 99-2820.

**Marty Sevier**, Metro Technical Advisory Committee representing the Westside Economic Alliance said he had been heavily involved in what was going on concerning development on the west side of the Portland metropolitan area. He urged the council to vote no on this resolution. First, he said the resolution was very confusing, MTAC was in the process of trying to figure out how many housing units they were going to bring in this next go around. Discussion at the table said they needed somewhere in the neighborhood of 17,000 units but within this 400 foot corridor there were probably 15,000 units. They could gain other units through infill and other ways of reaching the 17,000 units needed. By passing this resolution, it seemed to him, they were saying that they had the 15,000 units within the 400 foot corridor but they really didn't want to touch that area right at this moment. He felt it was a "I want my cake and eat it too" approach.

The second reason he suggested the council vote no on this resolution was that he did not think it was necessary even with the Endangered Species Act in its current situation. They did not know if the salmon were being hurt by humans, it could be many different things such as ocean conditions. To pass a resolution protecting a 400 foot corridor when you didn't know what the reason was did not sound reasonable to him.

He had worked with a family who had planned their land in 1973 and again in 1981 when all of the conditions of the planning were met and they actually gave a transit station to Tri-Met in the process. Once they had met all of their conditions in the process, then someone decided they needed to change the planning again and that was when Washington County took on the first project of implementing Metro's 2040 program. Now that the program had been implemented and it was on their property they were looking at implementing interim rules again or what Councilor Bragdon called 'placeholders' but what he called moratoriums. These things were never going to stop. They kept moving forward. Third, the business community needed to be sure that they could work in an environment where the laws allowed them to move forward and where such resolutions that said, wait, we know what was going on here so we were going to stop all activity until that happens did not occur. He urged the council to vote no on this resolution.

**Kelly Ross**, representing the Home Builders Association, said he had met with Councilor Bragdon and discussed the resolution. He appreciated the objectives that Councilor Bragdon

wanted to achieve. He had strong reservations about the message this resolution sent to the public. He noted statements one and two under the resolve section of the resolution. It gave a strong impression that there were some how vast areas in the region of environmentally sensitive nature that were currently unprotected and that local jurisdiction were currently not actively protecting environmentally sensitive areas. He knew that was simply not true. All jurisdictions in the region had gone through the Goal 5 process, had spent hundreds of thousands of dollars and many hours of public hearings and deliberations on this issue. He noted that the Metro Council had adopted Title III last year after hearing evidence that that was the best science available in protecting environmentally sensitive areas. There was also protection levied by various state and federal agencies for environmentally sensitive areas. He felt this resolution asked the local governments to go beyond what they were currently doing and give no regard to the cost to those local governments to do this. Doing so would trigger the public notice requirements of Ballot Measure 56 passed last year, threaten possible liability for takings, put them in possible violation of Goal 5 limitations on interim measures for protection. He suggested that this resolution sent the wrong message. What was currently being done was adequate. The Association heard from their members every day about excessive regulation and hanging up projects that were allowed in given areas. The Home Builders Association urged reconsideration of this resolution.

**Ty Wyman**, 1211 SW 5th Suite 1500 Portland OR, 97204 representing the Retail Task Force, wished this resolution could have been discussed in a different forum. He felt Metro's role concerning buildable land was to count the buildable land rather than to dictate development there on. There were expectations in the comprehensive plans of developability and compliance with the statewide goals. There should be no assumption that they don't comply with the goals or that resources such as those in question were not being adequately protected. The local planning process was long, complicated and arduous. Goal 5, part of that process, called for a very detailed analysis and was not amenable to interim protections. He thought even the courts had discussed this in many prior instances particularly with the City of Portland because there had been prior efforts to lay out an interim Goal 5, stop everything, hold it right there. You couldn't do that when you were effecting specific sites when maybe it was showing up on a map one way but if you went out on the ground the reality was something different. He asked if sites that they were looking to protect had been inventoried on a site specific Goal 5 basis? If not, then this resolution was somewhat presumptive for the regional body to come in and to dictate to the local governments that they must engage in this protection which raised a question which should go through MTAC and MPAC. He certainly wanted to know what MTAC thought about this resolution. He did understand that the resolution merely encouraged their governing bodies to engage in some immediate protections. But those were the people who knew what was going on on the ground on that site, specifically on a day in and day out basis. He said this was part of a broader discussion about the regional body's role. He understood that the council was not in an easy position and he hoped the council understood they were not either. As the development community, they were attempting to respond to the market at the same time that they respond to the shifting dirt of development.

**Councilor Atherton** said he had listened carefully to what Mr. Wyman had to say. He asked if in resolved section, number 1 and 2 were removed, would that take care of his concerns. This whole effort was really addressed to deal with the state mandate to move the Urban Growth Boundary and complete the Urban Growth Report.

**Mr. Wyman** said that was a question which he was sure Mr. Cooper would be happy to respond to. He had written many of these resolutions. It was difficult to take one element out because theoretically each matter which was resolved, each of the 6 resolutions, were based upon one of those whereas clauses. He said there were 18 whereas clauses. He suggested that the whereas

clauses should be reviewed by MTAC. He had highlighted the first two “be it resolved” sections as areas of concern but was unsure if you could just strike those two. He felt the resolution needed to go through the process.

**Councilor Atherton** asked about going through the process, how would Mr. Wyman suggest that the council deal with these uncertainty of the environmentally constrained lands. Did he think the existing process was sufficient and that we based the number of housing units that could be built in those environmentally constrained lands on existing rules and just follow that to the letter of the law?

**Mr. Wyman** said first and foremost everyone of the comprehensive plans were acknowledged and that included resource protection. Understanding that none of those comprehensive plans were acknowledged in an environment in which ESA lurked, no one here knew what ESA was planning. Planning with a theory of whereas clauses which said ‘might, perhaps, and maybe’ would be difficult for property owners and development. It was very frustrating. Commitments of significant resources were riding on that.

**Councilor Atherton** said he was trying to figure out how they dealt with this conundrum of uncertainty of the environmental protections which were necessary in those areas because they were trying to meet what was arguably a very confusing and “goofball” state law of the 20 year mandate. He thought now people were coming to appreciate how extraordinarily difficult that process was and how very unworkable. If we were get rid of that law we would not have to be going through this. He said that he thought what Mr. Wyman was suggesting was following the build out zoning that was provided in each of the jurisdictions.

**Mr. Wyman** said it was difficult to give the Council direction on where they go with counting buildable land. When he commented that this was the council’s job he did not imply that it was an easy one. It seemed to him that the impacts of encouraging local governments to prohibit development on certain lands which had been zoned for years for development had been zoned in that manner with some resource protections struck him as very frustrating from the stand point of the property owners to see that happening. They may have resources riding on those lands. He was not sure how you went about the counting processes.

**Councilor Atherton** said his sense was that Mr. Wyman wanted Metro to move the Urban Growth Boundary. If the council followed the existing zoning patterns and level of protections it showed a very large capacity for development in those areas which would mean that the Urban Growth Boundary would not be moved.

**Mr. Wyman** said if the purpose was to discuss the variables of the Urban Growth Report, they should be discussed separately and discussed with an economist. The development community had a substantial concern about the status of the Urban Growth Report, the status of the numbers, the variables, and the tweaking of a percent here and there. He was not suggesting that the answer was that the Urban Growth Boundary needed to be moved. He simply was speaking from the experience of having gone through many local application processes. He suggested that Mr. Ross was in a better position to tell the council that the easy lands were done. He would be surprised to have anyone think that development had gotten easier. The development community was constrained. There was a finite amount of land within the Urban Growth Boundary. There seemed to be little question that the development community was increasingly constrained within that by transportation and environmental.

**Councilor Washington** asked Mr. Wyman why he would like to be a member of MTAC.

**Mr. Wyman** responded that he thought the food was pretty good.

**Councilor Park** asked for clarification concerning Resolution No. 97-2562B, in one of the whereas it discussed classifying 16,000 acres of land inside the UGB as unbuildable, steep slopes, flood plains and otherwise environmentally sensitive. What was the response or position of the Home Builders at that particular time. He understood that the resolution had passed 7-0.

**Mr. Ross** said he did not recall that resolution.

**Mr. Sevier** said he thought that the community at large had become much more educated on what was going on in Metro. He thought there were more out there that were understanding what all of this meant. Whether they liked it or didn't, it got him involved. This was why he was testifying today. Had he been here when Resolution No. 97-2562A was being considered he would have been speaking too.

**Councilor Park** said when the 200 foot set backs were put in place last year he had not heard protection from the home building community. When it was used as part of the calculation for buildable and unbuildable lands, he had not heard any objection. Was there a change in position at this time?

**Mr. Ross** responded that he did not think so. He thought that the Home Builders Association recognized that within the 200 foot set backs, that development would be very limited. Once Council got to public hearings on the Urban Growth Report they would hear from the Home Builders Association regarding the capacity analysis figures that had come out on that. This was probably why they had not commented stronger on the two hundred foot buffer at the time. They simply believed that there would be very little development occurring in those areas.

**Councilor Park** summarized that the Home Builders Association did not protest last year when the 200 foot buffers were placed in because they did not believe much development would be occurring in that area.

**Mr. Ross** said when you talked about the 200 foot buffers, he was interpreting Councilor Park's comment about the assumption of 200 feet on both sides of unbuildable lands. To be honest when that assumption was made as they were seeing here today, it did not carry any requirements with it. They had commented very strongly on the Title III proposals when they were talking about binding 200 foot set backs. They were glad when that got reduced down generally to fifty feet, 200 feet in some cases. In the initial 200 foot discussion, there was just an assumption that there would be very little building in those zones.

**Councilor Park** said he guessed if there was an assumption that there would be very little building in those zones, then, he was not sure he was understanding the concern. As to the level of concern if this resolution was somehow interpreted as being a moratorium, which obviously it was not because Metro did not have that ability, there seemed to be an inconsistency here that he was trying to resolve.

**Mr. Ross** said he thought that they all agreed that the resolution was a symbolic act. It didn't carry with it any mandates or restrictions. His concern was the message it sent to the public and unnecessarily stirred up fears and concerns that there were environmentally sensitive areas that were not being adequately protected and that local government had not done its job.

**Presiding Officer Monroe** closed the public hearing.

**Councilor McLain** pointed out that she truly agreed with Mr. Ross' comment that this resolution was symbolic and had no legal consequences. She said it was not a land use decision or a charter mandated review item and they were not trying to confuse or alarm the public. She said they wanted to say, at least symbolically, that they did not believe all of the areas that could or should be protected were, in fact, being protected, and there was still work to be done. She wanted to clear up one comment from the public testimony: the required element of this discussion was the law requiring the buildable land inventory. She said this resolution signaled that Metro was serious about the Functional Plan requirements in place, and signaled that the plan could be adopted and amended in the future as well so they needed to let the public know exactly what was out there to get their reaction. She noted public hearings coming up in September and October. She reiterated that this resolution was a reaffirmation of a philosophy, that this council believed that Metro 2040 plan was not one of density everywhere, but density in the right places.

**Councilor Park** asked if the comment that the Goal 5 work had already been done during the comprehensive plans. He was curious if that was so why so much staff time was being used now.

**Rosemary Furfey**, Planner in the Growth Management Services Department, answered that all jurisdictions in the Metro region had not acknowledged the Goal 5 plan as part of their comprehensive plan. Earlier this year Metro staff met with planners in each of the cities and counties and compiled a table for a status report of Goal 5 in the region. She said it varied significantly.

**Councilor Park** clarified that she was saying that everyone was in compliance.

**Ms. Furfey** said they were in compliance with their requirements with the Department of Land Conservation and Development (DLCD) in their comprehensive plans to carry out Goal 5. She said their Goal 5 plans were all acknowledged currently.

**Councilor Park** asked about the level of protection across the region, whether some were over protected and some under because of the variances.

**Ms. Furfey** said there was a provision in Goal 5 that said if you had not carried out an adequate inventory, you did not have to continue. You must have an adequate inventory to carry that out but the Goal 5 rule allowed you to stop. That was one example of how it varied around the region.

**Councilor McLain** said the Metro piece of that was the fact of the different levels of protection, Metro had identified some areas around the region that had insufficient protection or there were some ugly transitions between jurisdictions that would be of regional significance for Goal 5 efforts.

**Ms. Furfey** agreed and said they were in the middle of their program of determining the criteria for regional resources. They were focusing their efforts in developing areas not currently protected.

**Councilor Atherton** was concerned about the utility of doing symbolic measures like this. He felt they should send a very clear signal and said his preference would be to table the measure unless a number of the "Resolves" were deleted, i.e. numbers 1, 2 and 4, which he felt would provide a clearer signal that basically this was in regulatory flux and they were doing the best they could and encouraged protection of the areas without suggesting any kind of new legal

impedimenta. He asked Mr. Cooper about the part seeking a time extension. He wondered if the same conditions for seeking a time extension today were in existence last year.

**Mr. Dan Cooper**, General Counsel, said the law for seeking time extensions had not changed. He said when the council made the determination last December to move the UGB, an uncertainty existed about the 200' setback because Title 3 had been adopted. However, there were no other data known at that time to suggest the difference between the 3,200 unit number the council had determined the year before combined with the uncertainty over the 200' lowered the need to below what the council had legally added, or stated their intent to add, to the UGB. Now that additional work had been done on the UGB, there was a question whether or not there was a need for further amendments to the UGB. Those unknown facts were referred to in "Resolved 3".

**Councilor Atherton** paraphrased that the uncertainty that existed in 1998 was more substantial than the uncertainty that existed today.

**Mr. Cooper** said the uncertainty that they knew about in 1998 was not enough uncertainty to change the conclusion the council reached that the UGB amendment actions that they were taking would exceed the need for additional units. He said further work left uncertainty about the overall need.

**Motion to**

**Amend:** Councilor Atherton made a friendly amendment to remove "BE IT RESOLVED Numbers 1, 2, and 4, and to strike in number 5 "either or seeking a time extension".

**Seconded:** Councilor Kvistad seconded the amendment.

**Councilor Bragdon** said he could not support the amendment because it took the whole purpose of it away.

**Councilor McLain** said the 1997 resolution they were remaining in support of showed numbers 1 and 2 were identical to this resolution. She said that was the support the council had wanted to give to protection of significant greenspaces in this region. She said numbers 1 and 2 were presently council positions, and she pointed out that number 4 was the partnering piece where all local governments were encouraged to participate in a coordinated approach to figure out the ESA listing. She said if more detail was needed of what should or could be protected, it needed to be related to the upcoming work on the UGB in September and October. She said that connection was made on number 5. She could not support the amendment but would support the original resolution.

**Councilor Kvistad** completely agreed with the changes, specifically the part seeking the time extension. He said he would support the amendment.

**Councilor Atherton** said the problem was they were combining too many messages in one resolution. He said he had always been informed this was a placeholder resolution and that they would go forward with hearings. He said his suggested amendment carried that forward. He felt time extension should be talked about in a very specific resolution outlining the reasons why and the parameters for clear communication to the public. He urged an aye vote.

**Vote to**

**Amend:** The vote was 2 aye/ 5 nay/ 0 abstain. The amendment failed with Councilors Bragdon, Park, McLain, Washington, and Presiding Officer Monroe voting nay.

**Motion to**

**Table:** Councilor Kvistad moved to table the resolution.

**Seconded:** Councilor Atherton seconded the motion.

**Vote:** The vote was 2 aye/ 5 nay/ 0 abstain. The motion failed with Councilors Park, McLain, Washington, Bragdon, and Presiding Officer Monroe voting nay.

**Councilor Kvistad** felt that if he voted in favor of this it would acknowledge that the 1999 numbers for the urban growth report would have greater precision than the current numbers. He fundamentally disagreed with that. He said putting restrictions on the setbacks basically said they were not going to count this land so they could have a smaller adjustment on the UGB, but they would protect it so nobody could do anything with it. He felt the potential for number faking was high. He believed the numbers were being adjusted downward to be politically correct. He felt that would do a great deal of damage to the community. He said he would vote against a lot of future things using those numbers. As to the “Be it Resolved”, he felt seeking a time extension was what this was all about. He felt they would be setting themselves up to go for a time extension so they would again not have to make a decision, and maybe the numbers or the political climate would change. He said they should not be doing symbolic decisions, their job was to do the real work and not keep putting it off. He said if they were truly being intellectually honest, they would say people were getting priced out of their homes, taxes were going up too high and land prices were out of whack. He said a bucket full of symbolism bought nothing in the way of quality public policy. He said while this was well intended, he felt it was dangerous and he wished they were not going in that direction. He asked for a no vote.

**Councilor Park** said when the 200’ setbacks were put in place last year, and then they somehow were not buildable yet the building continued, and then the boundary is moved based on those 200’ setbacks, maybe that was “counting things a little funny”. He continued that the original resolution that this one was based on was almost identical in context, though maybe not in verbiage. He was unsure of why Councilor Kvistad changed his position on this and felt he should go back and reread the original which was identical in terms of purpose.

**Councilor Atherton** said for the same reason in 1997 and earlier he had urged holding off making decisions on the UGB change and had asked for a time extension. He said those same reasons were applicable today, in fact they were even greater. He said it had been brought to Metro’s attention by many jurisdictions in the region. He said he was conflicted over asking for a time extension now and felt it could work against the interests of people in district. He said to Councilor Kvistad that they both had reservations about this but for very different reasons. His main concern with the resolution was whether they were increasing uncertainty with the many and mixed messages of the resolution. He was undecided as to how he would vote.

**Councilor Washington** called for the question

**Councilor Kvistad** called for a point a personal privilege since the document in question was signed by him as Presiding Officer. He asked Councilor Park if the document stated at any point “seeking a time extension” in terms of “Metro will comply”.

**Councilor Park** responded that it did not. He said the 1997 document was essentially the same, not in verbiage, but in meaning.

**Councilor Kvistad** thanked the Chair for the personal privilege extension and said they were not the same

**Presiding Officer Monroe** asked the council for a vote of those in favor of stopping debate and moving to a close. Ayes were unanimous.

Councilor Bragdon closed by saying he thought this illustrated on all sides the hazards of when land use planning was reduced to legalistic bean counting. This resolution was a response in part to that happening. The question raised about Metro's role was highly debatable as was the question of a time extension being warranted. He said one thing that was clear was Metro's mandate to come up with a buildable lands inventory. How those lands got treated was what this resolution was dealing with. It said there was uncertainty. Witnesses and others had also referred to uncertainty. He said the resolution's intent was to acknowledge that uncertainty and say Metro would move to resolve it. His only pledge to everyone regarding UGB issues was that nobody could have it both ways, environmentalists or developers, or anyone else. If someone wanted to say lands ought to be protected and taken off the buildable inventory, the intellectually honest thing was to put that into the equation and if there was a need for land elsewhere, then that translated into an urban growth boundary expansion. He urged support of the resolution.

**Vote on the**

**Main Motion:** The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilor Kvistad voting no.

**9. COUNCILOR COMMUNICATION**

**Presiding Officer Monroe** announced upcoming public hearing dates and places: September 23, a regular council meeting, held at 5 PM at the Washington County Chamber in Hillsboro; October 4 a public hearing at 5 PM in the Gresham City Hall Council Chamber; October 7, a regular metro council meeting at Metro at 2 PM; October 12, a public hearing in the Milwaukie City Council Chamber at 5 PM; and October 14 at a regular 2 PM council meeting at Metro.

**Councilor Bragdon** thanked Mr. Stone. He added thanks to Miriam Webster they now knew the origin of the word "jitney" was completely unknown.

**Councilor Kvistad** said he had some brief transportation things to informally relate to the councilors after the meeting.

**10. ADJOURN**

There being no further business to come before the Metro Council, Presiding Officer Monroe adjourned the meeting at p.m.

Prepared by,

Chris Billington  
Clerk of the Council