

## MINUTES OF THE METRO COUNCIL WORK SESSION MEETING

Tuesday, September 26, 2006  
Metro Council Chamber

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

Councilors Absent: Brian Newman (excused)

Council President Bragdon convened the Metro Council Work Session Meeting at 2:05 p.m.

### **1. DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, SEPTEMBER 28, 2006/ADMINISTRATIVE/CHIEF OPERATING OFFICER AND CITIZEN COMMUNICATIONS**

Council President Bragdon reviewed the September 28, 2006 Metro Council agenda.

### **2. TITLE 4 DISCUSSION**

Richard Benner, Metro Attorney, spoke to the revised version of the code language (a copy is included in the meeting record). After Council's last review, on August 1, the Metro Technical Advisory Committee (MTAC) proposed that local jurisdictions do the map amendments; Metro could participate if interested and appeal to the Land Use Board of Appeals (LUBA) if necessary. The criteria would be in the code, and the Council wanted to be able to interpret their own criteria in the event of an appeal. There was a general concern that we would lose land base if local jurisdictions made the changes. Council was also concerned about the burden placed on Metro staff in reviewing local changes. MTAC had reviewed the concerns. The relative roles of Metro versus the local governments was the leading issue. MTAC and the Metro Policy Advisory Committee (MPAC) were firm that the locals should do it, and that Metro should play a review role. The current version divided the amendment pie into two. Metro Council would make any significant changes; local jurisdictions would make minor changes.

Mr. Benner addressed the "window," a time period during which local governments would propose changes to the Title 4 map. The driver for this was Council's concern about cumulative impacts. The major issue was, when should the window be? The concern was that, when first written, the window would be open this year and would close later. As the issue has been discussed, Mr. Benner realized that the window for 2007 did not have to close; they were not directly related to urban growth boundary (UGB) capacity analysis. No votes either at MTAC or MPAC had been taken. Mr. Benner referred to the proposed criteria for changes. Some felt perhaps they were too strict; few proposals to the map would make it through the process.

Councilor Liberty agreed it was a shared issue—local governments also had an interest in these changes. One reason for the window was to show the cumulative impact, but this would take place over years. Maybe local governments should be responsible for their local inventories. Mr. Benner agreed, adding that some of the criteria were aimed at minimizing the loss of industrial land base. There was an employment number in the Title 4 for each jurisdiction. Councilor McLain shared an example of a local jurisdiction which, against her advice, had changed industrial land to residential land, then they still felt they needed more industrial land.

Mr. Benner thought the current draft's criterion for making a change and having to drop the employment number below what was in Title 1 was good but not sufficient. They could change designations and demonstrate increased employment levels. He agreed with Councilor Liberty about local governments making the decisions; they then would own the land base and would be accountable. If it was just Metro making the decision, it would be easy to see Metro, incorrectly, as a zoning body. The locals were concerned that they would make a change at their level, using their own criteria, then it would come to Metro which would have a different set of criteria. The problem, as seen by the locals, was that each decision could be appealed to LUBA on two different sets of criteria. A single local process would be less subject to this.

Councilor Liberty felt it might be useful if the locals had to check and see what was drawn down against their supply; they would have to make a cumulative analysis comparing to the last UGB adjustment. He wanted to encourage the locals to see they were part of a regional supply. Could we have a shut-off valve, if we saw a trickle turning into a torrent? How could adjustments be made to the process? Mr. Benner said that the criteria could always be changed. Councilor Park asked how many times the adjustments could be made. Mr. Benner said there was no limit. Councilor Park asked if the parcels could be adjacent or non-adjacent. Mr. Benner said they were limited to tracts of land, 5 acres or smaller, limited to the edge. He said there could be a cap on the number of acres. We would want to avoid pitting claims against each other. This was a good argument for a window, so that the claims could be compared.

Councilor McLain thought existing code worked with these types of reviews, even if they had some policy issues. What if Hillsboro wanted a larger industrial site, and they wanted to trade it for a handful of smaller sites? Under the present code, we could accept it if it was for a good reason. She wasn't sure that the proposal was fixing anything that couldn't be handled under the current code. Council President Bragdon connected it to the UGB process. He felt there was a regional interest that everybody agreed on—that we wanted to have industrial employment—and a certain function, that infrastructure needed to support it, but individual jurisdictions might see it as a nuisance. It wouldn't return the same type of taxes as retail might. From the property owner's standpoint, there was pressure to develop more commercial uses. Also, the viability of a parcel for industrial uses could decrease over time. There were a variety of reasons why individual jurisdictions might not want it in their own boundaries. The real issue for Metro was, how did this relate to the UGB process, with the same people coming back three days later saying they needed more industrial land, after they'd converted it from other designations.

Mr. Benner felt that could be addressed by making sure our criteria prevented a significant loss of industrial land. Also, we had to make up for changes that occurred during the five-year cycle. Council President Bragdon asked, shouldn't we use that experience to instruct the next one? Certain parties stated things one way during the UGB proceeding, and then another way during the preservation proceeding. We could look at other ways of preserving industrial land to address why jurisdictions made the changes. Could we address it in a more preventative fashion?

Councilor Liberty described an example of a jurisdiction that wanted land to be added but was changed at the last minute. It would be therapeutic for the locals to discuss the land supply and take responsibility. It needed to be more explicit that the locals were drawing off a regional supply. Mr. Benner said we could change the treatment of regionally significant industrial (RSI) areas; we started with what the RSI designation meant, then we asked local governments what they thought, and if they really resisted, it was changed. If we were to more rigorously identify the region's most significant industrial land, it would make sense to protect those more than the more generic industrial land. The Council would have their first hearing on October 12. Councilor

Park said he would like to see some language regarding the cumulative impact of minor amendments by a single jurisdiction.

Councilor McLain said, if the cumulative effect was what we cared about, we weren't trying to create a double process, we didn't want to be seen in the role of zoning, and neither one of those had happened under the current code. We had had few of these requests. We wanted to be agile, we didn't want to have the locals not be able to do their job. We were committed to making the process the best it could be. She felt this was not the real issue. It sounded like local vs. regional again. Which jurisdictions got to share the higher tax-getters? And which had to contribute to the overall health of the region?

Councilor Burkholder felt we were tweaking the existing system to make it more usable. Perhaps this should go in the New Look work plan. In Vancouver, B.C., there were one-story office buildings going up; they were called industrial uses and were draining away from the centers. Council President Bragdon had heard a lot about the problem of low-density suburban office parks. He would like to start thinking about code language that would tie in to the UGB expansion, so that the local jurisdictions would be more accountable in their requests for industrial at the expense of preservation. Councilor Hosticka shared all the concerns, but he thought the process was strange; we were basically asking the local governments how much power they wanted. He wished there was some third party, with a regional perspective, that would look at it. He compared it to Kyoto, with exchangeable zoning.

Mr. Benner promised to work to incorporate Council's perspectives and bring them back to MTAC and MPAC, they would come up with a different mix, a different set of responsibilities, and the two options would be presented next time.

### **3. REIN TOOL DEMO**

Lori Hennings, Nature in Neighborhoods (NIN) Program, demonstrated the pre-release version of the Regional Environmental Information Network (REIN) tool, on the web. REIN could contain as much data as we wanted. She talked about some of the project partners. There was a lot of data that would be loaded in a fairly short period. She felt it would be helpful data in preparing the state of the watershed reports. Next year, as per Title 13, local jurisdictions needed to report to us. By next summer, we would have reporting forms online for local jurisdictions. She talked about some of the features that would be included in the final version. The tool was to include the ability to search by address or intersection. Ms. Hennings showed how the map zoomed in to increased levels of detail, including aerial photographs. She went through a sample project.

Councilor Park asked about the definitions for big or small projects, or geographic location, because if the tool was as successful as we hoped it would be, people might be inspired to use it, and we would want to rank the projects by size. Ms. Hennings said they'd take a look at it. Councilor McLain agreed that size would help. It would also be nice to have a list of completed projects, to show people the progress that was being made. Ms. Hennings showed how that could be done. Councilor Hosticka liked the general structure and the overall reporting. But it seemed a bit one-sided, reporting what was being done to improve habitat; couldn't we have reporting of habitat losses? He would like to be able to track an overall gain or loss of habitat or wildlife. Ms. Hennings agreed and talked about other sources for such information.

Councilor Liberty thought we would want it to be integrated, along with the annual information on species or water quality, with particular indicator species and watersheds. We could also

indicate our own high priorities in key areas. Ms. Hennings said this was a great point, integration of the whole monitoring program would be extremely valuable. She asked for Council authorization to run a geographic information system (GIS) model, to integrate it in the state of the watershed report.

Councilor Burkholder thought they could not answer yes or no at this point. Councilor Park said this work integrated well with the work at the Zoo. He liked the zoom-in feature; was this technology available for other, non-ecological projects? Ms. Hennings said yes. She asked how to bring the watershed question back in more detail. Councilor McLain said it was very technical, it had a cumulative effect on our outreach, including potential bond measure purchases. She suggested that Ms. Hennings meet with Councilors individually. Council President Bragdon asked Councilor McLain to work with Ms. Hennings on how to bring this back to Council.

#### **4. BREAK**

#### **5. STATE LEGISLATIVE AGENDA**

Council President Bragdon observed that these concepts all had different timelines and different implications for state law. We needed to talk about potential tradeoffs and about formatting the proposals so they all hang together. Randy Tucker, Public Affairs and Government Relations, distributed two handouts (a copy of each is included in the meeting record) and discussed the status of the current work, including efforts link to other agencies.

Councilor Liberty wondered if we caucused with the League of Oregon Cities (LOC). Mr. Tucker said yes—informally and infrequently. The LOC had its own legislative agenda. Council President Bragdon emphasized our need to build alliances. Michael Jordan, Chief Operating Officer, talked about special district associations and their efforts to pool and participate; Metro was present at many meetings, sifting through proposals for legislative action and developing a local government-based response.

Mr. Tucker reviewed the two non-New Look concepts. On the issue of public funds collateralization, he introduced Brian Williams, Finance and Administrative Services. Mr. Williams said under current law a financial institution was required to set aside 25% as collateral, to protect investors in the case of bank failure. The proposed legislation was intended to reduce the risk of exposure of public entities, by increasing collateralization to 100%. Minimal opposition was anticipated. Council was supportive.

On the issue of eliminating statutory conflicts between Oregon Revised Statutes (ORS) 198 and 268, Mr. Tucker welcomed Paul Garrahan, Office of Metro Attorney. Mr. Garrahan indicated that it would be mainly to clarify the group of state laws that applied to Metro. ORS 198 applied to special districts, of which Metro was one until 1992. Since 1992, Metro has been the only home rule special district. As a matter of law, it was ORS 268 and the Metro charter that applied to us. But a superficial reading could look at ORS 198 and see a conflict. The proposal was to go to the legislature and ask them to clarify that Metro need only follow ORS 268 and our own charter, and that ORS 198 did not apply to Metro.

Councilor Liberty wondered if we were drawing a target on our backs with this concept. Daniel B. Cooper, Metro Attorney, chimed in, recounting previous reconciliation between ORS 268 and the Metro Charter. The current bill was even more of a technical cleanup. He did not feel there was a strong political element there. Councilor Park asked if, by changing the definition, did we

lose any of our current authority? Mr. Cooper said no, we would still be a special district, it was just clarifying which rules applied. We would keep the part of ORS 198 regarding annexation.

Councilor Burkholder wondered about going even farther. Were there powers that local governments had that would benefit Metro? Mr. Cooper said that the question of where it was appropriate to have Metro defined as a local government vs. a special district was a much different policy matter. That would definitely be a target on our backs. Councilor McLain said, it seemed like staff had not been able to reconcile technical mistakes between the Metro jurisdictional boundary and the urban area of the region. There were urbanized places, such as Cornelius and Hillsboro, that were not part of the Metro boundary. Mr. Cooper talked about annexation process options.

Mr. Tucker then addressed the New Look concepts. He encouraged Council to think of them as one concept—a systemic approach to changing the way things operated, rather than as isolated ideas. The overall story was, if the strategy was successful, there wouldn't be the need for as many UGB expansions. Staff was addressing other, non-legislative means to address this currently. He talked about the various tools that would be used to accomplish Metro goals. He outlined the overall thinking of the strategy and how they linked together. Council President Bragdon said there would be fiscal issues, such as value capture, some people would take these concepts and try to apply them in other ways. Mr. Tucker did not think a lot of the concepts would pass the legislature this time around. But we wanted to tell our story, with the legislative concepts, and be prepared for opportunities.

Councilor McLain said, what if one of the concepts was passed by itself? She would like a short summary outlining the fact they were all part of one plan, and that we were working the centers as part of the proposal, and that was the Council's responsibility. If we didn't do this, it could be dangerous, as separate pieces of paper. She would like to see more language showing the connections and how they tied together. Councilor Liberty thought this was a great way to set the agenda and control the terms of the debate. We had a chance to demonstrate our fiscal prudence.

Mr. Tucker recommended that our efforts focus more on coordination than on passing a specific law. Councilor McLain advised shoring up the process for deciding which data sets would be used, so that there was more consistency and accountability. We needed to be more than a soft invitation. Councilor Burkholder said, under the statute, it was permissive; "You can do this if you want." How did we make that stronger? Mr. Benner said we did have authorization, if we wanted to gather up all the neighbor communities, we would have to persuade them to join with us to do planning together. We could have agreements under state law to do that. There were requirements of coordination, when North Plains was establishing its population forecast, it did not coordinate properly with Metro. LUBA told North Plains they had to work with Metro. What was undetermined was, if we inserted ourselves into the McMinnville planning process, they might object. Then we'd have to litigate. It was not clear which were the "affected governments." The voluntary association of neighboring cities was the most promising avenue. We could try to change the statute to say any city within 50 miles was an affected government. Councilor Liberty said it was obvious that the Department of Transportation's districts did not fit the reality of commuter travel. But we never talked with Salem. He agreed we didn't want to provoke something that wasn't necessary, but under state agency coordination statutes, it could be helpful.

Councilor Hosticka was somewhat concerned about the strategy asking for volunteers and then turning them into conscripts. What was the fallback position? Mr. Tucker said there was a lot of work to be done to figure out how to accommodate rural or urban reserves. Our state-mandated

charge was to keep the 20-year land supply. Councilor McLain wanted to emphasize that Measure 37 threw a monkey wrench into a lot of this planning. Local jurisdictions were pretty much rolling over. We had set the concept of rural reserves already. What sorts of limits would we be able to place on the locals? Councilor Hosticka suggested that there were more proactive ways to help agricultural economies—conservation easement and other things—that we might want to pursue through state government.

Councilor Park observed that state law currently assumed there was an infinite supply of land to expand into. State law said, if it was the last piece of ag land to urbanize into, you urbanized into it. There was no 20-year supply for agriculture, no place for a natural area to come in and balance that off; how could we create that? Councilor Hosticka said, in Vancouver, didn't they designate agricultural lands and then look for conditions to urbanize? Whereas we looked at urban needs and looked where to put them.

Councilor Liberty said, if we were to use the windfall, and designate some of it for purchase and development rights, that would be a mechanism to do something permanent, involving our technique of purchasing from willing sellers. We wanted to make sure our tool was not going to be restricted to infrastructure funding. Also, the current farm bill had very modest money for purchase rights. Mr. Tucker said, everything was interlocked. None of the concepts was a standalone. Regarding recommendations and policy questions, Council would have to chew on it and give staff some direction. Councilor McLain understood this was the leap of faith with the updating of Oregon's land use planning. She requested an executive summary. She understood the strategy of using these concepts as tools for education, but the danger was, if it appeared on paper, people would expect us to pursue it.

Councilor Park said, if we established these processes, were we interested in urban reserves only if they met certain criteria? If we sought urban reserves, what would be our collective and individual criteria? Council President Bragdon said, we liked the concept of urban reserves, provisionally connected to the other concepts. All of that was only part of the larger context relative to the emphasis on centers, but there would be forces that would want to pick just one or the other. We all agreed on the six elements, what staff was trying to do was get to the next level of depth, particularly as related to state legislative action. Councilor Hosticka tended to agree that what's listed were things that he wanted to see, but he didn't want to see them in isolation. Why were we looking at it as six different pieces of legislation? Mr. Tucker clarified that they were just on six pieces of paper, to be able to get them down. It was not at all being proposed as six pieces of legislation. Council discussed the importance of tying all the elements together.

Andy Cotugno, Planning Director, stated that Metro had a hierarchy for UGB expansions. The principle we wanted to establish was having something in front of the hierarchy called urban reserves, and something on the back called rural reserves—how would this be different from the existing hierarchy? Which exception land would move up in the hierarchy? How would exclusive farm-use (EFU) land be changed in the hierarchy? That was the locational question. The fundamental questions of the current hierarchy did not give us that. Some EFU should move up and some exception land should move down.

Council Liberty preferred to formulate it in terms of long-term protection, rather than creating another hierarchy. Mr. Tucker said the crux of the issue was that there were a lot of different opinions, but right now there were two relatively arbitrary things—the five-year review and the 20-year land supply. The center of the concept was to come up with a more nuanced view of reality and the aspirations of the region. The bullet points were a brainstormed list, some of them

cut towards making it harder to expand the boundary, some pushed toward expansion. Council had expressed their desire to pursue the concept of performance-based expansions; this was just the beginning of the discussion.

Councilor McLain felt it was very exciting. It was going to be a lot of fun. She wanted to be more explicit about the metering; what specifically were we metering? Performance in the urban area as well as the resource production area? It all tied into complete communities and transportation systems that functioned well. Councilor Park said this was the whole enchilada. He would like to see some criteria about performance-based urbanization, not just UGB expansion, and to add in some natural factors, so we didn't just consider the ones that were listed but also the greater effects in the entire landscape.

Council President Bragdon appreciated the issue identification work—it was really good, substantive, and provocative; the concept was right and well-framed. We needed to replace the five-year cycle and the 20-year crystal ball. He would like to add the concept of aspirational planning, to give Metro more discretion and the ability to look at what we were trying to shape instead of being forced to look backwards. He preferred to stay away from formulas. In general, we wanted to be able to judge on the basis of effects of existing urban areas. He resisted the link between UGB expansion and “fiscal health of small communities.” We needed to find other ways to help their fiscal health. We needed to move away from numbers and towards quality values.

Councilor Hosticka urged the separation of the issue of performance factors from locational factors. Councilor Liberty talked about the difference between metering the land supply and performance-based expansions. We couldn't lose sight of the idea that if people came up with successful packages, we would support them. We needed to make sure there was a land supply based on natural areas. On housing, Councilor Liberty said it was hard to dispel the assumption that the land cost was critical, but we had already seen that land supply didn't necessarily turn into housing. In fact, it appeared that increased land supply had no effect on housing availability and cost. He ought to focus more on metering what was already inside the boundary.

Mr. Jordan agreed that housing affordability was much more complicated than the price of the house or almost anything else—he would like to bring this issue to the Council of Economic Advisors. Regarding locational factors, when we expanded the UGB, we ought to have a proposal-based process where people made arguments about creating a great community. The meat was on the performance-based UGB expansion criteria.

## 6. COUNCIL BRIEFINGS/COMMUNICATIONS

There were none.

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 4:58 p.m.

Prepared by,



Dove Hotz  
Council Operations Assistant

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF  
SEPTEMBER 26, 2006**

<b>Item</b>	<b>Topic</b>	<b>Doc Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
1	Agenda	9/28/06	Agenda: Metro Council regular meeting, September 28, 2006	092606c-01
2	Title 4	9/14/06	To: Metro Council From: Richard Benner Re: Ordinance No. 06-1124	092606c-02
5	Legislative Agenda	9/15/06	To: Metro Council From: Randy Tucker Re: 2007 Legislative Issues Identification	092606c-03
5	Legislative agenda	9/26/06	To: Metro Council From: Randy Tucker Re: Current list of likely legislative concepts	092606c-04