

MINUTES OF THE METRO COUNCIL WORK SESSION MEETING

Tuesday, September 20, 2005
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Susan McLain, Rod Park, Robert Liberty, Rex Burkholder, Brian Newman

Councilors Absent: Carl Hosticka (excused)

Council President Bragdon convened the Metro Council Work Session Meeting at 2:01 p.m.

1. DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, SEPTEMBER 22, 2005/ ADMINISTRATIVE/CHIEF OPERATING OFFICER AND CITIZEN COMMUNICATIONS

Council President Bragdon reviewed the September 22, 2005 Council meeting. Councilor Park had some concerns about the ordering of Ordinance No. 04-1063A and Ordinance No. 05-1092. He wanted to make sure that denial of the former ordinance would not result in automatic approval of the latter. He was assured by Paul Garrahan, Metro Assistant Attorney that this would not be the case.

In regards to the Supplemental Budget, Council President Bragdon commented that the previous day's Tax Supervision and Conservation Commission (TSCC) meeting had gone well. He complimented staff on their work.

2. SPRINGWATER DISCUSSION

Council President Bragdon welcomed Mr. Vandercooy, City of Gresham and Mr. Glen Bolen, Fregonese Calthrope. They had been charged with preparing some changes to the Springwater project based on Metro Council's comments after their last presentation.

Chris Deffebach, Planning Department summarized the changes that had been made to the previous proposal. She noted that the name of the plan had been changed to better reflect the intent of the technology industrial district, as well as changes to the areas planned for high-density housing.

Mr. Vandercooy stated that his group had worked closely with Metro staff to make the changes based on Metro Council concerns. One of the important changes he mentioned was that the name of the project had been changed.

Councilor Burkholder asked whether there was market research supporting the assumption that research and development companies would actually want to locate in the Springwater area. Mr. Vandercooy responded that the City of Gresham's economic development consultant had specifically identified the Springwater tract as being a prime area for such use, due to the presence of significant natural resources such as creeks. Councilor Burkholder noted that there was a difference between accepting that the area was suitable for such development, and whether there were any companies actually expressing an interest in locating there. He was concerned that, even though the City of Gresham and Metro might target the area for sustainable technology development, it might still end up with generic retail and commercial growth instead. Mr. Vandercooy reiterated that the City of Gresham's economic development consultant had

identified such a market, but he had also indicated that it would not be a slam-dunk. It would take concerted effort and a commitment by the municipalities and the region to make it happen.

Councilor Liberty had questions about some of the plan designations, which were clarified by the City of Gresham staff.

Councilor Liberty asked whether his impression that Metro acceptance of the Regional Technological Industries (RTI) as equivalent to the Regionally Significant Industrial Areas (RSIAs) would achieve Metro objectives was correct. Mr. Vandercooy acknowledged that this was correct. He stated that their proposed RTI almost exactly matched Metro's Title 4 industrial lands requirement.

Councilor Liberty asked Mr. Vandercooy how the zoning and codes were enforced at the various permitting stages and afterwards. Mr. Vandercooy confirmed that there was a rigorous, well-enforced process for permitting. This process was well established and thoroughly tracked.

Councilor Liberty questioned whether Title 4 and RSIA requirements were being followed. Mr. Vandercooy assured him that the plan was appropriate to the sort of uses permitted.

Councilor Liberty asked whether schools were being encouraged in the industrial site. Mr. Vandercooy responded that their proposal was that schools be prohibited from the RSIA area (the 300 acres), but that they would be permitted in the RTI. Mr. Bolen indicated that these would be vocational/industrial types of schools, not elementary schools.

Councilor McLain observed that if schools were to be excluded from certain areas, then, schools would have to be specifically permitted in other areas. She observed that getting public transportation into certain sites was an ongoing challenge.

Councilor Liberty expressed further concerns about whether the permitted uses were being complied with. Mr. Bolen indicated that the proposal outlined only showed the permitted uses, not the entire range of excluded uses.

Mr. Vandercooy indicated that all the permitted uses were consistent with Title 4 restrictions on retail in industrial areas. Whether the Council wanted to change Title 4 was a separate question.

Councilor Park questioned whether the parcels in the site were consistent with the RSIA designation.

Council President Bragdon commented that the revised proposal was responsive to the earlier Metro Council comments, and that Councilor Park would be present at the Gresham Council meeting to express any further views.

Dan Cooper, Metro Attorney, stated that Title 4 had language in Section 3074.30 authorizing cities and counties to take measures to ensure that stores and restaurants and retail and professional services that cater to daily customers such as financial, insurance, real estate, and legal, dental, were subject to measures to ensure that they serve primarily the needs of workers in the area. One such measure was a limitation that they would not occupy more than 5,000 square feet of the sales or service area in a single outlet or multiple outlets that occupied more than 20,000 square feet of sales or service area in a single building or in multiple buildings that were part of the same development project, with some exceptions. One was for airports and one was

for trains. So that reads as a way of saying, you have identified one way that you can do that, and that was what they have chosen to do.

Councilor Burkholder wondered whether the staff report had a wrong word in it, as it mentioned Multnomah County instead of Clackamas County.

Ms. Deffebach agreed it was a wrong word and it would be corrected.

Councilor Burkholder continued that if this land was subtracted from Clackamas County, the net result was 378 acres, when the Council was hoping to get 380.

Ms. Deffebach thought the total was actually 383 acres. Mr. Vandercooy thought that the acquisition of additional acres through the revised proposal would accomplish that.

Councilor McLain observed that the legal review and agreement on language had allayed some of her concerns. She still had a concern that this proposal was not going to set a precedent by labeling this area as Regionally Significant Industrial Land.

Dan Cooper, Metro Attorney, confirmed that since the acreage would be consistent with Title 4 codes as the relevant condition, then it was not a matter of setting precedent but of following the rules. Councilor McLain appreciated the reassurance.

Councilor Liberty agreed that the proposal was consistent. He indicated appreciation for the work done by the City of Gresham, but he still had a few worries that someone would be able to “game the system”.

Councilor Park agreed with this viewpoint. He also wondered about a certain group of citizens in an exception area in the eastern portion who did not want to be annexed by the City of Gresham. The City had no objection to this and was willing to wait until a majority was ready to be included. Councilor Park wondered whether this same philosophy would apply to the rest of the Springwater area.

Mr. Vandercooy said no, that there was a specific recommendation to the Gresham City Council not to annex that particular area on the east end. This area was somewhat unique in that there were 5,000 square foot lots. He thought that property owners in this area might start requesting annexation individually.

3. INDUSTRIAL LANDS REMAND

Lydia Neill, Planning Department, presented on behalf of Michael Jordan, Chief Operating Officer. The deadline for submittal to Land Conservation and Development Commission (LCDC) was December 1, 2005. She said the two most important things to discuss were the need to reaffirm the decision to keep Cornelius in the boundary, and to look at adding area in Evergreen. About 339 net acres were needed to meet the 20-year industrial planning. Keeping Cornelius and adding Evergreen was within one acre of that. The previous proposal was 133 acres short. The current proposal was to bring in as much of the exception land as possible. The idea was to redevelop this mostly residential area for more industrial purposes.

Councilor Park had a question about part of the Evergreen area that might remain residential or be zoned residential in the next UGB go-round. Ms. Neill thought that might create conflicts between the industrial users and the residents and perhaps the airport.

Councilor McLain wondered about the land above Fanno Creek; she indicated it might be preferable to keep the boundary below the creek.

Councilor Liberty asked where exactly the creek was, since it was not marked on the map from Planning. He then wondered why that natural boundary was not used as a barrier. Ms. Neill replied that, in the past, the use of natural boundaries had been problematic due to the existence of tax lot lines that crossed the boundaries.

Ms. Neill stated that the site could be re-coded as Regionally Significant Industrial Area (RSIA), although this was very similar to the regular industrial. She suggested that there was a certain stigma associated with RSIA, having heard from a number of jurisdictions about the restrictiveness associated with RSIA.

Councilor McLain wanted to make sure that the Council's original intent be considered when choosing Evergreen. She also wanted to make sure that the Council's need assessments remained consistent. Council President Bragdon concurred, saying that the message for years has been that the region wanted more industrial land, and that the Urban Growth Boundary (UGB) would have to be expanded to accomplish that, but many times the development became hospitals and low-density offices instead of industrial.

Councilor Liberty said Ms. Neill took an hour to go over this with me today. He appreciated her time and the background she brought to it, and he had a couple comments. One was whether or not it was possible in the job shed; there was another little government that was looking to add land, that wasn't in the Regional UGB. In some of the neighboring cities there was land that would be better suited as industrial than this very good land south of Hwy 26. We could lend them out need, right? He thought the answer was conceptually possible but we have the risk of unraveling the capture number for the region, for the UGB. He would like to at least know whether there was a shot at this possibility. He was interested to know if the Commission would consider this. Second, since he had not been through this before he did not feel as bound by our analysis. In the next go-around, the land brought into the UGB between the exception area and the freeway, was what the farm bureau had always been worried about. And the third point was, he didn't think you should bring anything in without getting some of the windfall. He acknowledged that Metro was not ready for that.

Councilor Park asked what other alternatives had been presented to Mr. Jordan. In particular, he wanted to know more about the technical decisions that were made, as opposed to the political issues. Ms. Neill asked whether it would be helpful for her to point out the other areas that had been considered and talk about why they did not make the final cut in the current recommended proposal.

Councilor Newman said that there had been three major areas that had been presented as options – Evergreen, Noyer Creek and St. Mary's. Noyer Creek and St. Mary's each had decided that they wanted development in their areas to go in a different direction. Councilor Park clarified that he was more interested in the technical aspects supporting the final recommendation than in the political climate. Councilor McLain was bothered by the persistence of the political decisions; she thought maybe Evergreen was being chosen just because it was the most convenient politically.

Ms. Neill said that Evergreen had many points in its favor – the community wanted to be included, the Commission wanted it to be seriously considered, and Metro Policy Advisory Committee (MPAC) was in favor of it. Political controversy of the sort that occurred when considering Frog Pond could be avoided. Councilor McLain was concerned that the decisions and policy be consistent – that decisions be made at a more policy-oriented level and not on the basis of whether or not the jurisdiction was in favor.

Council President Bragdon reported that the mayors' symposium was looking for a more comprehensive and effective UGB process. He agreed that he did not want to see dentists' offices, title companies, restaurants, and a Wal-Mart going into an area intended to get either the RSIA or the industrial designation.

Council President Bragdon affirmed that if an area were brought into the UGB with an RSIA designation, it would be subject to Title 4, which limited the types of development Council President Bragdon objected to. The zoning needed to be done appropriately by the jurisdiction, and any change to that would have to be approved by the Council.

Ms. Neill addressed the concerns expressed by Councilors about the technical reasons for choosing Evergreen over the other 11 sites that were considered. Many of these were not chosen for recommendation due to service access issues, impacts on agriculture, grading difficulties and soil types.

Council President Bragdon asked the Councilors to respond to Ms. Neill's request for input on the direction to take on this recommendation. Councilor Park disagreed with the entire direction of the recommendation and so stated he had no input on any conditions or restrictions. Councilor Liberty's concerns regarded the potential for any windfall tax that would apply to the property as well as the reality that Hillsboro was getting the lion's share of the employment resulting from this development. He thought that Hillsboro ought to be talking to Cornelius and Forest Grove about sharing the employment and the tax revenue. Councilor Burkholder wanted to see documentation on any commitment to retail and commercial growth in this area. He also wanted to try to make sure that housing development was occurring at a compatible pace with the industrial development. Councilor McLain agreed with the revenue sharing philosophy. She expressed support for the RSIA designation.

Ms. Neill talked about the schedule for the proposed recommendation and mentioned some of the presentations that had been made to officials and community members. She was prepared to summarize the Councilors' comments to make sure she had understood them correctly. A workshop in Hillsboro was scheduled for October 20, 2005, to give people an opportunity to look at maps, talk to staff, and give comments. On November 10, there was a public hearing scheduled.

4. BREAK

5. REVIEW OF PUBLIC COMMENTS FOR ORDINANCE NO. 05-1077B, NATURE IN NEIGHBORHOODS

Chris Deffebach, Planning Department, said that this project was almost to the consideration stage, and that she had prepared two draft amendments, one for Councilor Liberty, and one for Councilor Hosticka. She said that public comment to date had been fairly quiet. Planning had

uncovered numerous technical amendments and corrections, which needed to be addressed. A lot of these have to do with map corrections.

Councilor Burkholder had a question about the map. He wondered whether property owners could continue to request map corrections after the map had been “frozen.” Ms. Deffebach responded that they wanted to address as many corrections as possible before the ordinance was adopted.

Malu Wilkinson, Planning Department, discussed two of the policy issues that Councilors had identified as important during the August retreat. One was related to the ability to remodel or replace a home, and the Council’s concern that there was a loophole in the ordinance with the possibility that a homeowner could add on 500 square feet to a home continually through the exemption process; one of the technical amendments closes that loophole. Another technical amendment came from Councilor Hosticka’s interest in a requirement to allow the habitat conservation area match their advice on property owner request, and also to assess whether a fee may be charged for that service. The second amendment had to do with maintaining current local protection.

Paul Ketcham, Planning Department, said that they had prepared technical language to achieve what the Council had approved; it was the no-rollback of local provisions, clarifying that the program was the floor, not a ceiling, and then clarifying when a local government would have to come to Metro for compliance with the new Title 13, and when they would have to go back to LCDC and follow the Goal 5 rule process. The goal was to make the language clear and simple enough to be popularly accepted. Mr. Ketcham added that the amendment also directed his office to determine whether they would need to go back and ask LCDC for a Goal 5 rule change.

Councilor Liberty identified three significant aspects: that it was a floor, not a ceiling; when to go to Metro and when to go to LCDC; and the process if someone wanted to go beyond the current protections.

Mr. Ketcham talked about the map revisions amendment. This would itself include several amendments, to create a final set of maps, to authorize the COO to publish the final map, and to direct staff to update all the information.

Councilor Liberty asked about staff responses to citizen requests for map changes. Planning staff responded that they were making recommended map changes and these would be in Exhibit G. There would be a map for each of those changes for Council to consider on September 22nd. They noted that map changes would be ongoing but have to be adopted by Council. Council continued to discuss map change processes in the future.

Paul Garrahan, Metro Assistant Attorney reviewed the technical amendments to Ordinance No. 05-1077B (a copy of these amendments were included in there record)

Councilors asked questions about the amendments. Staff responded to their questions. Councilors asked about adoption dates. Mr. Garrahan responded that if amendments passed, the Ordinance would roll to the following week for final adoption. Staff summarized the public comments and would provide a summary for Council.

Council then discussed the individuals in the Fanno Creek area who did not receive a Measure 56 notice. Mr. Garrahan suggested that they would send the notice to these individuals and include them in a separate ordinance.

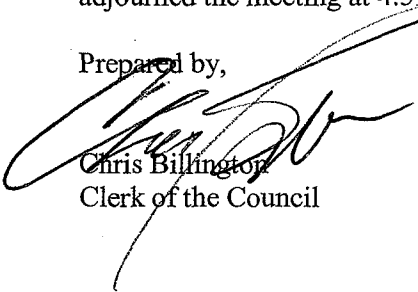
Councilor Park suggested a brief staff presentation before public testimony was taken so there would be citizen concerns dispelled.

6. COUNCIL BRIEFINGS/COMMUNICATIONS

Council President Bragdon said they had one informational item concerning an easement request from the City of Wilsonville and road extensions. Dan Cooper, Metro Attorney, William Eadie and Jim Morgan, Regional Parks and Greenspaces Department, briefed the Council on the Boeckman Road issue. There was a request to put a bridge across one of Metro's open spaces properties. Council and staff discussed the easement policy and Title 3 policy.

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 4:59 p.m.

Prepared by,



Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF SEPTEMBER 20, 2005

Item	Topic	Doc Date	Document Description	Doc. Number
3	Timeline	8/24/05	To: Metro Council From: Lydia Neill, Planning Dept. Re: Timeline for Remand for Industrial Lands Decision	092005c-01
6	Title 3 Flood Management	9/20/05	To: Metro Council From: Curt Zonick Re: Title 3 Flood Management	092005c-02
6	Boeckman Road Easement	8/22/05	To: William Eadie From: Kristin Morse Re: Boeckman Road Easement	092005c-03
6	Boeckman Road Easement	9/20/05	To: Metro Council From: William Eadie Re: Boeckman Road Easement	092005c-04
1	Metro Council Agenda	9/22/05	To: Metro Council From: Chris Billington, Council Office Re: Agenda for 9/22 Council Meeting	092005c-05
5	Nature in Neighborhoods	9/20/05	To: Metro Council From: Legal Re: Findings of Fact and Conclusions of Law	092005c-06
5	Nature in Neighborhoods	9/20/05	To: Metro Council From: Planning Re: Potential Amendments	092005c-07
5	Fish & Wildlife Habitat Inventory	9/16/05	To: Metro Council From: Andy Cotugno, Planning Re: Regional Fish and Wildlife Habitat Inventory	092005c-08
5	Nature in Neighborhoods	9/20/05	To: Metro Council From: Gina Whitehill-Baziuk, Citizen Involvement Re: Nature in Neighborhoods Public Comment Report	092005c-09
3	Industrial Lands Remand	9/20/05	To: Metro Council From: Lydia Neill, Planning Re: Staff Report for Industrial Lands Remand	092005c-10
2	Springwater	9/20/05	To: Metro Council From: Chris Deffebach, Planning Re: Springwater Community Plan Map	092005c-11
2	Springwater	9/20/05	To: Metro Council From: Chris Deffebach, Planning Re: Springwater Plan District Plan Map	092005c-12