

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ADOPTING A FINAL ORDER )      ORDINANCE NO. 86-196  
AND AMENDING THE METRO URBAN GROWTH )  
BOUNDARY FOR CONTESTED CASE NO. 85-2: )  
TUALATIN HILLS CHURCH )

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The Council of the Metropolitan Service District hereby accepts and adopts as the Final Order in Contested Case No. 85-2 the Hearings Officer's Report and Recommendations in Exhibit B of this Ordinance, which is incorporated by this reference.


Section 2. The District Urban Growth Boundary, as adopted by Ordinance No. 79-77, is hereby amended as shown in Exhibit A of this Ordinance, which is incorporated by this reference.

Section 3. Parties to Contested Case No. 85-2 may appeal this Ordinance under Metro Code Section 2.05.050 and ORS ch. 197.

ADOPTED by the Council of the Metropolitan Service District  
this 13th day of March, 1986.

  
Richard Waker, Presiding Officer

ATTEST:

  
Clerk of the Council

JH/gl  
4965C/445-3  
03/04/86

**Exhibit A**  
**Contested Case 85-2**

URBAN

NORWOOD

EXISTING URBAN GROWTH BOUNDARY

NON-URBAN

PROPOSED ADDITION

109  
1.80 Ac.

108  
1.00 Ac.

106  
11.69 Ac.

101  
1.00 Ac.

103  
2.99 Ac.

102  
1.11 Ac.

300  
37.54 Ac.

CEN. COR.

FERN. U.B. S. & W.

1 ROD

Boones Ferry Rd

ROAD

WEST 80 RODS 752.5

EAST 79 RODS

20.00 CH.

676.5

40 RODS

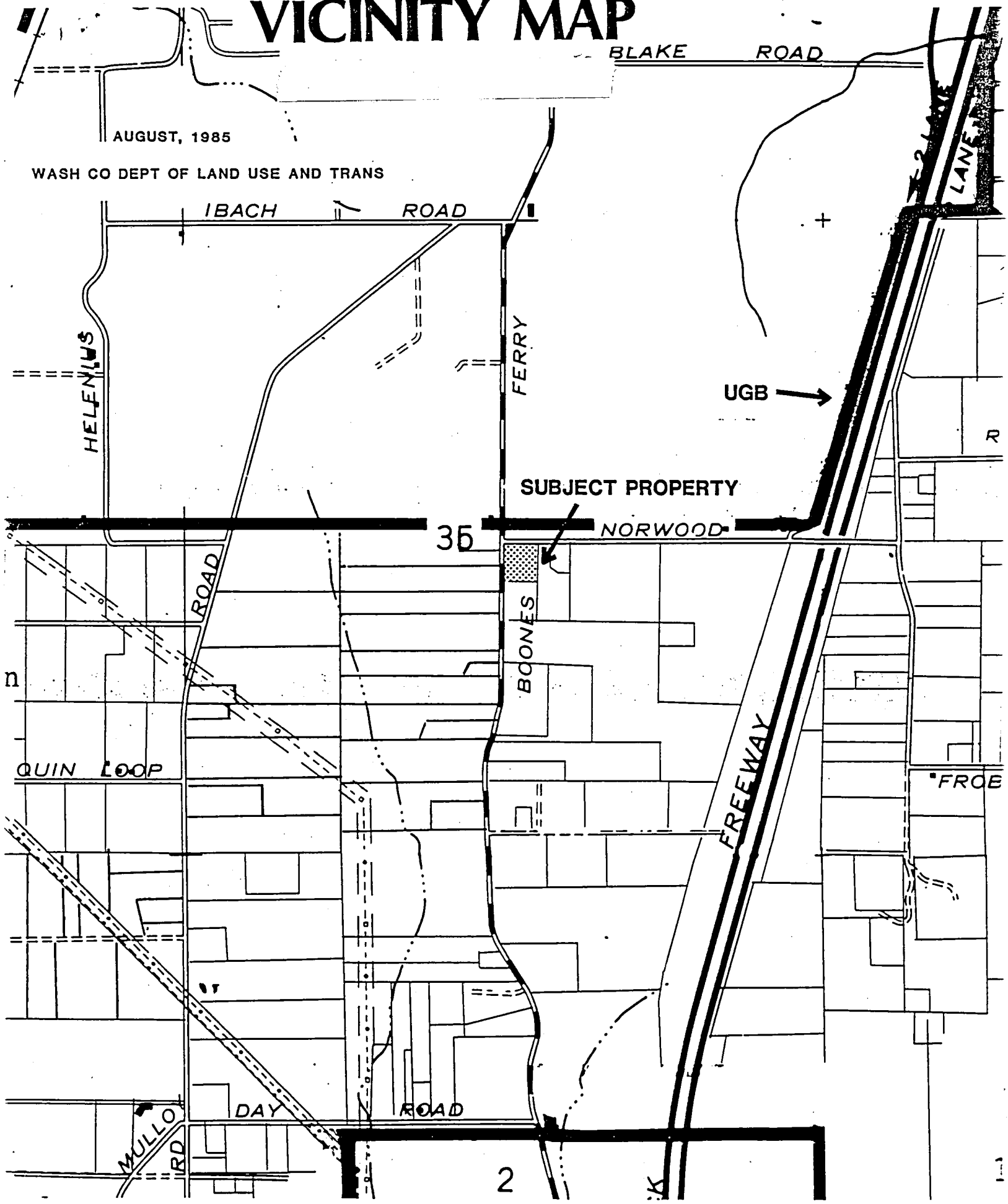
SOUTH

5.00 CH.

# VICINITY MAP

AUGUST, 1985

WASH CO DEPT OF LAND USE AND TRANS



METROPOLITAN SERVICE DISTRICT

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IN THE MATTER OF A PETITION )  
FOR AN URBAN GROWTH BOUNDARY )  
LOCATIONAL ADJUSTMENT BY ) HEARINGS OFFICER'S FINDINGS  
TUALATIN HILLS CHRISTIAN CHURCH, ) OF FACT AND PROPOSED ORDER  
INC.; CONTESTED CASE NO. 85-2 )

This recommendation is submitted to the Council of the Metropolitan Service District as a result of a petition for locational adjustment to add to the Urban Growth Boundary approximately 1.80 acres located at the southeast corner of the intersection of SW Norwood and Boones Ferry Roads, adjacent to the City of Tualatin Planning Area. A map of the proposed change is attached as "Attachment B".

A hearing was held upon the completed petition on October 21, 1985, before Hearings Officer Beth Mason; testifying were Jill Hinckley, Metro staff, Richard Ligon, attorney for the applicant, Minister Loren Doty, representing the applicant. In addition, written remarks were received as follows, and were entered as exhibits into the record:

- Exhibit 1. Petition
- Exhibit 2. 7-9-85 Letter from Richard Ligon
- Exhibit 3. Comment from Service Provider - Sherwood School District
- Exhibit 4. Comment from Service Provider - Tualatin Rural Fire District
- Exhibit 5. Comment from Service Provider - City of Tualatin
- Exhibit 6. 7-8-85 Letter from City of Tualatin
- Exhibit 7. 8-1-85 Letter from City of Tualatin
- Exhibit 8. 8-28-85 Letter from Washington County with attachments
- Exhibit 9. Section maps of vicinity (4)
- Exhibit 10. 10-16-85 Memo from Jill Hinckley
- Exhibit 11. Mailing list with return cards and copy of Notice

- 1 Exhibit 12. Pictures of site and surrounding area  
marked A-M  
2 Exhibit 13. 7-12-85 Letter from City of Tualatin  
3 Exhibit 14. 10-16-85 Letter from Chet Hill Insurance Inc.

4 At the close of the hearing on October 21, 1985, the  
5 hearings officer kept the record open to receive additional testimony  
6 from the City of Tualatin regarding whether the property could be  
7 served in an emergency situation by a fire hydrant located within  
8 the Urban Growth Boundary, when the subject property was not within  
9 the Boundary. In a subsequent telephone conversation with Janet  
10 Young, planning director for the City of Tualatin, the hearings  
11 officer was advised that it is the policy of the City that even  
12 in an emergency situation, property outside of the Urban Growth  
13 Boundary, and outside of the City's service area, would not be  
14 entitled to service.

15 In addition, the record was re-opened at the request  
16 of Mr. William Moore, a resident in the area, who did not claim  
17 his notice of the hearing and who wanted an opportunity to comment  
18 on the application. Mr. Moore's letter was received by the hearings  
19 officer on November 22, 1985. The applicant was given an opportunity  
20 for rebuttal, but declined to comment on Mr. Moore's letter; that  
21 letter was marked and received into the file as:

- 22 Exhibit 15. 11-19-85 Letter from William G. Moore

23 FINDINGS OF FACT

24 Tualatin Hills Christian Church, Inc., applied for a  
25 locational adjustment to the Metropolitan Urban Growth Boundary,  
26 for property located at the southeast intersection of SW Norwood

1 and Boones Ferry roads, property more specifically described as  
2 Tax Lot 109, 2S1-35D, Washington County, State of Oregon, property  
3 approximately 1.80 acres in size. The property is presently improved  
4 with a church building; there is no farming on the property. The  
5 property is presently served by a septic tank, with adequate capacity  
6 for the next few years, and is within 2500 feet of the nearest sewer  
7 trunk line. Additional sewer trunks are planned for the area,  
8 adjacent to the subject property on Norwood and Boones Ferry roads.  
9 Water is provided to the subject property by private well, and the  
10 nearest water main which could serve the property is in the "C"  
11 level system presently about 1250 feet east of the church. The  
12 church cannot connect to the water line in Norwood Road adjacent to  
13 its site because that line is part of the City's "B" level system  
14 and is designed to serve properties at an elevation lower than that  
15 of the church.

16           There are no natural hazards identified in the area by  
17 the comprehensive plan, nor are there any natural or historic  
18 resources in the area. The three service providers who commented  
19 on the application, Sherwood School District, Tualatin Rural Fire  
20 District and City of Tualatin, all recommended approval of the  
21 adjustment. The City of Tualatin pointed out several hurdles  
22 which the church must overcome prior to water service being  
23 available to the site, including annexation and the cost of running  
24 the line from the source, but with those warnings to the applicant,  
25 did not object to the application for adjustment.

26 // // // //

1                                 APPLICATION OF STANDARDS TO FACTS

2                     The relevant standards for approval of locational  
3 adjustment to the Urban Growth Boundary are found in Metro Code  
4 §3.01.040(a), (d) (2) and (d) (3).

5                     Metro Code §3.01.040(a) provides as follows:

6                     (a) As required by subsection (b) through (d)  
7 of this section, location or adjustment shall  
8 be consistent with the following factors:

9                         (1) Orderly and economic provision  
10 of public facilities and services. A  
11 locational adjustment shall result in  
12 a net improvement in the efficiency of  
13 public facilities and services, including  
14 but not limited to, water, sewerage,  
15 storm drainage, transportation, fire  
16 protection and schools in the adjoining  
17 areas within the UGB; and any area to  
18 be added must be capable of being served  
19 in an orderly and economical fashion.  
20 Water. The applicant states that a  
21 waterline is located in Norwood Road  
22 adjacent to the site. However, the City  
23 of Tualatin indicates that the church  
24 cannot hook up to this line because it is  
25 designed to serve property at a different  
26 pressure level. The nearest line at the  
proper pressure level would have to be  
extended 1250 feet to the site (Attachment C).  
The City has indicated that this line would  
have adequate capacity if extended to the  
site.

The City of Tualatin has indicated that  
existing and planned major water facilities  
are adequate to serve the site when an  
appropriate line is extended to the site  
(at the church's expense.). A net improvement  
in efficiency would result.

Sewer. The nearest sewer line is located  
2500 feet from the site. The church does  
not need to connect to the line at this time.  
The City of Tualatin reports that this line  
would have adequate capacity if extended to  
the site.

The City of Tualatin has indicated that existing  
and planned major sewer facilities are adequate  
to serve the site. A net improvement in  
efficiency would result.



1 Storm Drainage. There are no major storm  
2 drainage facilities currently serving the  
3 site. Since the site is developed, no  
4 additional facilities are needed at this  
5 time.

No new major storm drainage facilities are  
6 required by the site. No change in efficiency  
7 would result.

8 Transportation. The property is located  
9 at the corner of Norwood Road and Boones  
10 Ferry Road, both designated as arterials.  
11 The City of Tualatin indicates that the  
12 existing facilities are adequate to serve  
13 the site.

14 Since the existing roads are adequate to  
15 serve the site, no change in efficiency would  
16 result.

17 Fire Protection. The property is within the  
18 boundaries of and is currently served by the  
19 Tualatin Rural Fire Protection District.  
20 Church officials have stated in their application  
21 that the fire district has requested that they  
22 obtain city water in order to improve fire  
23 protection for the site.

The site is currently served by the Tualatin  
24 Rural Fire Protection District. If the site  
25 were ultimately connected to city water, a  
26 net improvement in efficiency would result.

Schools. Since the site is developed with a  
non-residential use, school facilities are  
not required.

Since the site is developed with a non-residential  
use, no change in efficiency would result.

(2) Maximum Efficiency of Land Uses. Consideration  
shall include existing development densities on  
the area included within the amendment, and  
whether the amendment would facilitate needed  
development on adjacent existing urban land.

The adjustment is not needed in order to enable existing urban land  
to develop.

(3) Environmental, Energy, Economic and Social  
Consequences. Any impact on regional transit  
corridor development must be positive in any  
limitations imposed by the presence of hazard  
or resource lands must be addressed.

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1 See page 3, ll. 16-18; also, no identifiable impact on other factors.

2 (4) Retention of Agricultural Land. When a  
3 petition includes land with class I through  
4 IV soils that is not irrevocably committed  
5 to non farm use, the petition shall not be  
6 approved unless it is factually demonstrated  
7 that:

8 - Retention of the agricultural land  
9 would preclude urbanization of an  
10 adjacent area already inside the  
11 urban growth boundary, or

12 - Retention of the agricultural land  
13 would prevent the efficient and  
14 economical provision of urban services  
15 to an adjacent area inside the UGB.

16 The property is irrevocably committed to non farm use as it is occupied  
17 by an existing church building; the property is designated AF-10. This  
18 standard does not apply.

19 (5) Compatibility Proposed Urban Uses With  
20 Nearby Agricultural Activities. When a proposed  
21 adjustment would allow an urban use in proximately  
22 to existing agricultural activities, the  
23 justification in terms of factors (1) through (4)  
24 of this subsection must clearly outweigh the  
25 adverse impact of any incompatibility.

26 The property is located within the large exception area with no large-  
27 scale agricultural activities in the vicinity.

28 Metro Code §3.01.040(d) (1) not applicable.

29 Metro Code §3.01.040(d) (2) requires as follows:

30 For all other additions, the proposed UGB must  
31 be superior to the UGB as presently located  
32 based on a consideration of the factors in  
33 subsection (a).

34 The minor addition must include all similarly  
35 situated contiguous land which could also be  
36 appropriately included within the UGB as an  
37 addition based on the factors in subsection (a).

38 Other land contiguous to the subject property is not in need of

1 improved water service for fire protection, as there are no contiguous  
2 public uses, and no need to include any additional land for this  
3 particular public use. Therefore, there is no similarly situated  
4 contiguous land which could also be appropriately included within the  
5 UGB as part of this adjustment.

6 Metro Code §3.01.040(d) (3) provides as follows:

7 Additions shall not add more than 50 acres of  
8 land to the UGB and generally should not add  
9 more than 10 acres of vacant land to the UGB.  
10 Except as provided in subsection (4) of this  
11 subsection, the larger the proposed addition,  
the greater the differences shall be between  
the suitability of the proposed UGB and suitability  
of the existing UGB, based upon consideration  
of the factors of subsection (a) of this section.

12 This 1.80 acre site is currently developed with a church building and  
13 there is no vacant land on the site available for other uses.

14 Metro Code §3.01.040(d) (4) is not applicable.

#### 15 CONCLUSIONS

16 Based upon the above findings of fact, the Hearings  
17 Officer concludes as follows:

18 (1) The proposed urban growth boundary would be superior  
19 to the urban growth boundary as presently located.

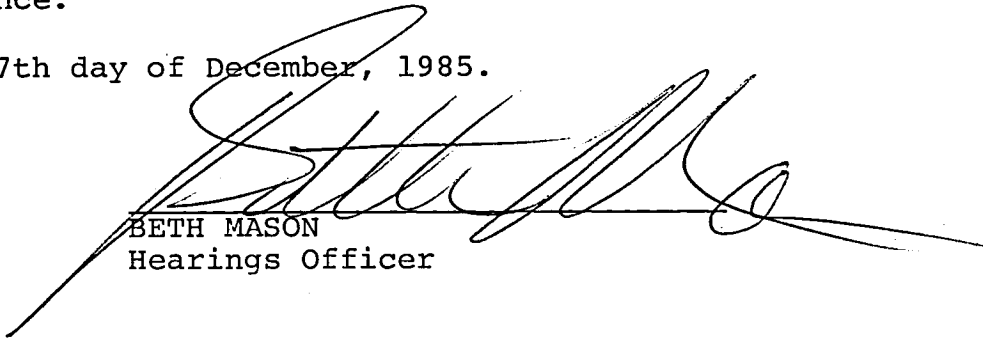
20 (2) The inclusion of the subject property in the proposed  
21 amendment is appropriate because it is consistent with the applicable  
22 code divisions, and there is no other similarly situated property  
23 which can appropriately be added.

#### 24 RECOMMENDATIONS

25 Based upon the above findings of fact and conclusions,  
26 the Hearings Officer recommends approval of the petition for the

1 urban growth boundary locational adjustment to include Tax Lot 109  
2 as requested by petitioners and as recommended by the City of Tualatin  
3 and Washington County. In addition, the Hearings Officer recommends  
4 adoption by the Metro Council of the proposed order submitted herewith  
5 or an appropriate ordinance.

6 Dated this 17th day of December, 1985.

7   
8 BETH MASON  
9 Hearings Officer

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EXHIBIT C

Date: January 8, 1986

To: Metropolitan Service District Council

From: William G. Moore  
9300 S.W. Norwood Road  
Tualatin, Oregon 97062

Subject: Conclusions of Beth Mason's, regarding Case No. 85-2, are inaccurate, poorly researched and, therefore, inappropriate.

Exception No. 1 (Line 18, Conclusion 1)  
Cannot be substantiated.

Exception No. 2 (Line 20, Conclusion 2)  
Is untrue and obviously inadequately researched.

Exception No. 3 There is no statute available that allows a conditional use applicant to apply for permanent urban growth boundary lines to change.

Furthermore, in conversations with Jill Hinckley, prior to December 1985, I was blatantly misled, and in Ms. Hinckley's words told "I don't think, Mr. Moore, that you have any worry, because the Hearings Officer is looking unfavorably upon the petition."

I think it's time that Metro looked at the big picture of why the residents of Norwood Road are opposed to the applicant.

Therefore, I feel additional public testimony is needed.

Respectively,

*William G. Moore*

William G. Moore

STAFF REPORT

Agenda Item No. 8,1

Meeting Date April 22, 1986

CONSIDERATION OF REQUEST FOR RECONSIDERATION OF  
ORDINANCE NO. 86-196

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Date: April 14, 1986

Presented by: Jill Hinckley

FACTUAL BACKGROUND AND ANALYSIS

On March 13, 1986, the Council of the Metropolitan Service District (Metro) adopted Ordinance No. 86-196, Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 85-2: Tualatin Hills Church. At that time, it voted to deny Mr. William Moore's request to submit additional evidence on the grounds that the evidence offered was not material to its decision. Mr. Moore has submitted a request for Council reconsideration. Mr. Moore's request is attached, followed by the relevant excerpt from the Metro Code on reconsideration procedures. Council action on Mr. Moore's request should be by motion.

EXECUTIVE OFFICER'S RECOMMENDATION

Mr. Moore has not raised any legal or policy issues which would compel reconsideration. The Council should exercise its discretion in acting on Mr. Moore's request.

JH/sm  
5417C/453-3  
04/14/86

CONSIDERATION OF ORDINANCE NO. 86-196, ADOPTING A  
FINAL ORDER IN CONTESTED CASE NO. 85-2 (TUALATIN  
HILLS) AND AMENDING THE METRO URBAN GROWTH  
BOUNDARY IN WASHINGTON COUNTY AS PETITIONED  
(SECOND READING)

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Date: February 3, 1986

Presented by: Jill Hinckley

FACTUAL BACKGROUND AND ANALYSIS

The Tualatin Hills Church has petitioned the Metropolitan Service District (Metro) for a locational adjustment of the Urban Growth Boundary (UGB) to add approximately two acres at the southeast corner of Norwood and Boones Ferry Roads in Washington County, as shown on Exhibit A. The church is located on the property. A fire hydrant is needed to provide adequate fire protection. The city of Tualatin will provide water to the site only after annexation and will only annex land that is within the UGB. Both Washington County and the city of Tualatin support petition approval.

Metro Hearings Officer Beth Mason conducted a hearing on the petition on October 21, 1985. Only the petitioners participated. William Moore, a property owner who had not claimed the certified hearings notice, requested and was granted an opportunity to comment after the hearing was closed. His letter in opposition to the petition was received on November 22, 1985.

The Hearings Officer found that the petition satisfies all applicable Metro standards and recommends that it be approved. Her report is attached as Exhibit B. Mr. Moore's exception follows as Exhibit C.

EXECUTIVE OFFICER'S RECOMMENDATION

In contested case proceedings, the Hearings Officer, rather than the Executive Officer, is responsible for presenting a recommendation to the Council. As a matter of general philosophy, the Executive Officer will not comment on a Hearings Officer Report unless staff or affected parties allege an error of fact or of law or an issue of major regional significance is involved. When an exception to the Hearings Officer's Report is filed, it is up to the Council to weigh the arguments presented against the Hearings Officer's findings. The Executive Officer will not intervene in this process unless, again, the exception contains errors of fact or law or a major regional issue is affected.

JH/srs  
4965C/445-5  
03/03/86

Recd.  
3/24/86  
Amman

RECONSIDERATION

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ORDINANCE 86-196

CONTESTED BY WILLIAM G. MOORE

As set forth in MSD Rules 2.05.050, I respectfully request a reconsideration with oral argument on Ordinance 86-196. Further argument on certain evidence submitted on March 13, 1986 as argumentative and not relative, is not only in error, but has a direct bearing on UGB change.

The case of not having an adequate fire protection was brought out at the March 13, 1986 MSD meeting and only after that was I able to check out the facts on exact fire protection criteria. Therefore, not only is it necessary to resolve this matter, but it is MSD's duty to allow all facts to be substantiated. The fact that MSD voted on "would not" as opposed to "could not" is inappropriate. The bottom line is that fire protection doesn't change from category "2" to category "1" by installing a fire plug. The quote "net improvement" is in error.

William G. Moore  
3-22-86



**2.05.050 Reconsideration, Rehearing:**

(a) A party may file a petition for reconsideration or rehearing on a final order with the District within ten (10) days after the order is issued. In the case of a personnel discharge, such petition shall be submitted to the Executive Officer. Other petitions shall be referred to the Council.

(b) The petition shall set forth the specific ground or grounds for requesting the reconsideration or rehearing. The petition may be supported by a written argument.

(c) The District may grant a reconsideration petition if sufficient reason therefore is made to appear. If the petition is granted, an amended order shall be entered. The Council may allow oral or written argument by the parties on the reconsideration petition.

(d) The District may grant a rehearing petition if sufficient reason therefor is made to appear. The rehearing may be limited by the District to specific matters. If a rehearing is held an amended order shall be entered. Rehearings shall be held before the hearing officer who conducted the original hearing.

(e) If the District does not act on the petition within the sixtieth (60) day following the date the petition was filed, the petition shall be deemed denied. (Rule No. 79-3; amended by Rule No. 81-5 and Ordinance No. 82-137, Sec. 10.)

STAFF REPORT

Agenda Item No. 8.2

Meeting Date Jan. 23, 1986

CONSIDERATION OF ORDINANCE NO. 86-196, ADOPTING  
A FINAL ORDER IN CONTESTED CASE NO. 85-2 (TUALATIN  
HILLS) AND AMENDING THE METRO URBAN GROWTH  
BOUNDARY IN WASHINGTON COUNTY AS PETITIONED

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Date: January 6, 1986

Presented by: Jill Hinckley

FACTUAL BACKGROUND AND ANALYSIS

The Tualatin Hills Church has petitioned the Metropolitan Service District (Metro) for a locational adjustment of the Urban Growth Boundary (UGB) to add approximately two acres at the southeast corner of Norwood and Boones Ferry Roads in Washington County, as shown on Exhibit A. The church is located on the property. A fire hydrant is needed to provide adequate fire protection. The city of Tualatin will provide water to the site only after annexation and will only annex land that is within the UGB. Both Washington County and the city of Tualatin support petition approval.

Metro Hearings Officer Beth Mason conducted a hearing on the petition on October 21, 1985. Only the petitioners participated. A property owner who had not claimed the certified hearings notice requested, and was granted, an opportunity to comment after the hearing was closed. His letter in opposition to the petition was received on November 22, 1985.

The Hearings Officer found that the petition satisfies all applicable Metro standards and recommends that it be approved. Her report is attached as Exhibit B. No exceptions to her report were filed.

EXECUTIVE OFFICER'S RECOMMENDATION

Staff has reviewed the Hearings Officer's Report and is satisfied that it includes findings that adequately address all applicable standards. Accordingly, the Executive Officer recommends that the Council accept the Hearings Officer's Report and adopt Ordinance No. 86-196.

JH/srs  
4965C/445-2  
01/10/86

CONSIDERATION OF ORDINANCE NO. 86-196, ADOPTING A  
FINAL ORDER IN CONTESTED CASE NO. 85-2 (TUALATIN  
HILLS) AND AMENDING THE METRO URBAN GROWTH  
BOUNDARY IN WASHINGTON COUNTY AS PETITIONED  
(First Reading and Public Hearing)

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Date: February 3, 1986

Presented by: Jill Hinckley

FACTUAL BACKGROUND AND ANALYSIS

The Tualatin Hills Church has petitioned the Metropolitan Service District (Metro) for a locational adjustment of the Urban Growth Boundary (UGB) to add approximately two acres at the southeast corner of Norwood and Boones Ferry Roads in Washington County, as shown on Exhibit A. The church is located on the property. A fire hydrant is needed to provide adequate fire protection. The city of Tualatin will provide water to the site only after annexation and will only annex land that is within the UGB. Both Washington County and the city of Tualatin support petition approval.

Metro Hearings Officer Beth Mason conducted a hearing on the petition on October 21, 1985. Only the petitioners participated. William Moore, a property owner who had not claimed the certified hearings notice, requested and was granted an opportunity to comment after the hearing was closed. His letter in opposition to the petition was received on November 22, 1985.

The Hearings Officer found that the petition satisfies all applicable Metro standards and recommends that it be approved. Her report is attached as Exhibit B. Mr. Moore's exception follows as Exhibit C.

Under Metro Code 2.05.035(b), the Council may decide not to hear oral argument. Although Mr. Moore has requested an opportunity for additional testimony to be presented, M.C. 2.05.035(C) requires that requests to submit additional evidence "must explain why the information was not provided at the hearing, and must demonstrate that such evidence...would likely result in a different decision." Since these requirements have not been met, the Council's response to Mr. Moore's exception should be based upon the existing record.

Following any oral argument and Council deliberation, the Council may:

1. allow the ordinance approving the petition to proceed to second reading; or

2. remand to staff or the Hearings Officer for new findings based upon specific disagreements with the Hearings Officer's Report it may identify.

#### EXECUTIVE OFFICER'S RECOMMENDATION

In contested case proceedings, the Hearings Officer, rather than the Executive Officer, is responsible for presenting a recommendation to the Council. As a matter of general philosophy, the Executive Officer will not comment on a Hearings Officer Report unless staff or affected parties allege an error of fact or of law or an issue of major regional significance is involved. When an exception to the Hearings Officer's Report is filed, it is up to the Council to weigh the arguments presented against the Hearings Officer's findings. The Executive Officer will not intervene in this process unless, again, the exception contains errors of fact or law or a major regional issue is affected.

JH/gl  
4965C/445-4  
02/03/86

The Clerk read the Ordinance by title only a first time.

Don Carlson reviewed the staff report for this agenda item, explaining the Ordinance would establish a ballot title for the proposed tax base measure and the amount and type of measure to be submitted to voters on May 20, 1986.

Councilor Kirkpatrick explained she was still considering minor word changes to the ballot title and explanation in order to simplify the language.

Motion: Councilor Kirkpatrick moved to adopt Ordinance No. 86-195 and Councilor Kafoury seconded the motion.

In response to Councilor Kelley's question, Kay Rich explained the language of the proposed ballot title, "to operate new exhibits," meant Metro could continue to operate improved animal exhibits plus construct the Africa Bush and the East Bear Grotto exhibits. The current level of services would increase, he said, in order to maintain the improved exhibits.

Councilor Van Bergen said he was concerned the Zoo was referenced too many times in the ballot explanation. Councilor Kirkpatrick explained the law required the language to indicate how the tax money would be spent.

Councilor Gardner said he supported the general wording of the ballot explanation because most of the tax base would support the Zoo.

Councilor Kafoury said she understood the difficulty of writing ballot titles and was pleased the proposed title and explanation was clear and concise.

Presiding Officer Waker opened the public hearing on Ordinance No. 86-195. There being no public testimony, he closed the public hearing and announced the second reading of the Ordinance would take place at the February 13, 1986 Council meeting.

8.2 Consideration of Ordinance No. 86-196, Adopting a Final Order in Contested Case No. 85-2 (Tualatin Hills) and Amending the Metro Urban Growth Boundary in Washington County as Petitioned (First Reading and Public Hearing)

Staff recommended consideration of the Ordinance be set over the the February 13 Council meeting in order to provide the petitioner adequate time to respond to the findings.

Motion: Councilor Kirkpatrick moved to set over consideration of the Ordinance until February 13, 1986, and Councilor Kafoury seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Cooper, DeJardin, Gardner, Hansen, Kirkpatrick, Kafoury, Kelley, Van Bergen and Waker

Absent: Councilors Myers and Oleson

The motion carried.

## 9. RESOLUTIONS

9.1 Consideration of Resolution No. 86-623, for the Purpose of Approving the FY 1985-86 Supplemental Budget and Transmitting the Approved Budget to the Tax Supervising and Conservation Commission (TSCC)

9.2 Consideration of Resolution No. 86-624, for the Purpose of Amending Resolution No. 85-562, Revising Appropriations and Creating a Rehabilitation and Enhancement Fund, an Insurance Fund, and a Convention, Trade, and Spectator Facilities (CTS) Fund (Public Hearing)

Jennifer Sims explained that Resolution No. 86-623, if adopted, would transmit the proposed supplemental budget to the TSCC for a review, public hearing and certification process. When certified by the TSCC, the supplemental budget would be returned and at that time the Council would consider adoption of Resolution No. 86-624.

Ms. Sims then reviewed the changes proposed in the supplemental budget which included: 1) adding \$8,250 to the General Fund for a Regional Parks Study; 2) increasing the Building Management Fund to cover the costs of new fixtures and insurance; 3) increasing the Solid Waste Reduction Program budget; 4) eliminating the Landfill Siting Program and distributing those funds to the Department of Environmental Quality; and 5) establishing a revenue fund for rehabilitation and enhancement of the area around the St. Johns Landfill.

In response to questions about the revenue fund for the St. Johns rehabilitation and enhancement program, Ms. Sims explained Metro would budget this fund on an annual basis.

Motion: Councilor Kafoury moved to adopt Resolution No. 86-623 and Councilor DeJardin seconded the motion.



9.1 Consideration of Ordinance No. 86-196, for the Purpose of Adopting a Final Order in Contested Case No. 85-2 (Tualatin Hills) and Amending the Metro Urban Growth Boundary in Washington County as Petitioned (First Reading and Public Hearing)

Eleanore Baxendale reported Mr. Moore, an interested party, had filed an exception but was not able to travel to the meeting from The Dalles due to inclement weather. Mr. Moore had requested the Council set over consideration of the Ordinance until February 27, 1986. Ms. Baxendale said the petitioners were concerned about the request but would abide by the Council's decision.

Motion: Councilor Kirkpatrick moved to set consideration of Ordinance No. 86-196 over until February 27, 1986. Councilor Kelley seconded the motion.

Councilor Kirkpatrick said the item should be set over if the Council were serious about receiving Mr. Moore's testimony.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, DeJardin, Gardner, Hansen, Kirkpatrick, Kelley, Myers, Oleson, Van Bergen and Waker

Absent: Councilor Kafoury

The motion carried and the first reading of the Ordinance was rescheduled for February 27, 1986.

9.2 Consideration of Ordinance No. 86-195, for the Purpose of Submitting a Metropolitan Service District Tax Base Measure (Second Reading)

The Clerk read the Ordinance a second time by title only.

Motion: A motion to adopt Ordinance No. 86-295 was made by Councilors Kirkpatrick and Kafoury on January 23, 1986.

Councilor Kirkpatrick reported Councilors had received proposed amendments to the Ordinance earlier in the week. She proposed two changes to those amendments: 1) the word "have" be changed to "establish" on the question portion; 2) the word "to" be eliminated from the explanation; and 3) "1987-88" be removed from the last sentence of the explanation and the words "for a home assessed at \$60,000" be added at the end of the explanation.

8. ORDINANCES

8.1 Consideration of Ordinance No. 86-196, for the Purpose of Adopting a Final Order in Contested Case No. 85-2 (Tualatin Hills) and Amending the Metro Urban Growth Boundary in Washington County as Petitioned (First Reading and Public Hearing)

The Clerk read the Ordinance a first time by title only.

Jill Hinckley introduced Beth Mason, Hearings Officer for Contested Case No. 85-2. She said the applicants and one opponent were also in attendance. She summarized the case as a request for an Urban Growth Boundary (UGB) amendment to add two acres currently occupied by the Tualatin Hills Church. The Fire District advised the church there should be a fire hydrant on the property but the city of Tualatin has a policy that would allow the church access to a nearby water main only if the church property were annexed to the city.

Ms. Mason explained unique factors in the case. She said the property in question had already been developed to urban level use. Also, a water main across the street from the church could not serve the property because the church was outside the UGB. In addition, the existing water main was at an incorrect elevation to provide enough water pressure to serve the property and another main at a different elevation would have to be installed to supply the proper water pressure. Ms. Mason said she checked with the city of Tualatin and the Fire District to see if they would actually deny the church access to the water main because they were outside the UGB. Both sources confirmed water would not be provided the church. Finally, Ms. Mason said she did not think the objections voiced by the opponent, William Moore, addressed any of the relevant criteria. Taking all these factors into consideration, Ms. Mason said she recommended granting the amendment to the UGB. She said her decision was consistent with all jurisdictions reviewing the case -- Washington County, the city of Tualatin and Metro staff.

Presiding Officer Waker opened the public hearing on the Ordinance.

William G. Moore, 9300 S.W. Norwood Road, Tualatin, testified against adoption of the Ordinance. He said another fire hydrant was not needed near the church because one already existed less than one-quarter mile from the church and the church also had a well on its premises. He explained the area had excellent response time from the fire department and that fire trucks carried large volumes of water in tanks. He said this request to urbanize the portion of land near the church was an attempt by the city of Tualatin to reroute truck traffic out of Tualatin. Finally, Mr. Moore questioned the hearings officer's ability to determine findings when she had not visited the area nor talked to anyone in the area.



Councilor Kelley pointed out that in case of a fire at the church, the well might not be useful because the electric well pump could stop working. She also said a fire truck carrying 250 gallons of water might not be sufficient to stop a fire at the church. She explained her home was destroyed by fire because 250 gallons of water carried in the fire truck tank was not enough water to put out the fire.

Ms. Mason again pointed out even if a hydrant was currently located within a quarter mile of the church, the city of Tualatin would not permit its use because the church was outside the Urban Growth Boundary.

Loren Doty, 10600 S.W. Evergreen Avenue, Apartment 2, Wilsonville, Minister of Tualatin Hills Christian Church, testified he agreed with the Hearings Officer's recommendations. He also said he did not think Mr. Moore's comments had addressed the criteria for amending the Urban Growth Boundary.

In response to Mr. Moore's earlier comments, Ms. Mason said she had visited the site but as was her policy, she had not talked to anyone about the case during the visit.

There was no further public testimony and Presiding Officer Waker closed the public hearing.

Motion: Councilor Kirkpatrick moved Ordinance No. 86-197 be adopted and Councilor Kafoury seconded the motion.

The Presiding Officer announced the second hearing would occur March 13, 1986.

## 9. RESOLUTIONS

### 9.1 Consideration of Resolution No. 86-628, for the Purpose of Providing for the Assessment of Dues to Local Governments for FY 1986-87

Keith Lawton reported that in compliance with Metro ordinance, the Intergovernmental Resource Committee (IRC) recommended a 51¢ per capita dues level, the same as for FY 1985-86, for the next fiscal year.

Motion: Councilor Kirkpatrick moved Resolution No. 86-628 be adopted and Councilor Kafoury seconded the motion.

Councilor Kirkpatrick, Chair of the IRC, noted the Committee conducted meetings in each county to give local representatives more voice on the dues matter.

Multnomah County Circuit Court and the revised ballot title filed with the Secretary of State.

Councilor DeJardin said he appreciated Councilors Kirkpatrick and Myer's work on preparing the ballot title. He also disagreed with The Oregonian's report which seemed to indicate the original ballot title was disguising non-Zoo funding. He noted the decision to seek a tax base was a bold move and was surprised by the Multnomah County Circuit Court's decision.

In response to Councilor Frewing's question, Presiding Officer Waker said if the tax base measure were successful, Metro could continue the 51¢ per capita dues assessment until 1989, at which time it could be reevaluated by the State Legislature.

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS.

None.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

6. APPROVAL OF MINUTES of the Meetings of January 23 and February 13, 1986

Councilor Frewing pointed out the minutes of February 13 had omitted his name as a candidate interviewed for the vacant District 8 Council position and he requested the minutes be corrected accordingly.

Motion: Councilor Kafoury moved the minutes be approved as amended and Councilor Kirkpatrick seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Frewing, Gardner, Hansen, Kirkpatrick, Kafoury, Kelley, Oleson, Van Bergen and Waker

The motion carried and the minutes were approved as amended.

7. ORDINANCES

7.1 Consideration of Ordinance No. 86-196, for the Purpose of Adopting a Final Order in Contested Case No. 5-2 (Tualatin Hills) and Amending the Metro Urban Growth Boundary in Washington County as Petitioned (Second Reading)

The Clerk read the Ordinance a second time by title only.

Main Motion: A motion to adopt the Ordinance was made by Councilors Kirkpatrick and Kafoury at the first reading of the Ordinance on February 27, 1986.

Jill Hinckley noted Mr. William Moore, who was against adoption of the Ordinance, had distributed a document entitled "Further Evidence Regarding Staff's Report on Ordinance 86-196." Mr. Moore requested this evidence be accepted as new testimony against adoption of the Ordinance. Eleanore Baxendale explained that any new testimony accepted by the Council must meet the following criteria: 1) was there must be a valid reason the testimony was not given at the first reading; 2) the new testimony must be relevant; and 3) it must be likely the new testimony would result in a different decision by the Council. She said staff recommended not accepting Mr. Moore's further evidence because it did not meet the above criteria.

Councilor Van Bergen said he had reviewed Mr. Moore's written statement and did not feel it met the criteria explained by Ms. Baxendale.

Motion to Reject Testimony: Councilor Van Bergen moved to deny William Moore's request to remand Contested Case No. 85-2 back to the Hearings Officer and not to accept Mr. Moore's new testimony on the basis it was irrelevant to the case. Councilor DeJardin seconded the motion.

Councilor Kelley asked staff to clarify the city of Tualatin's position of the applicant's use of the City's fire hydrant. Ms. Hinckley explained because the church was outside the UGB, the City would not allow the church to use the fire hydrant which was inside the UGB. The Councilor said it would be her preference to have the case reviewed again by the Hearings Officer.

Vote on Motion to Reject Testimony: The vote resulted in:

Ayes: Councilors Cooper, DeJardin, Frewing, Gardner, Hansen, Kirkpatrick, Kafoury, Oleson, Van Bergen and Waker

Nay: Councilor Kelley

Absent: Councilor Myers

The motion carried.

Vote on Main Motion: The vote resulted in:

Ayes: Councilors Cooper, DeJardin, Frewing, Gardner,  
Hansen, Kirkpatrick, Kafoury, Kelley, Oleson,  
Van Bergen and Waker

Absent: Councilor Myers

The motion carried and Ordinance No. 86-196 was adopted.

7.2 Consideration of Ordinance No. 86-197, for the Purpose of  
Revising the Disadvantaged Business Enterprise Plan (First  
Reading and Public Hearing)

The Clerk read the Ordinance a first time by title only.

Ed Stuhr reviewed highlights of the staff report, explaining any agency receiving funds from the U.S. Department of Transportation was required to create and administer a Disadvantaged Business Enterprise Plan. The changes to Metro's DBE Plan as proposed by this ordinance would make the plan consistent with internal contracting procedures and recent federal requirements, he said.

Motion: Councilor Kelley moved the Ordinance be adopted and Councilor Kirkpatrick seconded the motion.

Councilor Frewing asked Mr. Stuhr to review staff's process for involving citizens and the business community in the DBE Plan. Mr. Stuhr explained citizens and the business community were involved in making recommendations when the initial plan was established. At that time, the Executive Officer had appointed a review committee to receive public comment. He said some of the DBE amendments now before the Council were responses to community requests for plan changes. As required by law, proposed changes to the DBE Plan were published 45 days to allow opportunity for public comment, he said. The notification was published in The Oregonian, one minority-owned publication and in a publication of the federal government.

In response to Councilor Hansen's question, Mr. Stuhr said the proposed ordinance would not change the Council's adopted DBE goals. Specific ways of administered those goals, however, would be amended.

Presiding Officer Waker opened the public hearing on Ordinance No. 86-197. There being no public comment, he closed the public hearing and announced the Ordinance would be considered again on March 27, 1986.

those funds in Contingency (this amount was requested for legislative liaison position which will be provided by in-house staff in the Executive Management Department); and b) revise the FTE's for the Building and Grounds Division.

2. IRC Fund: adopt a budget note to read "The IRC Budget preparation process shall include notification to Council members of Committee meetings and forwarding of relevant materials including meeting agendas and minutes."
3. General Fund: a) adopt a budget note to read "Include an analysis of system compatibility with other governments in the Data Processing Plan."; and b) adopt a budget note to read "The Data Processing Plan shall be reviewed and approved by the Council Management Committee prior to the purchase of microcomputers budgeted in FY 1986-87. Purchases will remain subject to approval by the Deputy Executive Officer."

The Budget Committee recommended adoption of all other funds as proposed.

The Presiding Officer opened the public hearing on the budget.

Fern Alexander testified she was pleased the Zoo was spending \$250,000 less than anticipated for the current fiscal year. She asked if this surplus would remain in the Zoo budget. The Presiding Officer said it would be incorporated into FY 1986-87 budget as soon as the exact amount of the carryover was known.

There was no further public testimony and the Presiding Officer closed the hearing. He announced the Resolution would again be considered May 1, 1986, before it was forwarded to the Tax Supervising & Conservation Commission.

Because Councilor Kelley expressed concern about Solid Waste revenue and transfers, Presiding Officer Waker invited her to discuss those matters with staff before the May 1 meeting.

## 8. ORDINANCES

### 8.1 Consideration of a Request for Reconsideration of Ordinance No. 86-196 (An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 85-2: Tualatin Hills Church)

The Presiding Officer explained it had been requested the Council reconsider its decision to adopt the Ordinance. The Council would



first decide whether to hear the testimony of William Moore, the party requesting reconsideration. It would then decide whether to reconsider the Ordinance.

Jill Hinckley, Land Use Coordinator, explained the materials in the agenda packet including Mr. Moore's request for reconsideration and the Council rules for reconsideration of ordinances. She noted the rules did not contain specific standards by which ordinances should be reconsidered and that Mr. Moore's request did not raise any legal issues that would suggest a need for reconsideration. She said it was within the Council's discretion regarding how they should handle the petition.

Presiding Officer Waker noted any motion for reconsideration must be made by a Councilor who had voted on the prevailing side when the Ordinance was adopted. This, he said, would exclude Councilor Kelley from making such a motion.

Motion: Councilor Hansen moved to reconsider the Ordinance. The motion died for a lack of second.

Motion: Councilor Frewing moved to hear William Moore's verbal testimony in support of his request for the Council to reconsider Ordinance No. 86-196 and to hear other verbal testimony on reconsideration of the Ordinance. Councilor Hansen seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Frewing, Gardner, HJansen, Kafoury, Kelley, Myers, and Oleson

Nays: Councilors Cooper, Kirkpatrick, Van Bergen and Waker

Absent: Councilor DeJardin

The motion carried.

William Moore presented his testimony to the Council regarding why the Ordinance should be reconsidered. He said the city of Tualatin had misled the church to believe they had their own fire district. He said the fire district had also given unclear information to the Hearings Officer.

A discussion followed regarding Mr. Moore's statements. Councilor Gardner noted that even if the city of Tualatin provided water to the church for fire protection, another hydrant with more water pressure had to be installed.

Mr. Wheeler, representing the Tualatin Hills Church, testified that because the church was a public building it was required to have more fire protection. He said the Fire District had recommended a fire plug be installed within 500 feet of the church versus on-site water storage. He did not understand why Mr. Moore objected to the additional hydrant when residents' insurance rates would probably decrease as a result of the hydrant.

Councilor Kelley noted when the Ordinance was originally considered, Councilors were not given letters or statements from the city of Tualatin or the Fire District stating their positions. She requested such information be provided in future cases. Ms. Hinckley said a letter from the city of Tualatin had been included in the agenda materials for Ordinance No. 86-196.

Motion: Councilor Hansen moved to reconsider Ordinance No. 86-196 and Councilor Kafoury seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Gardner, Hansen, Kafoury and Kelley

Nays: Councilors Cooper, Frewing, Kirkpatrick, Myers, Oleson, Van Bergen and Waker

Absent: Councilor DeJardin

The motion failed.

In response to Mr. Moore's question, Ms. Hinckley said that if Mr. Moore wanted to pursue the matter of reconsideration further, he should appeal to the Land Use Board of Appeals.

8.2 Consideration of Ordinance No. 86-199, for the Purpose of Adopting a Waste Reduction Program for the Metropolitan Service District (Second Reading and Public Hearing)

The Clerk read the Ordinance by title only a second time.

Main Motion: The motion to adopt the Ordinance was given by Councilors Kirkpatrick and Gardner at the meeting of March 27, 1986.

Dennis Mulvihill, Waste Reduction Manager, explained the ordinance language needed to be amended to comply with state law, Exhibits A, B and C needed to be amended to include suggested SWPAC amendments, an amendment proposed by Council Frewing and other amendments as necessary.



# METRO

2000 S.W. First Avenue  
Portland, OR 97201-5398  
503/221-1646

March 18, 1986

Ms. Juanita Orr  
County Clerk  
Clackamas County Courthouse  
3th and Main  
Oregon City, Oregon 97045

Dear Ms. Orr:

Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District. Please file these ordinances in the Metro ordinance files maintained by your county.

Ordinance No. 85-193, Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 85-4: Foster Property

Ordinance No. 85-194, Restricting the Use of the St. Johns Landfill to Waste Generated in Clackamas, Multnomah and Washington Counties

Ordinance No. 86-195, Submitting Metropolitan Service District Tax Base Measure (Amended by Ordinance No. 86-198)

Ordinance No. 86-196, Adopting a Final Order in Contested Case No. 85-2 (Tualatin Hills) and Amending the Metro Urban Growth Boundary in Washington County as Petitioned

Ordinance No. 86-198, Amending Ordinance No. 86-195 by Adding the Certified Ballot Title

Sincerely,

A. Marie Nelson  
Clerk of the Council

Enclosures

**Metro Council**

Richard Waker  
Presiding Officer  
District 2

Jim Gardner  
Deputy Presiding  
Officer  
District 3

Bob Oleson  
District 1

Corky Kirkpatrick  
District 4

Tom DeJardin  
District 5

George Van Bergen  
District 6

Sharron Kelley  
District 7

(Vacant)  
District 8

Hardy Myers  
District 9

Larry Cooper  
District 10

Marge Kafoury  
District 11

Gary Hansen  
District 12

**Executive Officer**  
Rick Gustafson





# METRO

2000 S.W. First Avenue  
Portland, OR 97201-5398  
503/221-1646

March 18, 1986

Ms. Jane McGarvin  
Clerk of the Board  
Multnomah County  
1021 S.W. Fourth Avenue  
Portland, Oregon 97204

Dear Jane:

Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District. Please file these ordinances in the Metro ordinance files maintained by your county.

Ordinance No. 85-193, Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 85-4: Foster Property

Ordinance No. 85-194, Restricting the Use of the St. Johns Landfill to Waste Generated in Clackamas, Multnomah and Washington Counties

Ordinance No. 86-195, Submitting Metropolitan Service District Tax Base Measure (Amended by Ordinance No. 86-198)

Ordinance No. 86-196, Adopting a Final Order in Contested Case No. 85-2 (Tualatin Hills) and Amending the Metro Urban Growth Boundary in Washington County as Petitioned

Ordinance No. 86-198, Amending Ordinance No. 86-195 by Adding the Certified Ballot Title

Sincerely,

A. Marie Nelson  
Clerk of the Council

Enclosures

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District 8

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Larry Cooper  
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District 11

Gary Hansen  
District 12

Executive Officer  
Rick Gustafson



# METRO

2000 S.W. First Avenue  
Portland, OR 97201-5398  
503/221-1646

March 18, 1986

Mr. Don Stilwell  
County Administrator  
Washington County  
150 N. First Avenue  
Hillsboro, Oregon 97123

Dear Mr. Stilwell:

Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District. Please file these ordinances in the Metro ordinance files maintained by your county.

Ordinance No. 85-193, Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 85-4: Foster Property

Ordinance No. 85-194, Restricting the Use of the St. Johns Landfill to Waste Generated in Clackamas, Multnomah and Washington Counties

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Ordinance No. 86-198, Amending Ordinance No. 86-195 by Adding the Certified Ballot Title

Sincerely,

A. Marie Nelson  
Clerk of the Council

Enclosures

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