

## MINUTES OF THE METRO COUNCIL WORK SESSION MEETING

Tuesday, November 8, 2005  
Metro Council Chamber

Councilors Present: Susan McLain, Carl Hosticka, Rod Park, Robert Liberty, Rex Burkholder, Brian Newman

Councilors Absent: David Bragdon (Council President) (excused)

Deputy President Burkholder convened the Metro Council Work Session Meeting at 2:06 p.m.

### **1. DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, NOVEMBER 10, 2005/ ADMINISTRATIVE/CHIEF OPERATING OFFICER AND CITIZEN COMMUNICATIONS**

Deputy President Burkholder discussed the agenda for the Thursday meeting.

Councilor McLain said that Lydia Neill, Principal Regional Planner, would give a presentation on Thursday regarding which boundaries to use for the industrial lands remand.

Michael Jordan, Chief Operating Officer, said that if there were no amendments, adoption could take place on Thursday. If any amendments were adopted, it would be held over to November 17<sup>th</sup>. Richard Benner, Regional Planning Director, said a revision had been made already. Mr. Benner and Council discussed the details of the code and the proper procedure for processing the legislation.

### **2. INDUSTRIAL LANDS AMENDMENT DISCUSSION AND DRAFT FINDINGS**

Mr. Benner discussed Exhibit D to Ordinance 05-1070A. He said if the Council was thinking about acting on November 10<sup>th</sup>, the findings might need to be revised. He emphasized that this was a work in progress. The findings addressed all seven points of the remand from the Land Conservation and Development Commission (LCDC).

Mr. Benner said that the Evergreen and Cornelius findings were organized by nine factors that would be in the new code. The conclusion of the findings is that some of the sites seem more or less desirable based on certain factors. Factors included the quality of the soil, the potential for housing and jobs, etc. The ultimate conclusion needed to address which factors would be given the most weight. Mr. Benner responded to a question from Council about the litigation strategy that would be used in the face of any lawsuits.

Councilor Park had some comments about restrictions on the sites, in terms of its designation as industrial or residential land. Mr. Benner stated that the remand from LCDC never designated a specific amount of land; they wanted to see new calculations after the reduction of acreage for streets. Councilor Park wondered what LCDC's response would be in the total came up short again; Mr. Benner thought that it would probably be remanded again. Councilor Park asked about the timeframe; how much time would Metro have to make any more changes? Mr. Benner replied that trying to guess anything about LCDC's decision timelines was an inexact science. He emphasized that no decision could be challenged before the Land Use Board of Appeals (LUBA); it would have to go through LCDC, and any other challenge would go to the court of appeals.

Ms. Neill responded to Councilors' questions about some of the specific acreage on the maps. Councilor Liberty questioned whether LCDC's directive could still be met by withholding some of the land.

Mr. Benner stated that case law until recently required us to keep a 20-year land supply. Lately this has shifted to an "at least" 20-year supply (of employment land). Anyone suing us would use the "at least" language. Goal 14 identified five factors that derived from the regional framework policies; these would now need to be identified and defended. For example, the factor on distance is not just the quantity of the distance, it's also the nature of the distance – a mile of mountain is a bigger barrier than a mile of flat city. Mr. Benner urged Council to familiarize themselves with the factors and how they would interpret them. He said that, after this week's hearing, Council may want to give some directions, but if they wanted to hold off on final action, he could have a final version ready early next week. He emphasized the relationship between action on this ordinance and revisions to the Urban Growth Boundary (UGB) code.

Council and staff debated the relative merits of the factors and how they might be interpreted. They also discussed the proper process for addressing the various issues. Deputy President Burkholder emphasized that there was time for Council to look over the findings, bring up questions, and guide the results. Councilor McLain agreed but was concerned about whether precedent was being set. Would the methodology and the content being used in this context have to be used in other situations? Mr. Jordan asked Mr. Benner if there were any thoughts, from a legal perspective, about whether precedents were being set? Mr. Benner didn't think there was too much to worry about. He thought that being too specific might tie our hands too much.

Councilor McLain pointed out that we had a high responsibility for looking at the findings; we used them in our decision and they should be of the highest quality. She brought up the example of when the language "similarly situated land" had been used, and it caused a lot of headaches. She wanted to try to head off anything comparable from happening.

Ms. Neill distributed a memo outlining possible conditions for fulfilling the remand (a copy is included in the meeting record). Mr. Benner summarized the amendments that had been submitted by Councilors so far. Councilor Newman asked for clarity between the previous COO recommendation and the current proposal. Ms. Neill said the current recommendation used the creek as a boundary, whereas the previous one did not.

Councilor McLain brought up the question of using the creek boundary as opposed to keeping the tax lots intact. Ms. Neill talked about which options would provide more habitat restoration. Councilor McLain reported that citizen preference was strongly in staying below the creek. Council again discussed the strategies of using the amendments, as well as the role of housing and possible litigation.

**3. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660 (1) (d)  
FOR THE PURPOSE OF DELIBERATING WITH PERSONS  
DESIGNATED TO CONDUCT LABOR NEGOTIATIONS.**

Time Began: 3:25 p.m.

Time Ended: 3:41 p.m.

Members Present: Presiding Officer Burkholder, Councilor Hosticka, Councilor Liberty, Councilor Newman, Councilor Park, Chief Operating Officer Michael Jordan, Human Resources Director Ruth Scott, Senior Attorney Katie Pool, Human Resources Manager Kerry Gilbreth, Metro Attorney Dan Cooper, Operations Assistant Dove Hotz

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

Time Began: 3:42 p.m.

Time Ended: 4:18 p.m.

Members Present: Presiding Officer Burkholder, Councilor Hosticka, Councilor Liberty, Councilor Newman, Councilor Park, Chief Operating Officer Michael Jordan, Parks Director Jim Desmond, Real Estate Negotiator William Eadie, Metro Attorney Dan Cooper, Operations Assistant Dove Hotz

**5. COUNCIL BRIEFINGS/COMMUNICATIONS**

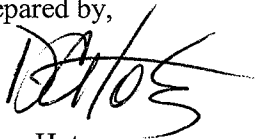
Councilor Hosticka brought up the status of the Blue Ribbon Committee examining the Parks bond measure. Deputy President Burkholder wondered if the committee's charge was focused enough. Jim Desmond, Parks Director, stated that the committee would only be preparing a first draft, just so the Council could see something that was not staff-driven. He reported that the committee seemed focused and took their charge seriously. The committee has had its last meeting, and the draft will be ready by December 8<sup>th</sup>. Councilor Newman hoped that there would be a wide variety of options presented.

Councilor Park reminded Council that there will be a televised (on cable) meeting regarding the history of rate policy this Thursday.

Legislative Affairs Manager Randy Tucker distributed a draft of a memo from the Council to the Joint Policy Advisory Committee on Transportation (JPACT) (a copy of the memo is included in the meeting record). Councilors had a few comments about the message and wording and gave Mr. Tucker the go-ahead to prepare the final memo.

There being no further business to come before the Metro Council, Deputy President Burkholder adjourned the meeting at 4:41 p.m.

Prepared by,



Dove Hotz  
Council Operations Assistant

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF  
NOVEMBER 8, 2005**

<b>Item</b>	<b>Topic</b>	<b>Doc Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
1	Agenda	11/10/05	Metro Council Agenda for November 10, 2005	110805c-01
2	Memo	9/20/05	To: Councilor Newman From: Lydia Neill Re: Possible Conditions on 2005 Industrial Expansion Areas	110805c-02
4	Fact Sheet	11/8/05	To: Metro Council From: Jim Desmond Re: Try/On Life Community Farm	110805c-03
4	Map	11/8/05	To: Metro Council From: Jim Desmond Re: Tryon Creek State Natural Area	110805c-04
5	Memo	11/2/05	To: Metro Council From: Randy Tucker Re: Draft of letter from David Bragdon to JPACT	110805c-05