

## MINUTES OF THE METRO COUNCIL MEETING

January 27, 2000

Metro Council Chamber

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

Councilors Absent: None

Presiding Officer Bragdon convened the Regular Council Meeting at 2:02 pm.

### 1. INTRODUCTIONS

None.

### 2. CITIZEN COMMUNICATIONS

None.

### 3. EXECUTIVE OFFICER COMMUNICATIONS

None.

### 4. MPAC COMMUNICATIONS

**Councilor Park** summarized his impression of the results of a four-hour MPAC retreat held at the zoo on Wednesday, January 26, 2000. He said it should result in a more focused approach. Concerns focused on the large size of the committee, its level of staffing, and on finding ways to be more productive.

**Councilor Atherton** asked Councilor Park if MPAC had discussed funding the costs of growth.

**Councilor Park** indicated that had not been a focus of the meeting, although one small break-out group had talked about it.

**Councilor Atherton** asked if the funding subcommittee would continue.

**Councilor Park** said yes.

**Councilor Atherton** asked if there was any discussion about messages MPAC would like to communicate to the state legislature.

**Presiding Officer Bragdon** said his break-out table had discussed the need to have a regional voice at the legislature. The funding questions were also discussed at that table, and participants felt not enough time had been devoted to discussing it. They also felt that MPAC had spent too much time last year dealing in too much detail with the mandates of HB 2709 that kept them from discussing the financing. The retreat's accomplishment, in his view, was to improve their agenda-setting.

**Councilor Park** said the focus was primarily on how to meet the guidelines of HB 2709 by October. That would require local officials to provide their input on Goal 5 work, on the Endangered Species Act, the stream-setback, and so forth, by the end of April so other legal requirements can be met before October.

**Councilor Atherton** asked if there was any discussion about the nature of communications with the Metro Council.

**Councilor Park** said there would be more discussions between Commissioner Naito, Chair Ogden, himself, and other key people on how to facilitate that.

**Presiding Officer Bragdon** said there was a lot of discussion about MPAC's advisory role with respect to Council. The committee said that although any Councilor was welcome to attend the MPAC meetings and provide reports, they did not want members of the Council to dominate the meetings.

**Councilor Atherton** said he had thought the best way to ask for MPAC's advice was to put it in writing.

**Presiding Officer Bragdon** said he offered to keep MPAC informed of Council discussions well in advance, so the committee could study the issue and have time to prepare a response. He added that MPAC would prefer that any Councilors who do attend not sit at their table but to one side, as they felt the table was already too big.

## **5. PARKS AND GREENSPACES VOLUNTEER PROGRAM PRESENTATION**

**Charlie Ciecko**, Regional Parks and Greenspaces Director, introduced Lupine Jones who would provide an overview of the volunteer program. He noted her success in recruiting and working with volunteers in the relatively short time she has worked for Metro.

**Lupine Jones**, Regional Parks and Greenspaces Volunteer Manager, reported on the success of the volunteer program. Although it began just one short year ago, this past year 1200 volunteers put in more than 15,000 volunteer hours. More than 20 volunteer orientations were held during the year, typically for some 100 potential volunteers. People learned of the program through the Parks and Greenspaces department, the *Greenscenes* newsletter, and through other media. She announced the completion of a first draft of a new volunteer brochure, to be used as a key recruitment tool.

Ms. Jones described a couple of the programs, including the volunteer naturalist program. These volunteers go through extensive training and conduct environmental education field trips for hundreds of school children. She introduced Andy Kerr, a long-time volunteer naturalist for Metro Parks and Greenspaces.

**Andy Kerr**, volunteer naturalist, demonstrated a typical educational exercise, using casts of animal tracks.

**Ms. Jones** said that there are some 30 trained volunteer naturalists who conducted about 130 educational activities like the one just demonstrated. They contributed some 668 volunteer hours, mostly at Oxbow Regional Park and Smith and Bybee Lakes. Ms. Jones said in addition to the volunteer naturalist, office volunteers help with filing, data entry, and research. One of the big

projects is the volunteer database, which tracks all the information about the program and its volunteers. Another big project is removing invasive plant species from the regional parks. Josh D'Ancona, an AmeriCorps volunteer with the Northwest Service Academy, serves as a crew leader on that program.

The volunteer crew leader program is another big effort, which provides training in fieldwork, group dynamics, and first aid to prepare volunteers to lead other volunteers in the field to do restoration work. In 1999, two training sessions produced ten trained crew leaders who contributed more than 200 volunteer hours. In total, volunteers put in 100 workdays in Metro's greenspaces, parks, and pioneer cemeteries.

Ms. Jones then spoke about the importance of partnerships, of which there are about 50, among them one between the Portland Impact Family Services program and the Lone Fir Cemetery. She noted that one program, which took place in Lone Fir Cemetery, involved more than 150 young people who contributed some 450 volunteer hours.

**Jackie Nagel**, Portland Impact Family Services, spoke about the importance of the community pioneers program to her organization. The project tapped the talents of young people who had been involved with the court system. The young people are taught the history of the community to instill a respect for the maintenance work they do on the graves.

**Ms. Jones** showed a video of the Lone Fir Cemetery Volunteer events and explained a historic scavenger hunt that is used as a teaching tool for these young people and as a means of helping them appreciate what it means to be a part of a community.

Ms. Jones gave examples of the scope and breadth of the partnerships and the benefits they produce for themselves, for Metro, and for the region. She said the number of volunteers is expected to double in the next year.

**Councilor McLain** expressed her appreciation for Ms. Jones's efforts and for her presence in the community. She said she found particular value in the cemetery project as a tool for teaching appreciation for the area.

**Councilor Atherton** asked how groups adopt particular spaces.

**Ms. Jones** said the concept was difficult and had taken many forms. Some neighborhood groups take over projects and areas nearby, with informal guidance from Metro. The variety of types of greenspaces demands a variety of processes.

**Councilor Atherton** asked about summer time jobs for youth.

**Ms. Jones** said there are a few programs that involve paid jobs, currently involving a couple of alternative high schools. She said she expected opportunities for internships would continue to be explored.

**Presiding Officer Bragdon** asked about whether the figures included the Oregon Zoo. Ms. Jones said no; these were only for parks and greenspaces. She said she thought even more people volunteer at the zoo.

**Councilor Kvistad** alerted the Council that negative stories might soon be coming out in the press about the parks and greenspaces program. He said, in light of that, stories like this one are important reminders of all the good that has been done.

## 6. CREATING LIVABLE COMMUNITIES VIDEO

**Councilor Washington** introduced Mr. Brian Scott, President of Livable Oregon, who would be showing a video on the changing demographics of the home-buying market. It outlines features desired by non-traditional buyers by highlighting two developments—Orenco Station in Hillsboro, Oregon, and West Bend Village in Bend, Oregon. He said in the interest of exploring the affordable housing issue, he had invited Mr. Scott to share his organization's information with the Council.

**Brian Scott**, President of Livable Oregon, said Livable Oregon was dedicated to building livable communities through education, advocacy, and special projects. He distributed a copy of the organization's newsletter, a flyer about a livability conference, and a call for nominations for the governor's livability awards. Livable Oregon's work is in encouraging quality development state-wide. As part of that effort, the organization works with developers, lenders, homebuilders, and local officials. The two neighborhoods that would be featured in the video he was about to show, Orenco Station and West Bend Village, were two of the fastest-selling new neighborhoods built in Oregon in the past five years. He thought it was because the developers had responded to what people wanted. [Mr. Scott showed a 15-minute video.]

**Councilor Atherton** mentioned remodeling of existing neighborhoods and said the building permits were four times the value of new construction. That was one of Metro's key roles. He asked Mr. Scott to explain how his work helped maintain the viability of existing neighborhoods. He said Mr. Scott's presentation seemed to focus more on building new ones.

**Mr. Scott** agreed completely with Councilor Atherton. Revitalizing, reinvesting in and strengthening existing neighborhoods was the smartest investment the region could make and should be the community's top priority. He offered to return and provide such a presentation before the Council. The video and information he presented was produced so that consumers and people in the industry wouldn't lose sight of the fact that the community had choices about how to build neighborhoods. Currently, there was a strong demand for features of traditional neighborhoods. He said that unfortunately many of the new neighborhoods being built didn't have many of the traditional qualities characteristic of the two he presented to the council.

**Councilor Atherton** said the project would consist of approximately 4 to 5 dwelling units per acre in the Bend project. He asked what the overall density of Bend was.

**Mr. Scott** said he didn't know the density figures. West Bend Village was not particularly dense, especially when compared to the Portland metropolitan area. He said it was a very typical neighborhood, similar to Irvington in scale and character.

**Councilor Atherton** said it was interesting that Mr. Scott referred to the Portland metropolitan area. Councilor Atherton calculated the total number of dwelling units inside the urban growth boundary in the region and the acreage. The density overall was only one dwelling unit per acre more than Sun River. Why not make the place where we live great? He said it could be a resort community. It had the potential, the rivers and the topography. Everything was there. He said it was all in the vision.

**Councilor Kvistad** mentioned the mixed use Astoria old mill site. At least part of it was a superfund site, but what they were doing with it now was very interesting. Authorities were building a trolley along the waterfront. The location was right on the water. He encouraged councilors and the public to investigate.

**Councilor Washington** thanked Mr. Scott for the information and presentation, and said he was very impressed with the composition of the Board members of his organization, who represented the entire state and tri-county area. Metro needed to take a different approach, concerning market, demographics, affordability, livability and how the agency provided home ownership opportunities for its citizens. He wanted to discuss the subject and his thoughts further with Mr. Scott and others in the future, because it was the next step toward truly affordable housing.

**Presiding Officer Bragdon** said it was appropriate at that point in the discussion to mention that the council would soon be visiting some of the types of developments that Mr. Scott had referred to during his presentation. Presiding Officer Bragdon mentioned Fairview Village, because it had won regional housing awards. In recognition of those awards and to see the project first hand, he announced the council would meet at Fairview Village on Thursday, February 17, 2000, at 2 p.m. Fairview's new City Hall Chamber was part of the development. He said the Mayor of Fairview also arranged a tour of the facility for Metro proceeding the meeting at 1 p.m.

The Presiding Officer said the council was also invited to Saint Anthony's Village, a five-acre site at 79<sup>th</sup> and Rome, located in the heart of Councilor Monroe's district. The parish sponsored the multi-generational site, which included day care, Alzheimer's and assisted living centers. The council planned to meet there on Thursday, April 13, 2000 at 2 p.m.

## 7. CONSENT AGENDA

7.1 Consideration of minutes of the January 6, and January 13, 2000, Regular Council Meetings.

**Motion:** **Councilor Park** moved to adopt the meeting minutes of January 6, and 13, 2000, Regular Council meetings.

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

**Councilor Kvistad** abstained from the vote because he was not present at the council meeting on January 13, 2000, meeting.

**Vote:** The vote was 6 aye/ 0 nay/ 1 abstain. The motion passed with Councilor Kvistad abstaining from the vote.

## 8. ORDINANCES – FIRST READING

8.1 **Ordinance No. 00-841**, For The Purpose of Establishing a Metro Fiscal Policy Relating to Cost Impacts of Growth.

**Presiding Officer Bragdon** assigned Ordinance No. 00-841 to Growth Management Committee.

8.2 **Ordinance No. 00-845**, For the Purpose of Amending the Future Vision and the Regional Framework Plan to Fulfill the Charter Requirement to Describe a Process for "Carrying Capacity" in the Region.

**Presiding Officer Bragdon** assigned Ordinance No. 00-845 to the Growth Management Committee.

8.3 **Ordinance No. 00-846**, For the Purpose of Establishing a Metro Fiscal Policy, Including Periodic Elections, Relating to Cost Impacts of Growth.

**Presiding Officer Bragdon** assigned Ordinance No. 00-846 to Growth Management Committee.

## 9. ORDINANCES – SECOND READING

9.1 **Ordinance No. 00-839**, For the Purpose of Amending Metro Ordinance No. 98-730c, Title 3 and Title 8 of the Urban Growth Management Functional Plan and the Regional Framework Plan.

**Motion:** **Councilor Park** moved to adopt Ordinance No. 00-839 with technical amendments.

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

**Councilor Park** said in June 1998, the Metro Council adopted Ordinance No. 98-730c. It amended Title 3, the Urban Growth Management Functional Plan and the restatement of Title 3 in Appendix A of the Regional Framework Plan (RFP). This action partially completed work that the council identified when it initially adopted the functional plan in November 1966. The Commercial Real Estate Economic Coalition (CREEC), the Homebuilders Association of Metropolitan Portland, the Columbia Corridor Association and the city of Tigard subsequently appealed Ordinance No. 98-730c. On November 10, 1999, the Land Use Board of Appeals (LUBA) issued an order that remanded Ordinance No. 78-730 back to the council with petitioners' claims of error. The petitioners then appealed the decision to the Court of Appeals. Subsequently, Metro and the petitioners agreed to dismiss that appeal. The proposed ordinance was designed to respond to the LUBA remand. In essence, he understood it changed dates to satisfy LUBA in terms of how things were scheduled to occur. He referred the matter to the legal counsel for a description of the procedure and other specifics.

**Ken Helm**, Assistant Counsel, Office of General Counsel, said the ordinance did primarily two things. It readopted Ordinance No. 98-730c and excised the timelines that LUBA said violated the state statute regarding RFPs. The LUBA held that Metro accelerated the time for local compliance with the RFP when it adopted the amendments to Title 3. In addition to that primary task, the secondary task was to explain in the ordinance and demonstrate in the amendments that Metro separated the timelines for compliance with the functional plan from the timelines for compliance with the RFP.

Mr. Helm said the ordinance also provided additional amendment work to the RFP plan to show what Metro anticipated would be the type of future ordinance that would implement the RFP, pursuant to the RFP. Issues included how the RFP would be administrated as a regional plan, changes that may occur to it and how that would happen, and how the RFP would be enforced according to the statute. He said it was best described as a narrow fix to a narrow problem. It solved what LUBA considered a problem without deconstructing the RFP, and the strategy that Metro decided to use to go forward with both the functional plan and the RFP at the same time.

**Presiding Officer Bragdon** opened a public hearing on Ordinance No. 00-839.

**Stark Ackerman**, attorney with Black Helterline LLP, 707 SW Washington St., Suite 1200, Portland, OR 97205, represented CREEC, the Homebuilders Association of Metropolitan Portland and the Columbia Corridor Association, the appellants to Title 3 earlier. He testified concerning the proposed ordinance designed to address the concerns raised by LUBA on the remand. He submitted a letter for the record. One primary reason he said his clients originally appealed the 1998 ordinance amending Title 3 was because they were concerned about whether it complied with statewide planning goals. They were also concerned about the appropriateness of local governments being required to implement the Title 3 standards before the Land Conservation and Development Commission (LCDC) reviewed the ordinance for compliance with the goals.

Mr. Ackerman said it was not only a substantive issue. Were the goals met? It was also a timing issue. Should the local governments be required to implement something when there's a chance that it would have to be changed? This, would lead to an inefficient process, wasted energy and uncertainty for everyone involved. He said the process should proceed in a proper, logical order. He said it was best to not require local governments to expend energy until they know that the appropriate authority reviewed the compliance issues and provided assurances that what was adopted would stand the test of review. He said there was a statutory basis for arguing that acknowledgement from LCDC was necessary before the requirements could be implemented at the local level. In fact, LUBA found that to be true and remanded the 1998 decision back on that point. They ruled it was premature to require local governments to implement the requirements before LCDC review.

His clients agreed not to pursue their appeal to the Court of Appeals, despite some issues they weren't comfortable with in the LUBA decision, because they felt there were very important issues coming before the region. They knew government agencies would be involved in these decisions, so they wanted to be involved as well, instead of focusing on Title 3 as it was originally adopted. So they shifted their focus forward and tried to cooperate. His clients' focus was now on having some policy, stated on the part of the council, recognizing that there was a logical way to move through the process.

However, he said this ordinance raised a couple concerns. One, it was not clear the defect LUBA found was corrected. However, they were more concerned that the issues they raised regarding the timing of review for compliance with the goals and implementation at the local level were not sufficiently acknowledged by the council's proposed ordinance.

He said the focus was no longer as much on what happened with Title 3 when the 1998 amendments were adopted. Instead, the focus shifted forward toward what was going to happen in the future when the Goal 5 portion of Title 3 was adopted. It also focused on what was going to happen with other portions of the functional plan that must be reviewed by LCDC for compliance with the goals. He said it was legitimate to ask and expect that there should be some review of those portions before the local governments spend time and energy on adoption.

He requested the council adopt a clearer policy, consistent with what his clients believed was the logical planning process. The policy would recognize the fact that a logical process existed and that it, or a similar process, would be followed in the future when dealing with functional plan amendments and requirements imposed on local governments but subject to LCDC review. He discussed this issue with the council before. Neither he nor his clients had any specific language to propose at the moment. But he said they were interested in spending time, provided they

received council support, to formulate language acceptable to both sides in the spirit of trying to look forward, not backward, and improve the level of cooperation.

**Councilor Atherton** attempted to paraphrase Mr. Ackerman's testimony. He saw the Metro charter process as the following: They created a vision of what they wanted to do in the region. Then Metro outlined an RFP, a narrative of how to accomplish the vision. Finally, they designed functional plans that would implement the RFP. (He called it drawing lines on maps.) He asked Mr. Ackerman if that was the natural process or proper planning scheme that Mr. Ackerman was talking about.

**Mr. Ackerman** said yes, conceptually, but the devil was in the details. For example, as the decisions have been made, the RFP now included what are in essence the functional plan requirements as an appendix to the RFP and as a necessary component of the RFP in order to provide an implementation mechanism. He said that was the way the RFP was adopted. He said the difference between the functional plan and the RFP was not as clear and distinct as Councilor Atherton's levels suggested.

**Councilor Atherton** asked Mr. Ackerman if he suggested that it was appropriate that there be LCDC review of the RFP for consistency with the goals. He also asked if a finding was made that Metro's RFP that carried out the vision was consistent with the goals, that therefore, any of the functional plans, if they were consistent with the RFP, would therefore be consistent with the goals.

**Mr. Ackerman** said yes, that was one way it could work. There was a statutory requirement that LCDC review the framework plan for compliance with the goals and an acknowledgement review. He said LCDC was in the middle of that process now. Without having a clearer idea of how Councilor Atherton separated the RFP from the functional plan, he said it was difficult for him to say yes, that works regardless of what it was that Councilor Atherton included in each.

**Councilor McLain** said her understanding of what he just said to Councilor Atherton was that Mr. Ackerman would be pleased to have more definition to the differences between the functional plan and the RFP.

**Mr. Ackerman** said yes, right now there was overlap to the extent of being identity perhaps.

**Councilor McLain** said that was the problem Metro was addressing. They were trying to ensure a definite separation between the time compliance issues in the functional plan and the RFP. She asked if he understood that that was Metro's goal.

**Mr. Ackerman** said yes.

**Councilor McLain** asked what his problem was with Metro trying to work toward a more defined separation between the two documents.

**Mr. Ackerman** said his concern was that Metro was imposing requirements on local governments. There's statutory language, and language in the Metro Charter and the RFP, that said that would normally be accomplished through a functional plan. The RFP included language to implement itself, and that may have been necessary to show that the RFP itself is consistent and compliant with the goals. The concern his clients had was that when there was an appropriate review for compliance with the goals, did Metro want to force, prior to that review taking place,



local governments to rewrite their plans? His clients didn't want to extend the time frames way off into the future, but they did want an orderly process.

**Councilor McLain** said he answered her question when he said yes, he would like to see the functional plan and the RFP separated. She says that is what Ordinance 00-839 would do. The lawyers said the ordinance was a narrow fix for a narrow problem. Everything else that followed in his answer was other items the council would address later when it planned to address Goal 5 work and new functional plans. But the ordinance currently under consideration was only designed to address the decoupling of the RFP and the functional plan timelines, the compliance. Thus, the council would have two distinct documents versus two documents that seemed to blend together. That was the state's concern. She said the council felt that this amendment, in the short term, would fix that specific, direct, narrow comment by the state. They didn't try to accomplish all the other things Mr. Ackerman mentioned, because there was Goal 5 work and other relevant questions that the council would be addressing soon. Therefore, she was trying to determine if there was something she was not hearing from him that concerned him about the work. She said everything he said so far supported passage of the amendment that was in front of the council today.

**Mr. Ackerman** said the decoupling being done by the council was merely said that the implementation time frames are different. In all other ways, the exhibit to the RFP was substantively the same, identical to the functional plan as it was being adopted now.

**Councilor McLain** addressed that comment. She said the MPAC group worked with the council as an advisory group and indicated what they wanted to have included in the framework plan. She added that the specificity versus the general quality of that document was debated fully for almost two or three years. In fact, Mr. Ackerman and many in his group were present during those conversations. So, she asked if there was some new concern that she didn't know about that required more general or specific info, or if he would like to see a different texture to what the framework plan looked like as a document. Otherwise, she said she didn't hear any valid new concerns from Mr. Ackerman.

**Mr. Ackerman** said his clients wanted an independent review for compliance with the goals. That was something that wasn't provided within the past two or three years. Under more ordinary circumstances, the RFP would have been presented to LCDC for acknowledgement review in a much more timely manner. For a variety of reasons, there was a very lengthy delay in LCDC addressing acknowledgement issues. He imagined that in a more orderly situation, what they would like to see could happen in a time frame, which would fit more closely with what Metro would probably propose anyway. The 18 months that was originally proposed with the 1998 ordinance, would probably suit the logical review by LCDC for acknowledgement with the goals. What he was looking for was recognition that yes, that was a legitimate purpose because they thought it was and the statute supported it. Plus, they were looking for some statement that yes, the council recognized that it was legitimate to have it reviewed in a timely fashion.

Furthermore, his clients were looking for a statement that yes, it would make sense to tell local governments to wait a reasonable period of time to allow that to happen so that they don't spin their wheels because of uncertainty. He said the concern was that to the extent local governments were required to do something before it was reviewed, if something happened on review that changed the substance, where would they be? His clients took the position it was already a done deal. It was too late. He asked if the point would be moot? He asked if a local government, if given an option, would redo something when it had already expended the time and effort to go through the process once before. His clients asked for a process that would permit such a review,

before so much energy is expended on implementing the initial product. He said that way there could be a fair consideration of what might happen after a review.

**Councilor Park** asked if Mr. Ackerman asked for a functional plan, that something gets adopted, goes to LCDC for review and then whatever is adopted is in abeyance until approved by LCDC. He asked if that was the concept Mr. Ackerman's clients requested.

**Mr. Ackerman** said yes, very much like that. It would require time for the local governments to have implemented it anyway.

**Councilor Park** asked if he would assume the local governments would start that work during the abeyance period or not.

**Mr. Ackerman** said his clients preferred that there be some delay, a reasonable period of time that would permit an LCDC review.

**Councilor Park** asked his definition of a reasonable period of time.

**Mr. Ackerman** said neither he nor his clients had a fixed date in mind for that. He suggested they should consider what would be a reasonable period of time to expect to go through an LCDC acknowledgement review process. The LCDC now had initiated acknowledgement review of the RFP and was much better prepared for beginning that on a more immediate basis than it was in the past. He envisioned it being well under a year and very possibly well under 6 months.

**Councilor Park** said when the legislature enacted new laws, usually within 60 to 90 days after the Governor's signature, the council, at the same time, didn't expect those laws to wait until something happened before they were acknowledged by the council. The council expected the local governments to have moved ahead with them as well. He asked what the difference was. Why should Metro have waited but not the legislature? If the council and local governments waited, the legislature would be in the next session before what they passed in the last session reached the implementation phase.

**Mr. Ackerman** said the difference was that when the legislature passed a law, there was no established review body with one of its primary purposes being a review of that law. The LCDC was charged with the responsibility to review the RFP for compliance with the goals. That was its specific charge with the recognition that yes, changes could take place now. A fair review of that could result in something different. It was an established process that used LCDC in a way created by the legislature that served an important purpose within the land use process and the state.

**Councilor Park** asked Mr. Ackerman if he envisioned any time that the process might work against him in any fashion. Specifically, a delay of such from the time something was adopted to the time it was implemented.

**Mr. Ackerman** said yes, he could see situations.

**Councilor Park** asked how he would address those situations or would like to see them addressed by others.

**Mr. Ackerman** said that in his letter, and reiterated in his testimony (which was a little different), that he was not suggesting that the council adopt an absolute or categorical rule, to be followed

under any circumstance. Instead, he suggested that the council review matters on a case-by-case basis. There may be situations when they couldn't predict the future. At some time, everyone may agree that a delay would not be appropriate. Other times, everybody might agree to a delay. He mentioned the 4 D Rule as an example. However, he suggested there be some statement that recognized established goals and his clients' legitimate concerns. He said that depending on the nature of the circumstances, everyone might agree that a delay was appropriate.

**Councilor Atherton** went back to the chart again and asked if Metro's RFP would be analogous to a local community comprehensive plan.

**Mr. Ackerman** said very much so.

**Councilor Atherton** then asked if zoning would be consistent with Metro's Functional Plan.

**Mr. Ackerman** said in many ways yes. However, the statutory language was different in terms of how it applied to Metro, as opposed to how it applied to local governments. **Mr. Ackerman** disagreed with Metro's legal counsel. He said there may be disagreement about how to interpret the language in the statute concerning LCDC review of ordinances that implement the Regional Framework Plan.

**Councilor Atherton** asked if his group had considered a moratorium on development during the review period.

**Mr. Ackerman** said no, they had not discussed a moratorium.

**Presiding Officer Bragdon** closed the public hearing on Ordinance No. 00-839.

**Councilor McLain** said she appreciated Mr. Ackerman's comments and concerns. However, she said she could easily support this ordinance because she believed his concerns could be addressed in the future as the Council looks at future Functional Plans, such as Goal 5. She said the ordinance was written at the request of LCDC to address its concerns, and will facilitate LCDC's acknowledgement of Metro's Regional Framework Plan.

**Councilor Kvistad** said he found LCDC to be nothing if not a road block to quality land use planning. He said he had no objection to Mr. Ackerman's request to delay action on the ordinance in order to return it to committee for a week, but if the vote was today, he would vote no.

**Councilor Atherton** asked Mr. Cooper about the role of a framework and its analogy to a local comprehensive plan. If he understood Mr. Ackerman's argument correctly, the efficiency of DLCDC review of a comprehensive plan was legitimate, because it negated the need to review every zoning or functional plan change. He asked if the document would make Metro more or less efficient.

**Mr. Cooper** said efficiency and inefficiency were not legal concepts; the Council would need to determine efficiency from a policy level. In terms of legality, the functional planning statute preceded the charter and the framework plan statute. The Functional Plan was very different than the Framework Plan and was adopted as an interim measure in 1996, so that the region could begin to comply with the 2040 Growth Concept prior to adoption and acknowledgment of the Regional Framework Plan. Metro is currently in transition between relying solely on the Functional Plan, and also using the Regional Framework Plan as a tool. He noted that Metro has

waited for two years for LCDC acknowledgment of the Regional Framework Plan. He said legal counsel recommends adoption of Ordinance No. 00-839, although Council could direct him to work with Mr. Ackerman to see if language could be added to the ordinance that would address his concerns.

**Councilor Atherton** thanked Mr. Cooper for giving the background information. He asked if Ordinance No. 00-839 moved the Council toward the process where it would have a solid framework that would get reviewed by LCDC for compliance with the goals, with the implicit assumption that when Metro begins to determine zoning and functional plans, they will be immediately consistent with the goals.

**Mr. Cooper** said Ordinance No. 00-839 was not inconsistent with that objection, as it left in place the Framework Plan. He noted that many jurisdictions have requested, and been granted, extensions on Title 3 compliance. DLDC was trying to get LCDC to address the Goals 6 and 7 issue of compliance with Title 3 as soon as possible. He did not know the time frame, but it may be that Metro will receive the DLCD acknowledgement before those jurisdictions that have extensions will be required to take their final actions.

**Call For the Question:** **Councilor Washington** called for the question.

**Councilor Park** closed by thanked Mr. Ackerman for his questions. He said the main question, however, was whether Ordinance No. 00-839 would fix a specific problem, and it did. Mr. Ackerman's question of when Metro would move forward and ask for enforcement from local jurisdictions was an interesting question. He noted Mr. Ackerman's recommendation of selective enforcement "when everyone agrees." He said after only 14 months at Metro, he knew that never happened here. He said future adoption of the 4(d) rules could result in a halt in development, in which case Mr. Ackerman's clients may want Metro to move forward and implement its policies as soon as possible. He said Mr. Ackerman asked some interesting questions, but it was not possible to have it both ways. He said Ordinance No. 00-839 solved the problem it was meant to address, and he urged an aye vote. He said the discussion of selective enforcement could be an interesting discussion for a later time.

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

## 10. RESOLUTIONS

10.1 **Resolution No. 00-2881**, For the Purpose of Appointing Kathryn Henton to the Metro Committee for Citizen Involvement.

**Motion:** **Councilor Atherton** moved to adopt Resolution No. 00-2881.

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

**Councilor Atherton** introduced Resolution No. 00-2881. He said the committee reviewed Ms. Henton's application and gave her a unanimous recommendation.

**Councilor Park** said Ms. Henton lived in his district and was very active in the community, especially in density and Goal 5 issues. He said she would be a valuable addition to the committee and would bring a lot of energy and fire to the table.

**Vote:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed with Councilor Kvistad absent from the vote.

10.2 **Resolution No. 00-2883**, For the Purpose of Approving an Intergovernmental Agreement with the City of Portland for Reforestation on Metro Open Spaces Properties.

**Motion:** **Councilor Washington** moved to adopt Resolution No. 00-2883.

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

**Councilor Washington** reviewed this resolution by reading the committee report (a copy of which may be found in the permanent record of this meeting). He urged an aye vote.

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

10.3 **Resolution No. 00-2885**, For the Purpose of Amending the Clear Creek Canyon Target Area Refinement Plan.

**Motion:** **Councilor Atherton** moved to adopt Resolution No. 00-2885.

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

**Councilor Atherton** reviewed Resolution No. 00-2885. A staff report to the resolution includes information presented by Councilor Atherton and is included in the meeting record.

**Councilor Monroe** said Clear Creek was a pristine tributary of the Clackamas River, and this piece of property was a necessary part of protecting the creek as Metro worked to restore fish habitat and protect the upland area in the watershed.

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

10.4 **Resolution No. 00-2887**, For the Purpose of Appointing Mike Salsgiver as School District Governing Body Representative and Annette Mattson as School District Governing Body Alternate Representative to the Metro Policy Advisory Committee.

**Presiding Officer Bragdon** withdrew Resolution No. 00-2887 from the agenda.

10.5 **Resolution No. 00-2888**, For the Purpose of Approving Supplemental Amendments to the 1999 Update of the Regional Transportation Plan

**Motion:** **Councilor Kvistad** moved to adopt Resolution No. 00-2888.

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

**Councilor Kvistad** presented Resolution No. 00-2888. A committee report to the resolution includes information presented by Councilor Kvistad and is included in the meeting record. He said Resolution No. 00-2888 was supplemental to the resolution passed in late December, which dealt with the public comments that came in as part of the Regional Transportation Plan (RTP). He said the final RTP should be before the Council in ordinance form later this year.

**Councilor Atherton** asked if it was fair to say that Exhibit A to the resolution addressed the issue of access management in congested areas.

**Andy Cotugno**, Director, Transportation Planning Department, said it was an issue of access management on streets that need to function like downtown main streets.

**Councilor Atherton** asked if the funding issues would come up.

**Councilor Kvistad** said he felt this would be discussed in the future.

**Councilor Atherton** noted comment #19 about revising the Tualatin-Valley (TV) Highway Corridor Study. He said the comments adopted were fairly innocuous, but the basic issue was the highway's role in providing access for people in the southwestern part of the region to the urban core. He said he did not feel that any of the groups have adequately addressed this issue, and asked Councilor Kvistad to comment.

**Councilor Kvistad** said the elected officials in his district recognize this as a major problem. He noted that most of the roads in the western part of the region were originally farm-to-market roads, and were never intended to accommodate current traffic levels. They have tried to focus on the RTP to balance around the region to address both access and congestion issues, with the understanding that under the circumstances, it was very difficult to do anything major to address immediately some of those issues.

**Councilor Kvistad** said his motion included the amendment to Exhibit A. He said the RTP was incredibly complex, and the funding constraints and future Council debates would be very constructive. He said Resolution No. 00-2888 was an addendum to work previously approved by the Council. There were no major new issues, they were mostly points of clarification based on public testimony.

**Vote:** The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Presiding Officer Bragdon voting no.

10.6 **Resolution No. 00-2889**, For the Purpose of Authorizing the Executive Officer to Execute an Intergovernmental Agreement with the Oregon Parks and Recreation Department for Management of Property in the Tryon Creek Linkages Target Area.

**Motion:** **Councilor Washington** moved to adopt Resolution No. 00-2889.

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

**Councilor Washington** reviewed Resolution No. 00-2889. A staff report to the resolution includes information presented by Councilor Washington and is included in the meeting record.

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

## 11. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e), DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE REAL PROPERTY TRANSACTIONS.

**Presiding Officer Bragdon** opened an Executive Session pursuant to ORS 192.660(1)(e) at 4:30pm.

**Present:** Presiding Officer Bragdon, Councilor Washington, Councilor Park, Councilor Atherton, Councilor Kvistad, Councilor McLain, Councilor Monroe, Dan Cooper, General Counsel, Jeff Stone, Council Chief of Staff, Chris Billington, Clerk of the Council, Tim McNeil, Charles Ciecko, Heather Nelson Kent, Jim Desmond.

**Presiding Officer Bragdon** closed the Executive Session at 4:47pm.

11.1 **Resolution No. 00-2890**, For the Purpose of Authorizing the Executive Officer to Purchase Property in the East Buttes/Boring Lava Domes Target Area.

**Motion:** **Councilor Monroe** moved to adopt Resolution No. 00-2890.

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

**Councilor Monroe** reviewed Resolution No. 00-2890. He said the property in question includes a residence, and the City of Gresham required minor lot line adjustments in order to approve the acquisition. He urged an aye vote.

**Councilor Atherton** voiced his concern that when a community is not collecting the full system development charges, it is propping up the speculative value of its property, which comes out of regional funds. He said he would research the issue and look for a remedy.

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

### 13. COUNCILOR COMMUNICATIONS

**Councilor McLain** distributed a memo about the upcoming budget season, a copy of which is included in the meeting record. She noted that the first Budget Committee meeting would be on February 2, and would look at budget issues in the next year. She invited all members of the Council to attend the Budget Committee meetings.

**Councilor Kvistad** said in the past, there has sometimes been a crossover from the Executive Department making comments on the Council's budget and Council line items. He said it might be prudent to make sure that the Executive Department knows that the Council budget does not belong to the Executive to make comments on or changes to.

**Presiding Officer Bragdon** said he would communicate that to the Executive Office.

**Councilor Washington** asked Councilor McLain about her recent trip to Cuba.

**Councilor McLain** briefly summarized her impressions of Cuba. She said the trip was one of the most educational experiences ever for her, the students she chaperoned, and the other adult chaperones. She said her strongest memory was of the warmth of the Cuban people.

**Councilor Park** said he just received a message from Mr. Shaw, stating that LCDC adopted the changes to the Urban Reserve Rule today at noon. LCDC also adopted clarifying amendments, most of which assisted Metro. A memo would be distributed on January 28, 2000.

**Councilor Washington** asked the Council to bring him any comments on the Regional Environmental Management (REM) work plan by Monday, January 31, 2000.

Councilor Kvistad said Jim Nicoli, Mayor of Tigard, has a fairly severe illness. Mayor Nicoli's doctor would not allow flowers, but a card was sent to Mayor Nicoli on the Council's behalf.

**12. EXECUTIVE SESSION, HELD PURSUANT TO ORS 192.660(1)(h), TO CONSULT WITH LEGAL COUNSEL CONCERNING THE LEGAL RIGHTS AND DUTIES OF A PUBLIC BODY WITH REGARD TO CURRENT LITIGATION.**

**Presiding Officer Bragdon** opened an Executive Session pursuant to ORS 192.660(1)(h) at 4:55pm.

**Present:** Presiding Officer Bragdon, Councilor Washington, Councilor Park, Councilor Atherton, Councilor Kvistad, Councilor McLain, Councilor Monroe, Dan Cooper, General Counsel, Ken Helm, Assistant Counsel, Marv Fjordbeck, Senior Assistant Counsel, Jeff Stone, Council Chief of Staff, Chris Billington, Clerk of the Council.

**Presiding Officer Bragdon** closed the Executive Session at 5:10 p.m.

**14. ADJOURN**

There being no further business to come before the Metro Council, Presiding Officer Bragdon adjourned the meeting at 5:10 p.m.

Prepared by,

Chris Billington  
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
012700c-01	None listed	It's Your Nature Volunteer with Metro brochure	TO: Metro Council FROM: Lupine Jones Volunteer Coordinator Parks and Greenspaces	
012700c-02	1999	Metro's Regional Parks and greenspaces volunteer program Year-end Report	TO: Metro Council FROM: Parks and Greenspaces	
012700c-03	November 1999	Livable Oregon News and enclosures	TO: Metro Council FROM: Brian Scott President of Livable Oregon	
012700c-04	1/27/00	Comments concerning Ordinance No. 00-839 from attorney representing Commercial Real Estate	TO: David Bragdon, Metro Council FROM: Stark Ackerman Black	Ordinance No. 00-839



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		Coalition, Home Builders Association of Metropolitan Portland and Columbia Corridor Association	Helterline Attorney at Law	
012700c-05	September 7, 1999	Letter concerning acknowledgement of the Metro Regional Framework Plan (Agenda Item 4, September 23-24, 1999 LCDC Meeting)	TO: Land Conservation and Development Commission FROM: Richard Brenner, Director	Ordinance No. 00-839
012700c-06	October 18, 1999	Letter concerning Addendum to Agenda Item 4, September 23, 1999 Staff Report: Metro Regional Framework Plan – Request for Acknowledgment	TO: Land Conservation and Development Commission FROM: Richard Brenner, Director	Ordinance No. 00-839
012700c-07	1/4/2000	Amendment to Exhibit “A” to Resolution No. 00-2888	TO: Metro Council FROM: Transportation Planning Department	Resolution No. 00-2888
012700c-08	1/20/00	Committee Report on Resolution No. 00-2888	TO: Metro Council FROM: John Houser, Council Analyst	Resolution No. 00-2888
012700c-09	1/21/00	Committee Report on Resolution No. 00-2881	TO: Metro Council FROM: Michael Morrissey Council Analyst	Resolution No. 00-2881
012700c-10	1/21/00	Committee Report on Resolution No. 00-2883	TO: Metro Council FROM: Michael Morrissey Council Analyst	Resolution No. 00-2883
012700-11	1/21/00	Committee Report on Resolution No. 00-2885	TO: Metro Council FROM: Michael Morrissey	Resolution No. 00-2885
012700c-12	1/21/00	Committee Report on Resolution No. 00-2889	TO: Metro Council FROM: Michael Morrissey	Resolution No. 00-2889