

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL RETREAT
DATE: August 9, 2005
DAY: Tuesday
TIME: 9:00 AM
PLACE: The Discovery Center
0680 SW Bancroft, Portland

CALL TO ORDER AND ROLL CALL

- | | | | |
|-------|-----|---|------------------|
| 9:00 | 1. | WELCOME | South Waterfront |
| 9:30 | 2. | OVERVIEW Nature in Neighborhoods Initiative | Triplett |
| | 2.1 | Working at the Watershed/Habitat Conservation Area scale | |
| | 2.2 | Capacity-building among region's actors | |
| | 2.3 | Six interrelated areas of Nature in Neighborhoods discussions of strategy | |
| 11:30 | | Lunch | |
| 1:00 | | ADJOURN | |

Areas of Nature in Neighborhoods

1. Conservation Education

Metro will work on the “wholesale” level in support of educational goals leading to knowledge gains and behavior change.

~There are many ongoing achievements in this area; Oregon Zoo, Solid Waste and Recycling, Regional Parks and Greenspaces all work with learners and are using regional capacity-building models in program implementation.

2. Setting of Flexible Local Standards

Metro will provide local jurisdictions multiple compliance opportunities to meet flexible regional standards.

Possible amendments to Ordinance 05-1077B:

At previous work sessions, Councilors have identified a few issues for consideration as possible amendments to Ordinance 05-1077B. A list of these issues is attached, along with amendment options. Staff would like to know if any Councilor would like to have one of these issues drafted into an amendment and; if so, if you would like to schedule consideration of the amendments on September 13, prior to the Sept 22 public hearing.

~There are many ongoing activities in this area; Planning is consulting with smaller cities in the region to identify barriers to habitat-friendly development (infrastructure and private property). LCDC acknowledgement will be sought for title 13 work, data sharing agreements need to be secured for functional plan implementation, etc.

3. Restoration

Metro will direct funds into effective conservation and restoration efforts on private and public lands.

Grant Program authorization:

Staff would like to launch the grant program in September; therefore we are seeking program guidance today.

~The Science and Stewardship team have led many partnerships for restoration on Metro lands, the two-year grant program funded by solid waste monies will be a demonstration of what local actors are able to accomplish with additional resources and a methodology that highlights groups’ specialties, capacity and strengths. Leveraging the interest the funding will create, Metro will be able to identify regional gaps in capacity and seek to fill them.

4. Monitoring and Reporting

Metro will fulfill our role as regional repository of ecosystem health measures, what class of stewards we have become, what the emerging science tells us to do now.

~This work has already attracted significant grant support from DEQ. It is anticipated that more support will be sought in partnership with the scientific community that collects such measures and the associations that seek to advance adoption of scientifically valid approaches.

5. Encourage Habitat-Friendly Development Practices

Metro will convene developers (of buildings and all related infrastructure - roads, etc.) with the end goal of showing local jurisdictions and interested parties that they will do (and are doing) lower impact building within habitat conservation areas.

~This work has been ongoing through collaborations like the ones with Clackamas County Soil and Water Conservation District and Clackamas River Basin Council where workshops for developers, landscapers, contractors and realtors will be scheduled and coordinated with other land developer outreach activities. There are many Metro program's with good relationships with the builder community.

6. Acquisition

Metro will be a funder of additional land acquisition activities.

~Metro council has other time devoted to this work, it will not be presented here.

NATURE IN NEIGHBORHOODS

Providing funding for projects that provide stewardship opportunities for watershed restoration and enhancement throughout the Portland metropolitan area. This grant program was started with solid waste tax funds.

Nature in Neighborhoods Grant Program

In 2005, Metro Council created a grant program specifically for targeted watershed restoration and enhancement throughout the Portland metropolitan area. Through these financial incentives and technical assistance, Metro continues to support critical habitat conservation area restoration so that residents fulfill their requirements for access to nature, clean water and healthy streams into the future.

Grant Criteria

- Projects must reflect diverse partnerships (a minimum of 3) that contribute funding, land, technical assistance, workforce support and/or other in-kind services. Minimum grant award is projected to be \$35,000 in order to encourage a larger scope and impact of well-designed projects. Financial match will be 1:1.
- Projects may be focused on identified lands (public and/or private) that are within Metro's Habitat Conservation Areas (Riparian I/II, Upland A/B). All projects will provide site assessment at the local and watershed level.
- Projects that are part of a larger watershed project or effort are encouraged.
- Projects shall provide a summary of current information and knowledge about the watershed conditions and activities to date as part of their proposal.
- Projects shall include strategies and provisions for long-term management and protection, be based on sound science, exhibit strong community engagement, provide monitoring protocols that provide measurable results for both short and long-term timeframes and illustrate ecological benefits that are expected from the completion of the projects and shall feature innovative and collaborative approaches to watershed restoration and stewardship.
- Where appropriate, each project shall have an educational component that encourages student involvement.

Nature in Neighborhoods grants for 05/06
This grant program was started with solid waste tax funds.

<u>Date</u>	<u>Activity</u>
September 2005	Invitation sent out for draft grant proposals – questions fielded and answers shared with all potential proposers
October 2005	Metro identifies and scopes school/youth group partners for involvement in projects (where appropriate, proposers will also include a youth involvement component as a part of their proposal)
Sept. – Nov. 15, 2005	Organizations, governments, property owners, etc. draft 3 page funding request statements, submitted with completed budget matrix (Due 11/15)
Nov. 15 – Dec. 15, 2005	Review drafts, link projects if needed with proposers for greatest potential involvement and outcomes
December 2005	Review with Council projects submitted and sent back to proposers
Dec. 15 – Jan. 30, 2006	Final grant packages due January 30
Feb. – March 1, 2006	Review final packages, create Council selection pool of 135% of funds for final award, award by March 1. Possible youth involvement with councilors for final review of proposals and selection.
March 2006	Successful proposers execute contracts by March 30
April 1	Projects begin (duration of work up to 36 months) Mid-project review – may include site visits to projects with youth involvement



METRO

PEOPLE PLACES
OPEN SPACES

Habitat-Friendly Development Practices Review

Project Goal: Integrating habitat-friendly practices with development and redevelopment to protect sensitive natural areas while establishing an informational database composed of opportunities and constraints for implementing these practices.

Project Objective 1: Avoid development of habitat conservation areas

Practices to achieve objective:

- Building setback flexibility
- Flexible landscaping requirements
- Flexible site design
- Site capacity incentives
- Transfer of development rights (off-site) in residential zones

Project Objective 2: Minimize hydrologic impacts of stormwater runoff

Practices to achieve objective:

- Minimize building structure footprints and pavement areas (i.e. use parking structures, shared parking facilities and driveways; reduce parking ratios and stall dimensions; reduce street and sidewalk width and length)
- Direct runoff to pervious surfaces (i.e. disconnect downspouts, grade sidewalks and driveways)
- Increase use of landscape features (i.e. treatment trains, bioswales, rain gardens)
- Reduce use of traditional curb and piping systems
- Increase use of green roofs
- Improve infiltration capabilities of pervious areas (i.e. soil amendments)
- Increase use of pervious paving materials
- Increase use of rooftop runoff collection devices (i.e. rain barrels)
- Minimize the width and number of stream crossings with placement perpendicular to stream channel

Project Objective 3: Minimize impacts of wildlife corridors and fish passage

Practices to achieve objective:

- Use bridges rather than culverts where possible
- Use fencing to guide animals toward wildlife crossings under, over, or around transportation corridors
- Extend vegetative cover through wildlife crossing
- Utilize slab, arch, or box culverts with bottomless designs
- Design stream crossings for fish passage with shelves for terrestrial wildlife passage

Project Objective 4: Use low-impact design and construction practices

Practices to achieve objective:

- Plant native vegetation throughout developments
- Place landscaping near sensitive habitat areas
- Reduce light-spill from developments

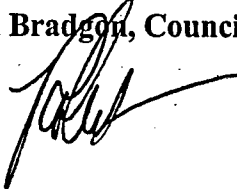
Councilor Robert Liberty

080905c-01

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METRO

TO: President David Bradgon, Councilors, Jim Desmond, Michael Jordan
FROM: Robert Liberty 
DATE: July 14, 2005
RE: Grant and Local Match Brainstorming

Today I met with Tim Raphael to discuss the matching grant component of the proposed 2006 bond measure. He believes that within the broad themes of conserving nature and protecting water quality, many urban types of projects could fit into the matching grant element of the bond measure (and also the local share.)

At the end of our discussion, we began to discuss some possible elements and criteria for the matching grant part of the bond measure. Here are some of my preliminary ideas:

Basic Concept:

For use for challenge grants for innovative community projects that reintroduce nature in neighborhoods and restore or protect water quality while serving other regional and community objectives.

Some Possible Criteria:

Grant Amount and Matching Requirement

- Maximum amount per project \$500,000.
- Minimum match is 2:3 or 1:1.
- Match includes value of donated labor and materials.
- Can/cannot use local share for match?
- Match can come from private sector, so long as the resulting capital improvement is public.

Applicant Qualifications

- Government must partner with nongovernmental applicant or participant.
- Demonstrated financial and other capacity to execute successfully.
- Special outreach and assistance to organizations, communities and governments that lack skills, resources and finances.

Geography

- Emphasizes urbanized areas that will not be close to natural, upland areas to be acquired or otherwise protected by the regional share.
- Could have a specific tie to increased density.

Project Evaluation Criteria

- Project has as a central element, re-establishing or enhancing natural areas, urban habitat and/or improving water quality.
- Project advances Metro's regional plan for growth and development (centers, corridors, main streets).
- Focus or extra points for benefiting low-income residents, students and neighborhoods.
- Physical or social innovation.

Other Provisions

- Spread funds out over several years, to give less-experienced partners time to learn and prepare and to learn from prior projects.
- No backfill provisions.
- Some outside oversight; citizen screening committee, so Council does not look like it is dispensing political favors.

080925-02

M E M O R A N D U M

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METRO

Date: August 3, 2005
To: Metro Council
From: Chris Deffebach², Long Range Planning Manager

RE: *Nature in Neighborhoods Ordinance 05-1077B Policy Issues*

At previous work sessions, Councilors have identified a short list of issues for consideration as possible amendments to Ordinance 05-1077B. Staff is seeking guidance from Council as to which of these policy issues should be explored further for resolution prior to Council's consideration of the ordinance on September 22. These issues are described below, along with amendment options. At the August 9 Council Retreat, staff would like to know if there are other issues to be considered, and if any Councilor is interested in drafting amendments to address these issues. If the Council wants to consider amendments to the ordinance, Council may wish to consider scheduling deliberation of the amendments on September 13, prior to the September 22 public hearing.

1. Should a fee-in-lieu of mitigation approach be explored?

One policy issue arose from MTAC's discussion of mitigation, which was the concept of a fee-in-lieu of mitigation planting program. Such an approach would provide more flexibility for developers, especially on industrial sites where land is at a premium. However, effective fee-in-lieu programs are complex and would need to be designed to address the following concerns: avoid cumulative impacts of the fee-in-lieu approach; cost of land to be used for off-site mitigation; timing of mitigation, since fee-in-lieu may result in a lag time between development and compensatory mitigation; and long-term technical expertise and funding for an effective program.

Options:

- Remain silent in the Title 13 Functional Plan and Model Ordinance on the availability of a fee-in-lieu program.
- Include enabling language in the Title 13 Functional Plan and Model Ordinance for a city or county to develop a fee-in-lieu program

- Consider a regional fee-in-lieu program developed in conjunction with a regional mitigation bank in the future, but not as part of this ordinance.
2. *Should cities and counties be required to allow a property owner to verify the location of a habitat conservation area at any time or only at the time of a permit application? (Councilor Hosticka has requested an amendment be drafted on this issue.)*

In the 05-1077A version of the ordinance, cities and counties were required to allow property owners to verify the location of habitat at any time. During the MTAC review of the Model Ordinance in June staff learned that cities and counties were very concerned about the potential cost and staff time involved in conducting map verifications outside of the land use permit process. Therefore, the 05-1077B version of the ordinance allows a city or county to provide map verification outside of the permit process, but they are not required to do so. Staff has heard from stakeholders and property owners that it is important to retain the ability to verify the location of habitat on a property prior to a development permit in order to determine how developable a property may be.

Options:

- Retain permissive language in the Title 13 Functional Plan and Model Ordinance on the availability of map corrections outside the permit process.
- Include a requirement that cities and counties allow the map verification outside of a permit application, but allow them to charge a fee to be set at their own discretion to cover the additional administrative cost of providing such a service.

3. *Should there be a requirement to maintain mitigation areas after the 5-year monitoring period?*

Councilors and MPAC members have expressed concern regarding how habitat mitigation areas are maintained once the 5-year monitoring period (in the Title 13 Model Ordinance) has ended. A five-year period is considered to be adequate to ensure vegetation is well established, and the Model Ordinance includes a requirement that 80% of the required mitigation plantings survive at the end of the reporting period. In addition, although areas outside of identified HCAs may not legally become HCAs even if mitigation occurs in such areas (unless the Council later amends the HCAs to include such areas as new habitat areas), the Model Ordinance does require that mitigation that occurs outside of an HCA must be accompanied by a deed restriction, such as a restrictive covenant, to ensure that such areas are not later developed. The maintenance of habitat areas owned by homeowners associations (set-aside through the subdivision process) was also a key issue identified by the Fish and Wildlife Habitat Program Working Group in early spring 2005.

Options:

- Rely on habitat education and stewardship incentive programs to achieve long-term habitat/mitigation area maintenance.
- Extend the 5-year reporting requirement for mitigation plantings.

- Consider including an effort to monitor the health and effectiveness of mitigation and habitat set-asides as part of Metro’s overall Nature in Neighborhoods monitoring program.
4. *How should the Council implement its commitment to ensure that local programs that protect regionally significant habitat outside of HCAs not be repealed or weakened?*

Most cities and counties currently have local habitat protection in place in compliance with Goal 5. Several of these jurisdictions protect riparian habitat and upland habitat areas. In May, the Council approved “placeholder” language to ensure that, although the regional program would not apply development standards outside of riparian habitat (inside the UGB), such local program that apply to upland habitat identified as regionally significant continue to apply in their current form. Councilor Liberty is working with OMA to draft language to implement the direction the Council provided in May.

5. *Which new UGB areas should be required to protect upland habitat areas?*

Ordinance 05-1077B would apply more protection to regionally significant fish and wildlife habitat in new urban growth boundary expansion areas than within the current UGB. Development standards to protect habitat would apply to Class A and B upland habitats in addition to Class I and II riparian habitat in new urban areas. The Council discussed, and chose not to apply additional protection to those areas brought into the UGB as of 2002, so as not to change expectations even though they have not yet been developed. If the Council chooses to apply upland protection in these areas it would require the notification of additional property owners.

Options:

- Retain existing language to apply protection to upland habitat only in new urban expansions areas that occur after the Ordinance is adopted.
- Apply protection to upland habitat in new urban expansion areas added to the UGB after 2002.

6. *Interim protection before regional program is acknowledged*

The Metro Council is scheduled to consider Ordinance 05-1077B for adoption on September 22, 2005. After the Council adopts the ordinance, it will then go to the State LCDC for acknowledgement. Once the habitat protection program is acknowledged, cities and counties will have two years to comply with the regional standards, although major actions to change land use regulations or amend comprehensive plans must be consistent with the program beginning one year after acknowledgement.¹ During the interim between acknowledgement and local

¹ Note that state law allows Metro to require all “land use decisions” to be consistent with the program beginning one year after acknowledgement. A “land use decision” under state law is, essentially, any decision that involves any exercise of discretion, and could include some relatively routine building permit decisions. City and county

program adoption, habitat outside of Title 3 WQRAs or areas covered by existing local Goal 5 programs would not be subject to the new regulations and could be removed. There are limited legal remedies to prevent habitat loss during this interim period. Although the Goal 5 rule allows local jurisdictions to adopt interim protection measures, such measures may be in effect for no more than 120 days, and it is not clear that Metro could even use that provision of the Goal 5 rule because of other state statutes that limit Metro's authority to require compliance with the functional plan.

Options:

- Depend on habitat education and stewardship incentives to preserve habitat in the interim.
- Ensure that it is clear to property owners that vegetation removed once the ordinance is effective will be considered habitat if it was on the adopted map, unless it was removed with an appropriate permit. This has implications for map corrections and map maintenance.
- Require that all land use decisions be consistent with Title 13 beginning one year after acknowledgement.

7. Does the Council want to have a stronger role in determining compliance with the Functional Plan?

When cities or counties are ready to adopt their local programs, they must provide Metro with 45 days notice of such decision and the COO then determines whether or not the local program is in substantial compliance with the functional plan. If the COO determines that the program is in substantial compliance, then the program never comes before the Council for consideration. The Council would only review a local program for substantial compliance if the COO determined that it was not in substantial compliance and the city or county appealed the COO's decision to MPAC and the Council. In addition, after initial adoption, the Metro Council reviews city and county compliance reports once each year, after a staff decision about whether or not a city or county is in compliance has been made. The Council may wish to consider a stronger role in evaluating compliance. Such a decision could relate to the whole of the Functional Plan, or it could apply only to Title 13 compliance.

Options:

- Adopt a "10-day notice" provision to give the Council the option to "call up" a local program to the Council for compliance review. This option could be specific to Title 13 or could be a general provision related to all functional plan compliance decisions.
- Review compliance issues for the entire Functional Plan when considering annual compliance reports.

representatives have informed Metro staff that this would mean, essentially, that cities and counties that were not in full compliance with Title 13 at the end of one year after acknowledgement would have to apply the Metro Model Ordinance to all permit requests. In its May program decision, the Council decided not to exercise its full authority on this issue, and to instead only require that changes to land use regulations or comprehensive plan amendments be consistent with the program beginning one year after acknowledgement.

8. *Should there be more flexibility for the rebuilding and remodeling of existing homes?*

The Title 13 Model Ordinance (Exhibit E to Ordinance 05-1077B) currently provides an exemption for the rebuilding of existing homes damaged by natural disasters, allowing the rebuilt home to be placed within the former building footprint, regardless of its location within a Habitat Conservation Area or proximity to a water feature. In addition, the Model Ordinance allows existing homes to be expanded by 500 sq. ft. and remain in the exempt category, provided the expansion is no closer to the protected water feature. Development that is considered exempt is not required to mitigate for impacts to the Habitat Conservation Area. Some stakeholders have raised a concern that there should be more flexibility to allow the rebuilding of homes in their existing location outside of a flood or fire event, for example if a home is to be torn down and rebuilt. Concern has also been expressed that the footprint should be allowed to be expanded to some extent and still remain within the exempt category. The biggest issue is the potential for increased costs for home remodeling that may be incurred by following the development standards or discretionary review process.

Options:

- Expand the “backyard exemption” to allow existing homeowners to do anything that would only require a building permit—i.e. the new rules would apply only if the development would have previously required a land use decision or a grading or erosion control permit. Staff is researching the implications of this proposed approach to better understand the magnitude of additional impacts to HCAs that it might allow.
- Create a new provision to allow for larger expansions to existing residences, such as expansions between 500 and 1000 square feet, in the clear and objective standards. This would allow some more flexibility to allow expansions without requiring homeowners calculate the “maximum disturbance area” that they would otherwise be allowed, and would still ensure that some mitigation occurs to offset the impacts of larger expansions, rather than simply making them completely exempt.
- Eliminate reference to natural disasters; allow the rebuilding of homes within the same parameters.
- Expand the size of the exemption, e.g., use Wilsonville’s 600 sq. ft. standard, or a larger one.
- Allow development over already paved surfaces provided that they are 50 feet or more away from a water feature (Portland does this).
- Change definition of building footprint to expand beyond foundation lines and include any impervious surface.

To Council
From: Janelle Gaddas, NIN

080905c-03

**Metro Monitoring
August 9, 2005**

- 1. What are we trying to measure?**
 - Water quality
 - Forest canopy – near streams
 - Forest canopy – overall
 - Restoration
 - Restoration success

- 2. How do we measure it?**
 - Basic water quality data
 - Macroinvertebrates
 - Physical condition of stream
 - GIS to measure forest canopy, etc.

- 3. What data already exists out there?**
 - Metro's regional and Clackamas County data
 - Clean Water Services, USGS, water providers, local governments, universities, etc.

- 4. How do we build capacity for local governments' monitoring efforts to get what we need?**
 - Gather the data and identify methodologies
 - Map it and identify gaps by watershed
 - Standardize methodologies
 - Form agreements for data transfer
 - Make data available to others
 - Co-author grants to conduct monitoring
 - Contribute to the monitoring efforts of others when it helps fill in the gaps

- 5. How do we make sense of the data?**
 - Map data by watershed, gather other existing information (watershed action plans, etc.)

- 6. Funding**

- 7. Timing**

To Council
from Stacy
Triplitt,
NIN

080905c-04

