

## MINUTES OF THE METRO COUNCIL MEETING

May 25, 2000

Metro Council Chamber

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

Councilors Absent: Rod Monroe

Presiding Officer Bragdon convened the Regular Council Meeting at 2:00 pm.

### 1. INTRODUCTIONS

**Councilor Kvistad** introduced Councilor-elect Carl Hosticka, who will represent District 3.

### 2. CITIZEN COMMUNICATIONS

None.

### 3. EXECUTIVE OFFICER COMMUNICATIONS

None.

### 4. AUDITOR COMMUNICATIONS

None.

### 5. MPAC COMMUNICATIONS

**Councilor Park** summarized the meeting of last night [May 24, 2000]. The substantive issues were 1) a motion directed to the Council to go slower on Goal 5 timeline; 2) a discussion of the affordable housing report, including a discussion of the meaning of tables illustrating fair share, housing in stock versus the numbers in the table. He said more information would be forthcoming. A subcommittee on Goal 5 met and would continue to meet.

### 6. CONSENT AGENDA

6.1 Consideration of minutes of the May 11, 2000 Regular Council Meeting.

**Motion:** **Councilor Washington** moved to adopt the meeting minutes of May 11, 2000, Regular Council meeting.

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

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

**7. ORDINANCES –SECOND READING**

7.1 **Ordinance No. 00-851A**, For the Purpose of Amending the Regional Solid Waste Management Plan Regarding Goals, Objectives, and Recommended Strategies for the Management of Household Hazardous Wastes.

**Motion:** **Councilor Park** moved to adopt Ordinance No. 00-851A.

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

**Councilor Park** said that this ordinance had been reviewed and amended by the REM committee. He thanked the REM staff for addressing issues he had concerns about and Mr. Chris Kirby from the Oregon Department of Agriculture, who worked with the REM staff to ensure that this ordinance would not infringe on state pesticide laws. The Regional Solid Waste Management Plan (RSWMP) addresses disposal of hazardous waste in the interest of protecting health, safety, and the environment. Passing this ordinance would update the RSWMP.

**Councilor McLain** thanked Mr. Park for bringing clarity to the document. She had been concerned about Metro's striking a balance between respecting state authority and providing continued leadership in encouraging use of alternatives to hazardous materials.

**Motion to**

**Amend:** **Councilor Park** moved to amend Ordinance No. 00-851A, to read "...utilizing education methods that are shown to effectively teach proper use, transport, storage, and disposal practices."

**Seconded:** **Councilor Washington** agreed to seconded the amendment.

**Presiding Officer Bragdon** opened a public hearing on Ordinance No. 00-851B. No one came forward. Presiding Officer Bragdon closed the public hearing.

**Vote on**

**Main Motion:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed, with Councilor Monroe absent from the vote.

**8. RESOLUTIONS**

8.1 **Resolution No. 00-2947**, For the Purpose of urging a repeal of ORS 197.296 and 1997 Oregon Laws Chapter 763 (20-Year Land Supply).

**Motion:** **Councilor Atherton** moved to adopt Resolution No. 00-2947.

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

**Councilor Atherton** said his purpose for bringing this forward was to let the Oregon legislature know that this is an inappropriate mandate for the state to impose on local jurisdictions and particularly on the Portland metropolitan region.

**Councilor McLain** said she knew that this issue has been an important one for Councilor Atherton since he was elected, and she also understood that the 20-year land supply raised

questions for many other people. She asked Larry Shaw, Metro Legal Counsel, what the implications would be for local jurisdictions who need to know on what time horizon to plan.

**Larry Shaw**, Senior Assistant Counsel, said the statute, adopted in 1995, supplemented an existing Goal 14 rule provided a formula for calculating a 20-year land supply. Goal 14, adopted in 1974 calls for a compact, livable form described as roughly a 20-year supply of land for jobs and housing. If the 1995 statute was removed, the local jurisdictions would be left with the Land Conservation and Development Commission LCDC rules and its practice of imposing a less-stringent but similar time frame, but without the formula for doing the calculation.

**Councilor McLain** said this requirement constitutes an important element of the planning horizon and should be given some consideration. However, she noted that Councilor Atherton had intended this resolution to be a communication to the state legislature. She asked that he clarify what he thought this would truly communicate. She said he had requested a repeal of this statute, but she wondered why he wished to do that now and whether he believed this venue was appropriate.

**Councilor Atherton** said the communication was very clear in saying this was Metro's concern, not the state's. Metro should decide the shape and size of its communities. He said the only reason the 1995 statute was put into law was to force Metro to move the UGB to accommodate a special, development interest. He said this statute had been referred to as a "tool," but he said it had been used as a weapon to tear apart communities. He thought the state should know that. He noted that several cities—Milwaukie, Portland, Lake Oswego, West Linn, Oregon City, and Gresham—had sent that message to the legislature last year. Councilor Atherton read a letter from the City of Milwaukie expressing the idea that growth should be a local issue rather than a state mandate. He urged Metro to send its communication to the legislature this year and continually until this offensive mandate is repealed.

**Councilor McLain** said she would not vote for this first because she believed that a 20-year land supply was a minimum planning horizon. She would prefer to plan farther ahead than that. Second, Goal 14 was under revision, and some of the details have not yet been worked out. She would prefer to know the details so Metro could determine what would be needed to replace the 20-year land supply if that were deleted.

**Councilor Atherton** said that the issue was not the planning horizon, but whether it should come from the state or determined locally. He suggested that the relatively new concept of "complete communities" might be defined and used as a guide in place of forcing communities to grow whether they want to or not.

**Councilor Kvistad** said he thought the UGB had become a weapon but in an opposite way. He thought the no-growth factions had used it to file frivolous law suits and drive up housing prices by keeping the land supply low.

**Councilor Atherton** said that in the absence of a 20-year land law, communities would work as an organic whole to decide how large they would like to be. He did not believe that the price of housing was related; rather the prices were due to the types and number of well-paying jobs available. Also, he said prices were driven up because Metro subsidized profiteering in speculation on bare land. He said if the 1995 statute were repealed, it would spur the complete communities discussion, and under that concept developers would need to pay for the cost of growth.

**Vote:** The vote was 1 aye/ 5 nay/ 0 abstain. The motion failed, with Councilor Atherton voting aye and Councilor Monroe absent from the vote.

8.2 **Resolution No. 00-2948A**, For the purpose of Authorizing the Executive Officer to Enter into a Memorandum of Understanding with Tri-Met Regarding the Right-of-Way for the Interstate Max Project and Negotiate a Real Estate Transfer Agreement.

**Motion:** **Councilor Kvistad** moved to adopt Resolution No. 00-2948A.

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

**Councilor Kvistad** said this memorandum of understanding (MOU) would allow the transfer of property at Expo. For Tri-Met to be able to justify for the federal government with regard to the IMAX project, it must show that it has acquired the right-of-way throughout the existing alignment. This MOU would transfer that right-of-way to Tri-Met. The question of where the station near Expo would be remained to be decided, although he had his preference. Regardless, he thought this MOU should be approved.

**Councilor Atherton** asked Councilor Kvistad about paragraph 4 on page 3 of the resolution (contained in the meeting record), compensating Metro on the takings. He asked what the downstream consequences would be.

**Councilor Kvistad** said subsection 4 was added at Councilor Monroe's request, to hold Metro harmless and to guarantee that the impact on Metro of free park-and-ride would be revenue-neutral.

**Councilor Atherton** asked what would happen if Metro did charge for parking and it did produce revenue.

**Councilor Kvistad** said the parking revenue would go to Metro's general fund.

**Richard Brandman**, Transportation Planning Director, Metro, said two issues were worth noting: 1) this MOU would provide how Tri-Met would compensate Metro for the value of the land the alignment would run on and the stations would occupy. That value would be based on the market value, largely driven by the parking revenues themselves. Metro now charges for parking, but the spaces have not always been occupied and generating revenue. That revenue would be divided as stated in number 4. The park-and-ride itself remains an outstanding issue. Tri-Met would use some spaces for park-and-ride—estimated at about 300 spaces—but the demand would not be known for sure until the line begins running.

**Councilor Atherton** said he had asked about the situation when parking was all paid.

**Mr. Brandman** said Tri-Met had left it up to Metro whether to charge for parking on the park-and-ride lot. If parking were paid, it would be the only paid parking in Tri-Met system of park-and-ride lots. That could discourage park-and-riders, since a free lot exists at the PIR. On the other hand, Tri-Met might begin charging for parking at a number of lots around the region. That would change the dynamics. Currently, Tri-Met's position was that Metro could charge if it wanted to and keep the revenue.

**Councilor Kvistad** urged an aye vote.

**Vote:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed.

8.3 **Resolution No. 00-2951**, For the purpose of Declaring the Week of June 11-16, 2000 Speech and Debate Week.

**Motion:** **Councilor McLain** moved to adopt Resolution No. 00-2951.

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

**Councilor McLain** said the purpose of her resolution was to honor and support the more than 2000 students from 50 states and territories, who would be in Portland for the week of June 11-16 to compete in speech and debate contests. She read the resolution into the record.

**Councilor Atherton** asked if Glencoe High provided varsity letters for speech and debate.

**Councilor McLain** said yes, as do several other high schools in the area.

**Vote:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed.

8.4 **Resolution No. 00-2952**, For the purpose of adopting an evaluation and periodic work program for the Regional Urban Growth Boundary.

**Motion:** **Councilor Park** moved to adopt Resolution No. 00-2952.

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

**Councilor Park** said this action proposed to submit a periodic and review work program to for the UGB to the DLCDC. According to state law and Metro Code, Metro must examine its UGB every five years. The Periodic Review includes several steps, the first being the need to evaluate first a regional UGB and any applicable Metro Code provisions to see if changes might be needed. The 20-year land supply questions would be part of that. Second is development of a work program with scheduled tasks. Third is to implement the work program. The work program and evaluation concludes that there are substantial changes in circumstances in the issues of statewide significance that must be addressed, triggering this regional work on the UGB.

The first phase of the proposed three-phase program would address the legislative amendments needed to expand the UGB if needed to meet the 20-year land supply by the end of October. Phase two would address subregional needs for housing and employment opportunities and for "complete communities," consistent with Metro's 2040 growth concept. The third phase would address the 20-year land supply issue, with an update in 2002. Metro held public hearings in advance of the May 16 hearing, and the public comments received have been attached to the meeting record.

The policy issues were clarification of the 20-year land supply and whether Metro could consider moving the UGB more than what would be required in order to achieve complete communities. That means that if more land were needed in a sub-region in order to achieve 2040 goals and if the aggregate of such needs pushed the total need higher than what was calculated for a 20-year land supply, Metro would be able to move the UGB to achieve that goal. Metro has not received clear answers from the DLCDC on that issue, and this would make the DLCDC a partner to the process. The DLCDC would still need to approve the concept.

**Mike Burton**, Executive Officer, said many of the issues related to this were mentioned in the Council/Executive Informal [May 23, 2000]. This change in process would represent a major change of direction from the past. He said that although individuals might have disagreed on the particulars, they had all agreed on the ultimate goal, and that was to create livable communities. He said the opportunity here was to make progress toward that ultimate goal. He said he had discussed with a staff member at DLCD that morning, the issue of the required time horizon for land within the UGB. In the past, it had been a 50-year horizon, with 20 years' land supply inside the UGB and 30 years' in the Urban Reserves. He thought the precedent was, therefore, a 50-year land supply, and he did not see that should change.

**Mary Weber**, Growth Management Manager, reviewed possible changes to Exhibit B to the resolution, dated May 25. She called attention to the strike-outs and additions on page 4, which comprised clarification edits rather than substantive edits suggested by the DLCD. She continued that one comment was regarding the sub-regional analysis phase of the work program where they had a very distinct program item saying they would likely go beyond a 20-year land supply to meet subregional need for jobs. She noted it also brought up the issue of selection of priority of lands. She said the staff recommendation was to get across the same intent to the commission through a slightly different approach. She said, basically they would request clarification of the 20-year land supply, then selection of the priority of lands for inclusion. She said the issue was not being swept under the table, but this would allow the work program to move ahead. She said there were no other substantive changes. There was an additional request in the state's letter to delay the final work product in Phase 2 from January to March. She said, rather than changing the date in this work program they could use the subtask in front of each of the phases to refine the program when they knew all the details.

**Councilor McLain** asked Ms. Weber if she had responded to the comment on page two of the letter, item 3, with this language.

**Ms. Weber** said no, not directly to that particular statement about adoption of the UGB, only that they would probably request clarification.

**Councilor McLain** said she understood the difference between "may" and "will", and felt if they wanted strong language, it should say "will". She wondered about the choice of words and reiterated that she would rather have it say "will" due to previous conversations.

**Mr. Burton** agreed with Councilor McLain.

**Presiding Officer Bragdon** opened a public hearing on Resolution No. 00-2952.

**Jim Hinman**, Urban Planning Coordinator, Department of Land Conservation and Development, said the way he read the work program, the issue of whether the UGB was a 20-year UGB or more was not going to be raised as a policy issue in the work program itself, but after, during the conduct of the work task. He said he fully supported that decision and thought it would serve all of them well. He felt, as stated in his letter, that the work program would be stronger if the dates were set back from January to March to coincide with subtask 14 on the determination of regional need. He noted that one of the options discussed in the note was that the sub-regional need would essentially be absorbed in the regional need forecast as written. He felt the date change would not tie Metro's hands in any way, but it would improve the internal consistency of the work program. He also noted the timeframe in E-1. He said it was not apparent to him what would be gained by saying "4" instead of "5".

**Councilor Atherton** asked Mr. Hinman what would happen if, after Metro went through the subregional need analysis, they came up with more land wanted inside the UGB than was needed according to the needs analysis. He asked what process Mr. Hinman would suggest for taking lands out that had been added, that was contentious. He asked if that was included anywhere in the work plan.

**Mr. Hinman** said that was a very difficult question. He addressed the taking out of land if there was too much and other land wanted to be substituted. He said that was the Council's decision when they adopted the UGB. To the first part of the question, he responded that the issue of subregional need was a difficult one. He had hoped that problem might go away, but in the final analysis there was only a regional urban growth boundary and there is a need to amend that periodically based on the factors of Goal 14 and other statutes and administrative rules. At some point the council would have to reconcile that.

**Councilor Atherton** thanked Mr. Hinman. He felt the subregional boundary was exactly where they were headed.

**Mr. Hinman** said it would pose a contradiction or a new direction in policy to talk about subregional boundaries. He had not heard it mentioned yet and hoped it could all be resolved in the context of the regional boundary. He said that was why he was recommending the technical changes to the work program.

**Councilor Atherton** asked Mr. Burton if this was a tool or a weapon.

**Mr. Burton** answered that all of these things were tools and the responsibility that Metro had was to manage the UGB for the region. He thought the reality was that achieving an absolutely perfect jobs-housing balance was a goal they had to keep striving for, but one that they would perhaps never achieve. He said having the tool of the UGB and a process to look at it were policy decisions they all had to consider. He felt the tool needed to say to the jurisdictions that they were all in it together because of their common needs. He said the main thing about this particular work plan was the opportunity to sit down and have this process work as a planning process rather than a court legal process.

**Councilor Atherton** responded that he could see they were moving away from the concept that they were going to manage growth toward the concept of complete communities. He was conflicted to see how this work plan would move them towards the goal of complete communities.

**Presiding Officer Bragdon** noted that when Mr. Benner first started talking at MPAC about periodic review, two of the reasons he used to encourage them to enter into review were that things would move along at an expedited pace and that it would bring some surety to things. He asked Mr. Hinman if that was still the department's position.

**Mr. Hinman** responded that he believed it was. He said once the work program was adopted, there was a 21 day objection period and then they would issue a report. He said they were committed to moving it along.

**Presiding Officer Bragdon** closed the public hearing.

**Councilor McLain** asked Mr. Shaw about the bolded paragraph on page 2, just before item number 2, that said LCDC policy had established a precedent that the need was 20 years, and

unless they changed that precedent, that would be the rule of thumb Metro's work would be reviewed by.

**Mr. Shaw** responded that there were two issues raised, the easiest to respond to was the four versus five years. He said the reason 4 years had been established for Task 2 was the comments they had received from several places interested in sub-regional analysis had wanted Task 2 to be put in with Task 1. Now the Council was asking for the results of Task 2 to go to Task 3. The reasoning and approach was that whenever a UGB amendment was done, they were required to use the best information they had about the capacity of the UGB at the time. He said Metro received annual information from their jurisdictions, so the information used would clearly be updated automatically and available for the 2000 amendments. He said they would then do a full 5 year forecast 20-year analysis based on a complete new forecast for Task 3. He said changing it now, no matter how internally consistent it might look, would not be responsive to the comments they had received. He added that this was the first time he had seen in writing from LCDC that they considered current policy to be a 20-year supply and that going over would violate Goal 14.

**Councilor McLain** said that answered her question and she would accept that language of "will, if needed". She said this was the most challenging endeavor because the clear terminology was not just statistical, it was policy laden and every time they changed the definition of anything, it was through a policy change. She said the work they had done here over the last 10 years has said they prefer to have the goal and vision of seeing 24 cities and 3 counties that were full livable communities with all aspects necessary for that type of livability. She said it always came back to whether they were going to work for jobs and housing in all areas. She said there had to be some sensibility on how to balance all of those values. She did not feel they would get to the conversation of livable communities if they had to keep looking at the types of number crunching LCDC asked them to do. She said she would support the resolution to work on the issues.

**Motion to**

**Amend:**

**Councilor McLain** moved to amend Resolution No. 00-2952 with the words "will, if needed" in place of "may", and include changes in Exhibit B.

**Councilor Park**, the maker of the motion, and **Councilor Washington**, the seconder of the original motion agreed to Councilor McLain's friendly amendment.

**Councilor Kvistad** commented that part of this regional land use disaster they were in the midst of had to do with inappropriate interference from Mr. Benner in the process. He felt Metro had done a great job of trying to balance regional interests, but now they were here doing it all over again because special no growth interests sued every time they turned around. He said he was angry and frustrated because regardless of what they had agreed to, now they were forced to do it again. He said he would not support the resolution because it would justify their having to do it. He said he would be supportive of whatever they needed to do as a result of the resolution.

**Councilor Atherton** agreed with Councilor Kvistad that they were hurting people and the process was not working. He felt their job was to figure out whether how the communities wanted to grow would work with what others wanted to do. He said he could not tell from reading the document whether it would work. He said he was inclined to vote no as well because of that reason.

**Presiding Officer Bragdon** shared some the impatience that had been expressed in the sense of having to redo things. He pointed out that a lot of that had to do with court decisions saying



things were not done properly in accordance with state law. He said it was logical to ask for state guidance at this point to avoid a repetition of some of those things. He felt this approach would do that and said he would support the resolution and felt the pressure should now be on LCDC to keep to a timetable and work with Metro.

**Councilor Park** closed by saying this work program was needed to flush out the uncertainty of this question. He summarized the remarks of the Councilors. He hoped for a unanimous vote on this resolution to let LCDC know answers were needed to these questions so everyone would know what the rules were. He urged the Council to move ahead with this as amended.

**Vote on the**

**Main Motion:** The vote was 5 aye/ 1 nay/ 0 abstain. The motion passed with Councilor Atherton voting no. Councilor Monroe was absent from the vote.

**9. COUNCILOR COMMUNICATIONS**

**Presiding Officer Bragdon** reminded the Council of the retreat with Mr. Burton and Ms. Dow on Tuesday, May 30, 8:30 am at the Oregon Zoo.

**Jeff Stone** reminded the Council that there would be a Council meeting on June 1. It had previously been cancelled, but would not, in fact, be held.

**Councilor Kvistad** noted that today was the anniversary of former Metro Councilor, now Multnomah County Commissioner Lisa Naito's 29<sup>th</sup> birthday and wished her many happy returns.

**10. ADJOURN**

There being no further business to come before the Metro Council, Presiding Officer Bragdon adjourned the meeting at 3:36pm.

Prepared by

Chris Billington  
Clerk of the Council

<b>Document Number</b>	<b>Document Date</b>	<b>Document Title</b>	<b>TO/FROM</b>	<b>RES/ORD</b>
052500c-01	5/11/00	Minutes of 5/11/00 council meeting		
052500c-02	5/25/00	REM Committee report		Ord. No. 00-851A
052500c-03		Proposed amendment to Ord. No. 00-851A		Ord. No. 00-851A
052500c-04	5/25/00	Transportation Planning Committee report		Ord. No. 00-2948A
052500c-05	5/10/00	MOU between Metro and the Tri-County		Res. 00-2952

052500c-06	5/25/00	Metropolitan Transportation District Exhibit B to Metro Urban Growth Boundary Periodic Review Work Program 2000		Res. 00-2952
052500c-07	5/24/2000	Letter RE: Periodic Review Work Program	David Bragdon, Rod Park/ Jim Hinman, DLCD	Res. 00-2952
052500c-08		Resolution No. 00-2952		