

MINUTES OF THE METRO COUNCIL MEETING

Thursday, September 29, 2005
Metro Council Chamber

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

Councilors Absent:

Council President Bragdon convened the Regular Council Meeting at 2:01 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

3.

Ray Phelps, Allied Waste Services, 10295 SW Ridder Rd. Wilsonville, OR 97070 notified the Council that Allied Services had had a change in management. He explained the changes in management (a copy of his letter is included in the meeting record).

3. PRESENTATION OF THE 2005-06 SLATE OF NORTH PORTLAND REHABILITATION AND ENHANCEMENT GRANT PROJECTS

Councilor Burkholder introduced Jean Estey Hoops, Alan Holzapfel, Susan Landauer, and Mark Kirchmeier. The group would present grant projects. Karen Blauer, Solid Waste and Recycling Department, provided a summary of the members presentation (included in the meeting record). Mr. Kirchmeier explained the criteria for the grants and the reason for the enhancement grant program. Ms. Landauer appreciated Councilor Burkholder and the Metro Council for the budget amendment. Mr. Holzapfel highlighted some of the projects for the 2005-06 budget cycle and detailed some of the demographics of the community that received the grants. Ms. Hoops talked about the applicants for this year's grants. She noted that the committee had worked diligently to ensure the funds were spent appropriately. Mr. Holzapfel thanked the Council for the additional money. He noted that this money oftentimes functioned as seed money. Mr. Kirchmeier said this fund was one of the very best faces Metro had to show their north Portland residents. Ms. Hoops added her comments.

Councilors acknowledged the committee's efforts and Councilor Burkholder's leadership. Councilor Liberty asked if the committee had learned anything in the granting of funds. Ms. Landauer said she felt the north Portland residents needed more of a platform to know about Metro. Mr. Holzapfel added that the committee recognized that someone on the committee knew all of the opportunities. He felt the funds established a link to Metro. Ms. Hoops said every one of these projects showed that government cared. The neighborhoods could empower themselves by these projects. Councilor Burkholder thanked the committee for their work.

3. CONSENT AGENDA

4.1 Consideration of minutes of the September 22, 2005 Regular Council Meetings.

- 4.2 **Resolution No. 05-3611**, For the Purpose of Authorizing the Chief Operating Officer to Execute Amendment 2 to the Contract No. 922793 with Reischman Concerts LLC for Provision of an Additional Concert at the Oregon Zoo.
- 4.3 **Resolution No. 05-3619**, Considering an Amendment to Metro Contract No. 924828 for a Shared Revenue Contract for Lease of a Portable Simulation Theater at the Oregon Zoo.

Motion:

Councilor Burkholder moved to adopt the meeting minutes of the September 22, 2005 Regular Metro Council and Resolution Nos. 05-3611, 05-3619. Council President Bragdon requested that on page 10 of the minutes the word “price” be inserted before regulation.
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Vote:

Councilors Burkholder, McLain, Liberty, Park, Newman, Hosticka and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed with the amended minutes.
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5. RESOLUTIONS – TIME CERTAIN PUBLIC HEARING

- 5.1 **Resolution No. 05-3600**, For the Purpose of Entering an Order Relating to Newman Compliance With the Urban Growth Management Functional Plan.

Motion:	Councilor Newman moved to adopt Resolution No. 05-3600.
Seconded:	Councilor McLain seconded the motion

Councilor Newman introduced the resolution and explained the Functional Plan requirements, which included a public hearing. Sherry Oeser, Planning Department, reviewed the revisions to the original report received by the Council. She acknowledged the additional reports received after the deadline. Councilor Newman added that Metro Council’s action today would be to accept the report. Councilor McLain said when we accept this report we were acknowledging the jurisdictions who have completed their requirements.

Council President Bragdon opened a public hearing.

Sandi Young, City of Wilsonville Planning Director, 30000 Town Center Loop Wilsonville, OR 97070 submitted some corrections to the report. She reviewed those corrections, the Title 1 report was done, for Title 11 they had received a Transportation Growth Management (TGM) grant and they had been working on Title 7. Councilor Newman appreciated the work of Wilsonville.

Dennie Egner, Long Range Planning Manager for the City of Lake Oswego, 380 A Avenue Lake Oswego, OR 97034 spoke to Titles 3 and 7 and their progress on each of these titles. He noted that they had very good environmental protection. He addressed the City’s Title 7 Affordable Housing processes. Councilor Liberty asked about the public hearing on October 18th concerning housing issues. Mr. Egner responded to his questions. Councilor McLain suggested a footnote where the cities had completed compliance. She felt there should be some type of recognition of the updates provided by the jurisdictions.

Bryan Brown, City of West Linn Planner, 22500 Salamo Rd #1000 West Linn OR 97068 thanked the Council for their invitation to come to the Council meeting. He also acknowledged the Get Centered events he had attended. He talked about Title 3 and provided a background of West Linn's process efforts to comply. He wondered about the relationship between Title 3 and the Nature in Neighborhood program. He also spoke to the affordable housing issue. Councilor McLain explained the difference between Goal 5 and Title 3 but noted that they were integrated. She offered Metro staff's assistance. Councilor Liberty suggested talking about opportunities to create more housing choices in West Linn.

Councilor Park commented on Lake Oswego's compliance with Title 3. It could be noted but he didn't suggest that the Council condone it.

Council President Bragdon closed the public hearing.

Councilor Burkholder talked about why we bothered with compliance goals. He noted some issues with Title 7, which was the one title that quite a few jurisdictions were out of compliance on. He said they were still working on housing choices in the region. They were reviewing Title 7. Councilor McLain spoke to Title 11, planning new areas. She was hopeful to have a discussion with their partners.

Council President Bragdon said he was supportive of the report. He noted the two areas where jurisdictions were out of compliance, Affordable housing and Concept Planning. He also spoke to Metro's current efforts on these issues. Councilor Newman explained legislation that was on the agenda related to this item. He urged support.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

Councilor McLain asked our Chief Operating Officer (COO) for an update on Multnomah County compliance. Michael Jordan, COO, said he would update the Council under COO communications.

5.2 **Resolution No. 05-3620**, For the Purpose of Entering an Order Relating To an Application by Clackamas County for an Exception from Title 3 Of the Urban Growth Management Functional Plan.

Motion:	Councilor Newman moved to adopt Resolution No. 05-3620.
Seconded:	Councilor Liberty seconded the motion

Council President Bragdon asked Dan Cooper, Metro Attorney, to explain the resolution. Mr. Cooper responded to his question concerning the exception request. He said Council was required to make a decision based on the facts of finding. The Council was also required to review the criteria. The staff had prepared an order. If Council wanted to reach a different conclusion they could direct staff to draft a different order. He noted that this was similar to a quasi-judicial proceeding. Councilor Newman clarified his motion. Mr. Cooper said the resolution before Council did not incorporate the staff report. Council would need to either approve or deny the order. Councilor Liberty asked about interpretation of criteria. Mr. Cooper responded to his question. He said this was the first exception the Council had heard concerning the Functional Plan so there was no precedent that had been sent.

Paul Ketcham, Planning Department, provided the staff report for Clackamas County's exception. A letter was submitted for the record from Douglas McClain, Planning Director of Clackamas County (a copy may be found in the meeting record). He talked about Metro staff's communication with the County over the course of the past five years. He noted the four criterion and the approach of the Metro staff to assess the criterion as well as compliance with the criterion. The COO recommended that that Metro Council deny the exception.

Council President Bragdon opened a public hearing.

Doug McClain, Planning Director for Clackamas County, said they were disappointed that the Council didn't have opportunity to review the written submittal. It was the basis of their claim. He encouraged Council's review of the submittal. He said Clackamas County was oftentimes in the lead. He said the County was not requesting a categorical exception to Title 3. They were only requesting an exception to a particular area near Oak Lodge. He provided a history of this area. They were in compliance with all other areas. He provided a history of Clackamas County's process. They were trying to explain the rational behind the Board of Commissioners' decision.

Mike Judd, Assistant General Counsel for Clackamas County, reviewed the specific criterion and suggested that Clackamas County deserved an exception. Councilor Liberty asked clarifying questions. Mr. Judd continued with the criterion. Councilor Hosticka asked about regulations and who was the operative entity. Mr. Judd responded to his question. Mr. McClain further responded by explaining that Oak Lodge was an exception. Council President Bragdon said these regulations were sometime regulated by Surface Water Management Agency and sometimes regulated by the County Commissioners' land use Code. Councilor McLain added that they were dealing with two boards. Councilors asked further clarifying questions. Mr. McClain responded to their questions. Council President Bragdon noted the County Board of Commissioner's action on this issue, which was to recommend the exception. Mr. McClain said they had regulations in place, it was a difference between a 25 foot and 50 foot buffer. He talked about what was left to protect. He noted the committed property's list. He shared the vacant land and developed areas on the map near the wetlands. Councilor McLain asked about application of Title 3 to the properties. Mr. McClain responded to her question. Councilor Liberty asked which buffer was utilized, 25 or 50 feet. Mr. McClain said they applied the 50-foot buffer. Mr. Judd reviewed the other three criteria.

Council President Bragdon explained that they had to look at the four criteria, he spoke to criteria one. He asked if there was something specific topographical that should allow exception. Second, he asked about Title 3 standards. Mr. Judd and Mr. McClain responded to his questions. Council President Bragdon asked about Criteria 2, an outcome not being able to be achieved regionally. Mr. Judd talked about considering the precedent. Each area and resource needed to be looked at on its own.

Councilor McLain asked if this was the only Title 3 feature within the Oak Lodge Sanitary District. Mr. McClain responded no, there were two other streams in the area that were protected under Goal 5. They both had a minimum buffer of 50 feet. Boardman Creek was not regulated by those zoning ordinances. Councilor McLain asked if there were other regulations that would apply. Mr. McClain said they didn't have a 50-foot buffer that was the only regulation that was different. Councilor McLain asked about other tools that a Sanitary District would have to protect the wetland or the stream. Mr. McClain said they didn't have a 50-foot buffer they had a 25-foot buffer. Councilor Liberty summarized some of the facts of their argument concerning Criteria 1. He asked about the developed properties. Mr. McClain said he could not answer his question.

Councilor Newman commented that he had talked with a property owner in the area about a year ago. Councilor Park asked about the damages. Mr. McClain said he did not know, they had heard testimony from property owners. Councilor Liberty asked about the existing development pattern and what was contemplated when developing the criterion. Dick Benner, Metro Senior Attorney, said when they developed the criteria they were trying to anticipate density patterns. There were areas of the region that were fully built out. For such an area, citizens could use this reasoning as an exception. Andy Cotugno, Planning Director, said the criteria were for any exception to any title. Councilor McLain talked about the inventory and the differences in the inventory. Mr. Ketcham said the county and its local process board made findings that this creek was not a significant resource. That did not preclude Metro from determining this creek as a significant resource. Mr. Ketcham responded to his question. Mr. Cooper clarified that our Title 3 was not a Goal 5 program. It was based on the existence of streams.

Council President Bragdon closed the public hearing. Councilor Liberty asked if the procedure was correct. Mr. Judd said he thought they were finished.

Motion:	Councilor Newman moved to deny the exception request for Clackamas County.
Seconded:	Councilor Burkholder seconded the motion

Councilor Newman spoke to the reason why he recommended denial. Councilor Burkholder concurred with Councilor Newman’s comments. He spoke to fairness and unnecessary issues. Applying the law consistently was a higher level of fairness. Councilor Liberty talked about their de minis argument. He felt the facts were not adequate. Councilor McLain talked about criteria 1 and 4. Councilor Park thanked both staffs for their efforts. He would be supporting Councilor Newman’s motion and spoke to effects across the region. Council President Bragdon also thanked the staff’s efforts. He would be supporting Councilor Newman’s motion. This was about the measure to protect clean water and prevent flooding.

Vote:	Councilors Park, Hosticka, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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Mr. Cooper said they had an order. The procedural question was whether this allowed the order to go forward. Was Council’s intent clear enough? Mr. Benner said if they approved the resolution, they have adopted the order. Council President Bragdon indicated that since they had just received the order, he would hold this item over until next week for consideration.

6. ORDINANCES – SECOND READING

6.1 Ordinance No. 05-1091A, For the Purpose of Amending Provisions of Metro Code Chapter 7.01 Relating to Excise Tax imposed on Certain Consumer And Exhibitor Payments at the Metropolitan Exposition-Recreation Commission Facilities.

Motion:	Councilor Park moved to adopt Ordinance No. 05-1091A.
Seconded:	Councilor Burkholder seconded the motion

Councilor Park said Metro did not presently collect sales tax on payments made by consumers and exhibitors at licensed events and retail businesses at Metro regional parks and at facilities managed by the Metropolitan Exposition-Recreation Commission. Amending Metro code chapter

7.01 to include an exemption from excise tax on payments made by consumers and exhibitors to operators accurately reflected Metro’s actual excise tax collection practices. This resolution simply codified the actual practice of how Metro imposed an excise tax.

The proposed exemption did not affect the following revenue, all of which would continue to be subject to the excise tax of 7.5%: Facility rental charges and all event-related charges when such payments are made directly to MERC; Rent payments made to MERC by the retail lessees; Gross concessions and catering revenue collected by MERC’s authorized concessionaire; Gross parking revenue collected by MERC’s authorized parking lot management contractor; Commissions paid to MERC by private operators of miscellaneous services provided at the MERC facilities, including commissions paid by ATM operators, vending machines operators, and electrical contractor Hollywood Lights (at the Expo Center).

The suggested language for the Code change was attached in Exhibits A and B. Budget impacts included gross revenue collected by OCC’s wireless internet provider would be exempt under this section. The 2004-05 excise tax generated from this revenue source was \$7,500, and the estimate for 2005-06 was approximately \$7,800. Councilor McLain asked a clarifying question. Mr. Cooper responded to her question.

Council President Bragdon opened a public hearing on Ordinance No. 05-1091A. No one came forward. Council President Bragdon closed the public hearing.

Vote:

Councilors Park, Hosticka, Burkholder, McLain, Newman, Liberty and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

6.2 **Ordinance No. 05-1095**, For the Purpose of Amending the FY 2005-06 Appropriations Recognizing Grants and Donations to the Oregon Zoo, Adding 2.0 Limited Duration FTE; and Declaring an Emergency.

Motion:	Councilor Newman moved to adopt Ordinance No. 05-1095.
Seconded:	Councilor Hosticka seconded the motion

Councilor Newman said the ordinance amended the budget to reflect donations and recognize grants received by the Oregon Zoo. He detailed the donations received by the Oregon Zoo. He urged approval.

Council President Bragdon opened a public hearing on Ordinance No. 05-1095. No one came forward. Council President Bragdon closed the public hearing.

Vote:

Councilors Park, Hosticka, Burkholder, McLain, Newman, Liberty and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

6.3 **Ordinance No. 05-1077C**, Amending the Regional Framework Plan and the Urban Growth Management Functional Plan Relating to Nature in Neighborhoods.

Council President Bragdon said this ordinance was carried over from the previous week. He asked Chris Deffebach, Planning Department, to address those that had worked on this effort. Ms.

Deffebach acknowledged all of the staff that had worked on this effort both internal and external to the agency. Councilors also thanked Ms. Deffebach's for her efforts.

Council President Bragdon opened a public hearing on Ordinance No. 05-1077C.

Dorothy Cofield, 4248 Gatewood Lake Oswego, OR 970342said she had put a memo into the record. The mapping correction had been approved "sort-of". She was concerned that the mapping process still had to occur. She noted that the current map was wrong. She had not seen the map correction. Councilor McLain talked about the mapping process, which was on going. Councilor Liberty asked for clarification on the map correction process. Mr. Garrahan said he had received the memorandum that Ms. Cofield had submitted. There were still opportunities to take up the mapping changes. They would be bringing these back to Council to see the final results.

Council President Bragdon closed the public hearing.

Councilor Hosticka said this was the beginning of the effort where we had put in place one piece of the Nature in Neighborhood program. He spoke to future pieces to the program.

Councilor Newman said he would be supporting the ordinance. He spoke to the history of the ordinance. He commended the staff and the whole Council. This effort hadn't been about stopping development or growth. This effort was to make sure that we do it in such a way that it respected the resources. Councilor Park thanked staff and fellow Councilors, particular Councilor McLain. This proposal tickled people's imagination. He was hopeful the general public would continue to embrace Nature in Neighborhoods.

Council President Bragdon also supported the ordinance. It was the successful conclusion of one chapter in the story. He spoke to challenges such as monitoring and measuring the successes. He further detailed some of the elements of the Nature in Neighborhoods program. He was excited about the next chapters.

Councilor Liberty said he would have liked something stronger but appreciated what had been crafted. He spoke to his history in Northeast Portland, which did not have nature. He talked about his rural experience as well. Councilor McLain said they still had many steps to take but it was important to celebrate each step. Councilor Hosticka said he was glad they had gotten to this stage before Councilor McLain was term limited. He urged approval.

Vote:

Councilors Park, Hosticka, Burkholder, McLain, Newman, Liberty and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

7. RESOLUTIONS

7.1 **Resolution No. 05-3612**, For the Purpose of Stating an Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of Metro to Reimburse Certain Expenditures Out of the Proceeds of Obligations to Be Issued in Connection With the Regional Parks and Greenspaces Program.

Motion:	Councilor Hosticka moved to adopt Resolution No. 05-3612.
Seconded:	Councilor McLain seconded the motion

Councilor Hosticka said this resolution continued the Nature in Neighborhoods efforts. It expressed intent for a bond measure as well as establishing a Blue Ribbon Committee. Council President Bragdon provided additional information about the resolution and the committee membership. He spoke to the first bond measure that passed in 1995. They wanted to repeat the experience of the first measure. Councilor Newman added his comments about this resolution. He was excited about the committee membership. Councilor Liberty said he was enthusiastic about what they were trying to achieve. He spoke to equity issues and the local share. Council President Bragdon said the Council had committed to a local share component. The committee would be making recommendations about this component. Councilor McLain said she was pleased with the group of folks who had agreed to serve on the committee. She suggested providing the committee with the current Council’s conversation and direction.

Councilor Liberty suggested striking the local share per capita in Exhibit B, Item C. Councilor Hosticka and McLain accepted this as a friendly amendment. There was no objection.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

7.2 **Resolution No. 05-3613**, For the Purpose of Approving an Investment by the Metro Tourism Opportunity and Competitiveness Account (MTOCA) to fund the Replacement of the Audio Visual Head End Room Equipment at the Oregon Convention Center.

Motion:	Councilor Park moved to adopt Resolution No. 05-3613.
Seconded:	Councilor Newman seconded the motion

Councilor Park said Metro Council had approved Current Policy and Guidelines that had established a process and criteria for proposed investments from the Metro Tourism Opportunity and Competitiveness Account (MTOCA). Goals and strategies were identified in these Policy and Guidelines. These included investment in Targeted Capital Investments in the Oregon Convention Center’s physical plant that yielded demonstrable marketing advantages. With this goal as a guide, the Metropolitan Exposition-Recreation Commission was submitting a proposal to approve an investment of \$636,208 from the Metro Tourism Opportunity and Competitiveness Account (MTOCA) to fund the replacement of the audio-visual head end room equipment at the Oregon Convention Center. The MERC Commission approved this proposal at their August 24th Commission meeting. The Oregon Convention Center audio/visual head end room equipment, located in the original building, was failing. Because the system was analog, replacement parts were no longer available. During 2003, a digital AV system costing \$1.1 million was installed in the new expansion. It was anticipated that the AV equipment in the original building would be replaced at that time but due to budge shortfalls, this replacement did not take place. This proposal would extend the same system technology to the original structure and tie the entire system together for better overall service, labor reductions and quality sound in all areas of the facility. The total cost of this replacement will cost \$985,000. The MERC Commission recommended that the Metro Council approve the expenditure of the previously appropriated \$636,208 from MTOCA on the replacement of the audio-visual head end room equipment, with the remaining cost of the \$348,792 to be funded by the MERC Pooled Capital Fund. Councilor McLain added her comments. Councilor Burkholder said the reason they did this was to improve the convention center. Councilor Newman suggested improving the Oregon Zoo’s audio-visual equipment as well. Council President Bragdon spoke to the management and beauty of the convention center. Councilor Park urged support.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

8. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordon, COO, responded to Councilor McLain question about Area 93. Councilor McLain explained why she had asked the question. She thought it was important that we had some kind of planning started by the end of the year. She also suggested that our COO meet with the six or seven groups that had similar issues.

9. COUNCILOR COMMUNICATION

Councilor Burkholder said next week he and Councilor Liberty would be bringing a presentation to Council on Housing Choice Advisory Committee.

Councilor Park reminded that the Salmon Festival was October 7th and 8th at Oxbow Park.

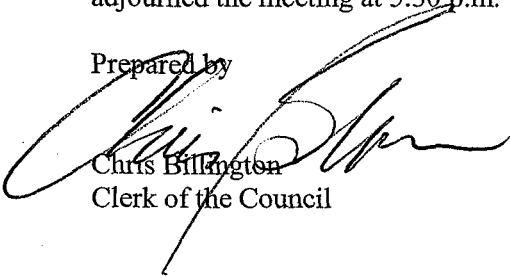
Councilor Liberty said the speakers' bureau had been convened. He welcomed submission of good speakers. He then spoke to materials being produced for planning purposes.

Council President Bragdon said he had added an executive session on next week's agenda.

10. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:30 p.m.

Prepared by


Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF SEPTEMBER 29, 2005

Item	Topic	Doc Date	Document Description	Doc. Number
2	Letter	9/29/05	To: Metro Council From: Ray Phelps, AWS Re: Change of Management	092905c-01
3	Talking points	9/29/05	To: Metro Council From: Karen Blauer, Solid Waste and Recycling Department Re: Talking Points for North Portland Enhancement Grant Committee	092905c-02
3	Slate of Grants awarded for 2005-06	9/27/05	To: Metro Council From: Karen Blauer, Solid Waste and Recycling Department Re: Metro North Portland Enhancement Grant Program 2005-06 Grant Awards	092905c-03
3	Project Status	9/29/05	To: Metro Council From: Karen Blauer, Solid Waste and Recycling Dept. Re: North Portland Enhancement Grant Program 04-05 Grant Awards Project Status	092905c-04
5.2	Email	9/29/05	To: Metro Council From: Jim Labbe, Audubon Society of Portland Re: Comments on Resolution No. 05-3620	092905c-05
5.2	Letter	7/22/05	To: Andy Cotugno, Planning Director From: Douglas McClain, Planning Director Clackamas County Re: Exception from Title 3	092905c-06
5.2	Proposed order	9/29/05	To: Metro Council From: Dick Benner, Metro Senior Attorney Re: Exhibit A, Order 05-001 to Res. No. 05-3620	092905c-07
5.1	Annual Compliance Report	12/23/04	To: Metro Council From: Sherry Oeser, Planning Department Re: Urban Growth Management Functional Plan Annual Compliance Report	092905c-08
5.1	Revised Annual Compliance Report on Title 7	9/26/05	To: Metro Council From: Gerry Uba, Planning Department Re: Title 7 Component of the 2004 Annual Compliance Report for the Urban Growth Management Functional Plan	092905c-09

Item	Topic	Doc Date	Document Description	Doc. Number
6.1	“A” version	9/29/05	Ordinance No. 05-1091A , For the Purpose of Amending Provisions of Metro Code Chapter 7.01 Relating to Excise Tax imposed on Certain Consumer And Exhibitor Payments at the Metropolitan Exposition-Recreation Commission Facilities.	092905c-10
6.3	“C” version	9/27/05	Ordinance No. 05-1077C , Amending the Regional Framework Plan and the Urban Growth Management Functional Plan Relating to Nature in Neighborhoods.	092905c-11