

## MINUTES OF THE METRO COUNCIL MEETING

Thursday, July 20, 2006  
Metro Council Chamber

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

Councilors Absent: Susan McLain (excused)

Council President Bragdon convened the Regular Council Meeting at 2:03 p.m.

### 1. INTRODUCTIONS

There were none.

### 2. CITIZEN COMMUNICATIONS

There were none.

### 3. DEPARTMENT OF FORESTRY PRESENTATION ON URBAN/FOREST ISSUES

Tim O'Brien, Planning Department, introduced Marvin Brown, State Forester. He noted that as part of the New Look process, they were engaging in conversations with a variety of stakeholders. Mr. Brown provided a power point presentation on *Creating the Future of Oregon Forests* (a copy of which is included in the meeting packet). He reviewed key messages on Oregon forests. He spoke to forest policymaking and implementation difficulty. He also talked about forestry sustainability and the need to integrate all of the values.

Councilor Liberty asked if the State Forestry Department had been participating in Measure 37 claims. He wondered if Mr. Brown had any sense of claims against the Forestry Department. Mr. Brown responded to his question and talked about the Forest Practices Act. He then talked about the expansion of the urban and community forestry services program. He suggested the Board of Forestry and Metro Council coordinate opportunities.

Council President Bragdon said their common interest was protection of forests on the urban edge/fringe. He asked about easement programs. Mr. Brown responded to his question and noted that there were limited federal funds for this type of program. Council President Bragdon talked about acquisition such as near Forest Park. Councilor Liberty talked about the past permitting practices as well as monitoring. Mr. Brown said they don't have regulatory tools to deal with some of the Measure 37 issues. Councilor Liberty raised the issue of forest fire safety and property protection. Was the Board discussing this issue? Mr. Brown responded by talking about their protection zones and SB 360. If the land fell within the fire protection zone, they only protected the land, not structures. Councilor Hosticka mentioned the community forest program.

### 4. CONSENT AGENDA

4.1 Consideration of minutes of the July 13, 2006 Regular Council Meeting.

Motion:	Councilor Newman moved to adopt the meeting minutes of the July 13, 2006 Regular Metro Council.
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Vote:	Councilors Burkholder, Liberty, Park, Newman, and Council President Bragdon voted in support of the motion. The vote was 5 aye, the motion passed with Councilor Hosticka abstaining from the vote.
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## 5. RESOLUTIONS

### 5.1 **Resolution No. 06-3713**, For the Purpose of Adopting the Eastside Transit Alternatives Analysis Locally Preferred Alternative Located within Portland Central City.

Motion:	Councilor Burkholder moved to adopt Resolution No. 06-3713.
Seconded:	Councilor Newman seconded the motion

Councilor Burkholder introduced the resolution and noted that Council had had a number of discussions about this project. Richard Brandman, Planning Department, provided a power point presentation on the Eastside Transit Alternatives Analysis Locally Preferred Alternative decision (a copy of the power point presentation is included in the meeting record). He reviewed the proposed alternatives and the final recommendation.

Council President Bragdon opened a public hearing.

Terry Parker, PO Box 13503 Portland OR 97213 provided a written summary of his remarks (a copy of which is included in the meeting record).

Gwenn Baldwin, Lloyd Executive Partnership, 700 NE Multnomah #340 Portland OR 97232 said they strongly supported the Eastside Streetcar analysis and the resolution before Council today. She talked about planned investments on the eastside. She spoke the Lloyd Executive Partnership's mission. The Eastside Streetcar project was one of three top priorities for the partnership. Councilor Liberty asked what the streetcar added. Ms. Baldwin responded that the Lloyd District benefits from a variety of transit options. She talked about the Pearl District and the impact of the streetcar on the Westside. Councilor Newman asked about other funding mechanisms to fund operations of the streetcar. Ms. Baldwin said they were looking at a variety of funding mixes.

Michael Powell, 1005 W Burnside Portland OR 97209 said he chaired the Eastside Streetcar Alliance. He noted the increase in ridership with the Westside streetcar. They had always envisioned a loop around the Central City. He spoke to the potential development on the eastside. He felt Metro had a very good proposal. He spoke to the agreement among the stakeholders. He felt the process had been well thought out. He urged Council's support.

J. E. Isaac, One Center Court Drive #200 Portland OR 97227 said he was a member of the Streetcar Board. He noted the other memberships he participated in having to do with this issue. He urged adoption of the resolution. Mr. Powell acknowledged Metro's staff and their work.

Susan Pearce, PO Box 426217 Portland OR 97242 said she represented the Hosford Abernethy Neighborhood Development Association and provided a letter for the record, which she

summarized (a copy of the letter is included in the meeting record). Councilor Liberty asked clarifying questions. Ms. Pearce responded to his questions.

Chris Smith, Chair of Citizen Advisory Committee, 2343 NW Pettygrove Street Portland OR 97210 thanked the Council for their work. They had the overview of the whole streetcar system. He highlighted benefits about interaction with other transit modes. They supported the resolution.

Kevin Downing, Westmoreland Resident, 6202 SE 21<sup>st</sup> Portland OR 97202 said he was in favor of the streetcar. He spoke to the history of the Milwaukie light rail. The eastside streetcar is an important component for the Central City but the Eastside Streetcar raised competition for operational dollars. Councilor Newman said he shared some of his concerns and thanked him for his participation. He said this agency in partnership with other entities would be starting the next stage on the potential for the Eastside Streetcar. Councilor Liberty called attention to the planning for the eastside.

Council President Bragdon closed the public hearing.

Councilor Newman thanked Metro staff as well as other partners who had participated in the process. He felt the process was a constructive one as well as creating productive tension. He enthusiastically supported this legislation and the project. He said the role of the Central City in redevelopment was very important and of high value. He had two concerns: 1) regional context and initiating a regional planning process and 2) operational issues. He summarized work program considerations. There was need for a new discussion about financing.

Councilor Liberty talked about his three areas of concern 1) connection between this project and development of the eastside industrial sanctuary, 2) interoperability, and 3) the use of a system approach versus a project approach. He supported the project and acknowledged the visionary leadership on this project.

Councilor Hosticka asked why would someone who represented the suburbs in the region be interested in this project. He thought this project could promote increase capacity within the central corridor, which would support his area as well. He noted the amount of money that went into subsidizing the suburbs.

Council President Bragdon talked about his history with the Portland Streetcar. He now looked at the Westside streetcar project as Phase 1. He spoke to impact on the neighborhoods. He felt it was important because they were also voting yes on the conditions of development surrounding the streetcar project. He also talked about the operational conditions. It was important that they design the streetcar in such a way to support transit and development.

Councilor Park added that this was another step for Portland to increase its activity levels. He felt that funding mechanisms needed to be adequate for the entire region. He would be voting yes on this resolution.

Councilor Burkholder thanked a variety of citizens for their work on the project as well as Metro staff for their work. There were a lot of resources put into this project. There had been a long discussion at Joint Policy Advisory Committee on Transportation (JPACT) on this issue. He noted challenges as well as the goals of the project. He urged support.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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Councilor Newman asked for regular updates on the project.

5.2 **Resolution No. 06-3714A**, For the Purpose of Entering an Order Relating to the Harold S. and Rebeca MacLaughlan Claim for Compensation under ORS 197.352 (Measure 37)

Paul Ketcham, Planning Department, said at the last Council meeting, Council had directed staff to prepare a revised Chief Operating Officer report. He noted three letters that they had received from Jeannette Moore. He summarized the substantive changes in the report. The comparable sales data indicated that the fair market value of the property was not reduced. Mr. Conder said they had eliminated the discount factor.

Councilor Liberty asked about the report and the use of the lower two figures. Mr. Conder responded to his question.

Council President Bragdon opened a public hearing.

Jeannette Moore, representing the MacLaughlan's, provided additional materials for the Council (a copy of which is included in the meeting record). She talked about what they had covered in last week's Council session, the time series method and state regulations. She spoke to what the law required. She said the appraiser had to appraise the property on the highest and best use of the property. Councilor Liberty asked clarifying questions. Ms. Moore responded by referring to the Oregon Administrative Rule.

Ms. Moore continued by talking about using the tax statements. She said the data were unreliable. She summarized a portion of Sonny Conder's assessment of valuation. She talked about Jaeger's theory. She said the statute set forth requirements by law to the value difference between regulated and unregulated land. She said the trigger date was the date of acquisition of the property. She said she had researched the comparables outside the boundary, which she had submitted for the record. Six of the properties were outside the urban growth boundary (UGB). She noted that one of the comparables was much higher in value. She talked about the change in value of Mr. MacLaughlan's property. She asked what date did the law require? She responded, the date of acquisition. She talked about interpreting the language in the statute. She read the statute into the record. She highlighted the sections of the statute, what made sense and those that did not in terms of this claim. She talked about the interpretation of Measure 37 and that two identical property, one within the UGB and one outside the UGB across the street from the first property. The intent of Measure 37 was that like people would get like treatment. She said using the very same methodology RA1 analysis, there was a per acre value which was higher. If they used the comparable the values were even higher. Whether they were using 2006 or 2005 comparables, under RA1 analysis, the result was the same; there was a tremendous loss. If they used RRFF5 analysis, under the comparable sales method, within and outside the UGB, the data still showed a reduction in value. She provided an additional table; Re: Harold and Rebeca MacLaughlan amended Metro 37 Claim No. 06-007 (Exhibit 2). Finally, in looking at the revised Chief Operating Officer recommendation, it did not go into an analysis of whether there was fair market value. She said no matter what comparables you looked at; there was a loss in value.

Council President Bragdon closed the public hearing.

Councilor Burkholder said the decision that they had to make was based on whether there was a loss in fair market value. He was trying to understand why Metro's numbers would be different. Mr. Conder said RRF5 froze the property. They could not do anything with it. The value of their property was the value of their property today. In Table 4, they used \$75,000 per acre. He shared how he came to the computation. The computation was an attempt to be completely fair. Councilor Burkholder asked what the difference in value was. Mr. Conder responded to his question.

Councilor Liberty shared what he believed was the difference between value assessments. They were trying to compare apples to apples. Councilor Hosticka said he couldn't find where Ms. Moore had shared the current value of the property. Ms. Moore said the value was on the claim report and on the amended claim report. Councilor Hosticka asked what the difference in value was with regulation and without regulation. Ms. Moore said she did not do that analysis because she interpreted the value when they acquired the property. She said there was more than one regulation to consider. Councilor Hosticka asked about the effect of our regulation when the regulation was first applied versus when the land was acquired. Dick Benner, Metro Senior Attorney, read the Measure 37 claim. He explained the initial burden on the claimant was to show the reduction in value at the time of regulation. The fairest and most accurate thing to do was to look at value of the property at the time the regulation was in place.

Motion:	Councilor Burkholder moved to adopt Resolution No. 06-3714A.
Seconded:	Councilor Liberty seconded the motion

Councilor Burkholder explained why they should deny the claim. He also noted the overriding concerns of the Metro Council on planning for growth in the area. He recommended that the Metro Council deny the claim based on the fact that there was no reduction in value and that legal advice had been that the value was assessed at the time of regulation. Councilor Liberty concurred with Councilor Burkholder's remarks. Councilor Park talked about the Regionally Significant Industrial Areas (RSIA) designation and the only other action that could be taken besides denying the claim was to take the property outside the boundary. He would be supporting the resolution and the order.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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Council President Bragdon asked about analysis of taking these properties outside the UGB.

**5.3 Resolution No. 06-3715, For the Purpose of Entering an Order Relating to the Kumyon and Helen Radow Claim for Compensation under ORS 197.352 (Measure 37)**

Mr. Ketcham briefly described the claim. The conclusion was that there had been no reduction in fair market value. Mr. Conder reemphasized that when they had a property that nothing could be done with, he used the actual property value plus 15% (in Table 4). Councilor Hosticka asked about Table 3 and ownership of the property, which he saw was part of a trust. Mr. Ketcham responded to his question. Councilor Hosticka said Metro's action did not change the zoning except to put the property into the UGB. Mr. Ketcham said when the property was acquired by the trust in 1996; it could not be further subdivided. Councilor Hosticka's conclusion was Metro's action did not change the zoning. Mr. Benner responded that the point that Councilor Hosticka

was making was that 1996 was the date of acquisition of the property. However, when the property was transferred to a revocable living trust, there was no change in property ownership. Council President Bragdon said on March 2003, they couldn't subdivide. When the property was brought into the UGB, they couldn't subdivide nor could they subdivide prior to bringing the property into the UGB. Councilor Liberty asked if staff had any concerns about the basis of fair market values from the assessors. Mr. Conder commented that the overwhelming factor was the inclusion of this land inside the UGB, because that signaled a certainty in time that the land could be developed. Councilor Liberty clarified his question about assessment. Mr. Conder emphasized the trend.

Motion:	Councilor Newman moved to adopt Resolution No. 06-3715.
Seconded:	Councilor Hosticka seconded the motion

Councilor Newman said the evidence was clear that the property was not reduced in value based on Metro's action of bringing it into the UGB. Councilor Park said they did not know what the zoning would be in the future. Additionally, the staff report talked about slope characteristics.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.
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## 6. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, was not present.

## 7. COUNCILOR COMMUNICATION

Councilor Burkholder talked about Measure 37 and Beaverton City Council's approval of a claim. He was concerned about the Metro Council response where they were losing some key policy objectives. Councilor Park asked about public infrastructure dollars that were going to some of the claimant sites. Councilor Hosticka suggested talking points to take to Metro Policy Advisory Committee (MPAC) next week. Councilor Liberty suggested talking to MPAC about the basis of their decision and the long-term impacts.

Councilor Newman said this Council had a lot of discussion about transportation. Next week there was a meeting on alternative analysis of the Lake Oswego to Portland transit project (a copy of the alternatives chart is include in the record). He summarized the options that would be considered for further analysis. Councilor Hosticka asked a clarifying question about the corridor. Councilor Newman summarized the trail component of the analysis. He provided a quick overview. Councilor Liberty thanked Councilor Newman for his summary. He expressed his concerns about land use and use of 2040. Councilor Hosticka expressed concern about ruling out the P & W railroad bridge. Councilors continued the discussion about the corridor. Councilor Burkholder suggested looking at this in a functional way. Councilor Newman explained the composition of Lake Oswego Policy Advisory Committee on Transportation (LOPACT). Ross Roberts, Planning Department, provided a history of how they got to the original list of options. This list was a winnowed down list of all of the community ideas they had heard. He provided a summary of who served on LOPACT. Councilor Liberty asked about the purpose and need. Mr. Roberts explained how they came up with the purpose and need.

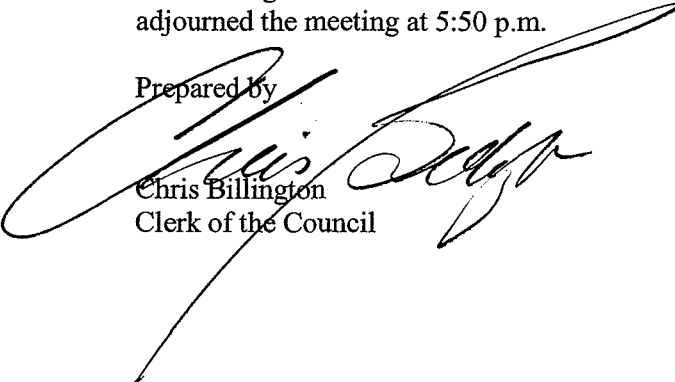
Council President Bragdon said he heard that Council was asking that P & W Railroad Bridge be kept on the list. Councilor Hosticka added his comments. Mr. Brandman reviewed issues with respect to the rail crossing. During the process they would be analyzing the cost of the rail bridge that would provide transit options for individuals as well as freight. They were starting the Milwaukie Light rail Environmental Impact Statement (EIS) and they would be able to analyzing the impact of the rail bridge. Staff had the same goal in mind as the Council. Councilor Newman said when this process started it was focused on the Willamette Shoreline. There was a discussion at the Steering Committee about having members on the eastside participate in the alternative analysis. He appreciated the Councilors input.

Councilor Burkholder said the issue was they would like to keep the rail option alive. How do they stitch these options together? Councilor Hosticka suggested the representatives convey the Council's discussion. Councilor Park asked how they study something like this and keep the potential options on the table. Council President Bragdon said they needed to look at a regional system-wide model. Councilor Newman summarized Council's direction. Mr. Brandman said if there was direction from the Council and Steering Committee to analyze the option, they will do this prior to decisions being made toward the end of the year. Council President Bragdon talked about the need to do a systems analysis instead of project-by-project analysis. He urged not letting the funding be implied just because they were studying an option.

#### 8. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:50 p.m.

Prepared by

  
Chris Billington  
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF  
JULY 20, 2006**

Item	Topic	Doc Date	Document Description	Doc. Number
4.1	Minutes	7/13/06	Metro Council Meeting Minutes of July 13, 2006	072006c-01
5.1	Evaluation Summary	May 2006	To: Metro Council From: Richard Brandman, Planning Department Re: Eastside Transit Alternative Analysis	072006c-02
5.1	Evaluation Report	May 2006	To: Metro Council From: Richard Brandman, Planning Department Re: Eastside Transit Alternative Analysis	072006c-03
5.3	Figure A	7/20/06	To: Metro Council From: Paul Ketcham, Planning Department Re: Figure A: Radow RRF-5 Property time trend and P-J Test for Resolution No. 06-3715	072006c-04
5.3	Figure B	7/20/06	To: Metro Council From: Paul Ketcham, Planning Department Re: Figure B: Radow EFU Property time trend compared to All EFU and P-J Test for Resolution No. 06-3715	072006c-05
5.2	Supplemental information	7/19/06	To: Metro Council From: Jeannette Moore, Attorney for MacLaughlan Re: Supplemental information to Resolution No. 06-3714A	072006c-06
5.2	Supplemental information	7/19/06	To: Metro Council From: Jeannette Moore, Attorney for MacLaughlan Re: Supplemental information to Resolution No. 06-3714A	072006c-07
5.2	Supplemental information	7/19/06	To: Metro Council From: Jeannette Moore, Attorney for MacLaughlan Re: Supplemental information to Resolution No. 06-3714A	072006c-08
5.1	Power Point Presentation	7/20/06	To: Metro Council From: Richard Brandman, Planning Department Re: Power point presentation on Resolution No. 06-3713	072006c09



3.0	Presentation Materials	July 2006	To: Metro Council From: Tim O'Brien, Planning Department Re: Oregon Department of Forestry Background and pamphlet	072006c-10
5.1	Written testimony	7/20/06	To: Metro Council From: Terry Parker Re: Resolution No. 06-3713	072006c-11
5.1	Written Testimony	7/20/06	To: Metro Councilors From: Joe Hagedorn, Chair Hosford Abernethy Neighborhood Development Association Re: Resolution No. 06-3713	072006c-12
5.2	Measure 37 claim additional materials	7/20/06	To: Metro Council From: Jeannette Moore, attorney representing MacLaughlans Re: Letter from Alan Brown, Broker/Sole Practitioner on current listing, recent sales, as possible comparables to property on 172 <sup>nd</sup> . Resolution No. 06-3714A	072006c-13
5.2	Measure 37 claim additional materials	7/20/06	To: Metro Council From: Jeannette Moore, attorney representing MacLaughlans Re: Excerpts from The Effects of land use regulations on Property values by William Jaeger (Exhibit 1), Resolution No. 06-3714A	072006c-14
5.2	Measure 37 claim additional materials	7/20/06	To: Metro Council From: Jeannette Moore, attorney representing MacLaughlans Re: Exhibit 2 Table 4 and information missing from Condor Memo analysis, Resolution No. 06-3714A	072006c-15
7.0	Agenda and materials	7/25/06	To: Metro Council From: Councilor Newman Re: Transit AA Steering Committee agenda and packet materials on Lake Oswego to Portland AA	072006c-16