

MINUTES OF THE METRO COUNCIL MEETING

June 18, 1998

Council Chamber

Councilors Present: Jon Kvistad (Presiding Officer) Ruth McFarland, Ed Washington, Lisa Naito, Don Morissette, Patricia McCaig

Councilors Absent: Susan McLain (phoned in for a portion of the vote)

Presiding Officer Kvistad convened the Regular Council Meeting at 2:06 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. AUDITOR COMMUNICATIONS

None.

5. MPAC COMMUNICATION

None.

6. CONSENT AGENDA

6.1 Consideration meeting minutes of the June 11, 1998 Regular Council Meeting.

Motion: **Councilor McFarland** moved to adopt the meeting minutes of June 11, 1998 Regular Council Meeting.

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

Vote: The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed with Councilor McLain not voting by phone.

6.2 **Ordinance No. 98-741** was removed from this agenda by the Presiding Officer and will be placed on the July 2, 1998 Regular Council agenda.

8.4 **Resolution No. 98-2664**, For the Purpose of Confirming the Appointment of Judy Rice to the Metropolitan Exposition Recreation Commission.

This resolution was considered at the beginning of the meeting to accommodate Ms. Rice's presence at the meeting.

Motion: **Councilor Naito** moved to adopt Resolution No. 98-2664.

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

Discussion: **Councilor Naito** told of Ms. Rice's experience.

Councilor McFarland commented that Ms. Rice would be a great asset to the Commission.

Vote: The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously of those present. Councilor McLain chose not to vote by phone.

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 98-730C**, For the Purpose of Amending Ordinance Nos. 96-647C and No. 97-715B, to amend Title 3 of the Urban Growth Management Functional Plan, and amend the Regional Framework Plan, appendix A, and adopt the Title 3 Model Ordinance and Water Quality and Flood Management Maps.

Motion: **Councilor Naito** moved to adopt Ordinance No. 98-730C.

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

Councilor Naito said, "It is my privilege to bring forward for your consideration and adoption Ordinance No. 98 730C – The Stream and Floodplain Protection Plan. The plan's goal is to restrict development in floodplains to avoid the damage that results from floods, such as happened in 1996. The other main feature of Title 3 is to protect our rivers, streams, springs and wetlands – to protect them from erosion and development and to enhance water quality for future generations.

Metro will again be a national leader in protecting the environment and the livability of our region by adopting this ordinance. There are some cities that have adopted some of the features of stream protection but Title 3 sets a national precedent because:

- Urban Similar procedures adopted elsewhere are rural or forest provisions
- Regional 24 cities and 3 counties – recognize that streams don't recognize man-made distinctions such as city limits.

Local jurisdictions will have 18 months to change their zoning and comprehensive plans to achieve compliance with Title 3, and the Metro Council has strengthened citizen opportunities to participate with cities and counties, as they comply with Title 3.

Background

The vision for this water protection ordinance stems from Council action taken in 1996 – some of the Councilors here today deserve the credit for planting the seed of this ordinance. After the 1996 floods, citizens were greatly concerned about flood related damage and the resulting costs to our community. Many citizens of the region support Metro's vision for a limited UGB expansion and some greater density in certain areas, but only if livability in the community is maintained – to maintain livability, we must protect our water – rivers streams – from development.

Much work and public involvement has taken place to bring you this final product today.

Extensive work by Metro advisory groups:

- Water Resource Policy Advisory Committee released preliminary drafts last year
- Review and work by our local government advisory committee MPAC, composed of elected officials who will ultimately make this work on the ground
- Review by MTAC, the Metro Technical Advisory Committee which includes local planning directors – again to make sure this plan is workable at the local level.

There were four workshops in communities throughout the region by our Metro staff to inform and to write comment and participation in Title 3. The full Council has had 3 public hearings this year and Growth Management Committee had public testimony on 4 occasions.

We have worked to address some of the concerns raised by citizens and industry representatives, while staying true to the goals set out by the Council in 1996. The process has been inclusive, and maybe longer than some would have wanted, but I believe the result is a better product.

Key Points in Title 3

Protected Water Features

- Title 3 wetlands - wetlands of metropolitan concern
- Rivers, streams
- Springs
- Natural lakes

Flood Management

- Limit development in the floodplain
- Development, excavation and fill must maintain a increase flood storage capacity and not increase the level of flooding area
- Balanced cut and fill – soil if an area is filled with soil, it must be balanced with soil removal to maintain storage capacity
- on contained areas of hazardous material are prohibited in Flood Management areas

Water Quality Performance Standards were established to protect water quality and provide a vegetated corridor to separate protected water features such as streams and wetlands from development. The development benefits of this are to maintain water quality by protecting water features from erosion and pollutants, to maintain or reduce stream temperatures and to stabilize slopes.

We adopt a table specifying the width of the vegetated corridor, which depends on the slope. The minimum width of the vegetated corridor or buffer zone is 50 feet - on primary water features (streams, wetlands, lakes), and on steep slopes, it increases to 200 feet.

- Intermittent streams, secondary water features, there is a lesser requirement.
- Prohibit development that will have a significant negative impact on a water quality reserve area
- May allow:
 - no practicable alternative
 - development limited to the least impact
 - must be mitigation to ensure the function of the water quality resource are restored.

Another main point of Title 3 is flood management. Development was limited in the flood plain, we adopt a policy of balanced cut and fill, if soil in one area was removed it must be balanced

with like amount to maintain the ultimate storage capacity of that area. We also prohibit uncontained areas of hazardous material in the flood management areas. We recognize that bodies of water, wetlands change over time but that predictability was needed for the integrity of the land use system so in adopting the maps we have set out ways to make sure that local governments could apply either by adopting code language to protect the water features or to adopt a field verified map, a process was specified for this to occur. We also made sure that if there were map errors, amendments must be started within 90 days at the local level, there must be public hearings prior to adopting a map to ensure that the public was involved. We also require that the maps were updated with periodic review at the local government level.

We have enhanced notice for implementation of Title 3 at the local level by requiring a public hearing and notice to be mailed to effected land owners where there will be changes in the local government statutes.

In conclusion, by creating the Model Ordinances and adopting the Metro maps of Title 3, we complete an important element of the Urban Growth Management Functional Plan and the Regional Framework Plan. We join with local governments and citizens in continuing to bring to life a unique vision for our community.”

She thanked the staff and the public for their participation in the process.

Councilor McLain said, “when we passed the Regional Urban Growth Goals and Objections in December 1995, a commitment was made by this Council and its regional partners to manage watersheds to protect, restore, and ensure the integrity of streams, wetlands, and floodplains, and their multiple biological, physical, and social values. The vote today is another step in the accomplishment of that goal. Title 3 will provide a strong but flexible structure that will allow communities around the region to continue the goal of protection of water resources in a variety of ways.

The Model Ordinance and Title 3 Maps gives our partners additional tools for this significant work. Metro will continue on the *next steps* of providing standards for conserving, protecting and enhancing fish and wildlife habitat. Stormwater management and nonpoint pollution reductions must also be addressed.

I would like to thank our advisory groups for all of their assistance and their analyses of this document. The Water Resource Policy Advisory Committee (WRPAC), Metro Technical Advisory Committee (MTAC) and Metro Policy Advisory Committee (MPAC) discussions and review improved the product and created a good foundation for the next chapter of watershed planning and protection.

I would like to thank Metro staff, especially Rosemary Furfey, Ken Helm, and Larry Shaw. Their work has been professional and extensive.

The strength of this decision is that we know it is an important step, but only one of the first steps. We must continue to expand our knowledge and tools for water protection and water quality issues. Finally, public participation has been extensive and essential in this process. We must continue to encourage involvement and input from all sectors of the community in this effort to maintain and improve livable qualities in all areas.

A vote *yes* on Title 3 is a vote for a better community and higher standards for water quality and flood management and mitigation. It is my pleasure to reaffirm this crucial commitment to our wetlands.”

She noted that there had been a lot of work done for this very important document to protect watersheds. She said she would vote in support of the ordinance.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-730C.

James Peterson was called but did not appear.

Marc Liverman, National Marine Fisheries Service, Portland Branch, 525 NE Oregon St. Portland OR 97232 said he was one of the individuals interested in salmon issues. He noted formal written comments he had previously submitted to Council (a copy of which may be found in the permanent record for Title 3). He spoke in support of Title 3 as a necessary building block for the long term survival of salmon in the Metro region. He was concerned that Title 3 needed to be more explicit about retaining not only the riparian vegetation but also the course woody debris that was produced when riparian vegetation decayed, especially in the smaller streams. He urged Metro to help jurisdictions in any way possible to reduce the time necessary for compliance with Title 3 because the salmon habitat in the Metro region were severely degraded and delays would make it worse.

Mike Houck, Audobon Society of Portland and the Natural Resource Group for the Coalition of a Livable Future, 5151 NW Cornell Rd Portland OR 97210 supported Title 3. He repeated his appreciation of the hard work, particularly Councilors McLain and Naito. He acknowledged staff’s hard work that had been put into the product, Rosemary Furfey, Susan Payne, Larry Shaw, Elaine Wilkerson, Ken Helm. He said a room had been reserved for Monday evening at the Lucky Lab on SE 9th & Hawthorne for a celebration of the passage of Title 3 and invited interested parties to attend.

Doug Bollam, PO Box 1944, Lake Oswego, OR 97035, said he had been before Council for almost half a decade on this matter and believed the end result was a good one. He said there were still some things that needed to be addressed but he knew that would come once the field data started coming in. He acknowledged Council and staff’s hard work on the issues involved in drafting the document..

Presiding Officer Kvistad closed the public hearing.

Councilor Morissette said he did not want his no vote today to reflect the idea that he did not think protecting streams was important. He reiterated that his concerns still centered on the 50’ setback and people’s property rights. He said he believed that the activities were overly restrictive and inflexible. He said although it was important to protect the environment, it was also important to consider the economic ramifications.

Councilor Washington thanked everyone who was involved in the process. He felt it was a very good document.

Presiding Officer Kvistad congratulated Councilors Naito and McLain. He said this decision had been difficult for him because of private property rights and takings. He said preserving the environment within the urban area was very important to him also and he would be voting in favor of this ordinance.

Councilor Naito noted that Dan Cooper had several memos to be submitted into the record.

Dan Cooper, Legal Counsel, noted the two memos. The first explained some typographical corrections to some erroneous cross references would be done before it was published and the second memo clarified that word changes to Section 5 of Title 3 were not substantive but grammatical corrections. He said the amendments to Title 3 were based on Goals 6 and 7 and not on Goal 5.

Councilor Naito commented on some points Mr. Liverman had submitted in his letter. She noted that the definition of "debris" specified man made objects and not vegetation. She also noted that it was to be considered minimum requirements for the region. She closed by relating some disturbing facts as to why Title 3 was needed. She said there were 213 miles of streams and rivers in the Metro region which did not meet water quality standards. She mentioned the 390 miles of streams that had been lost to development in the past and the recent flood damage. She urged an aye vote.

Vote: The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilor Morissette voting no and Councilor McLain voting by phone.

8. RESOLUTIONS

8.1 **Resolution No. 98-2658**, For the Purpose of Authorizing the Executive Officer to Execute an Intergovernmental Agreement with the Oregon Parks and Recreation Department for Management of Property in the Sandy River Gorge Target Area.

Motion: **Councilor Naito** moved to adopt Resolution No. 98-2658.

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

Discussion: **Councilor Naito** reviewed the Resolution. She said the resolution would transfer management responsibilities of the property to the Oregon Parks and Recreation Department. She urged support of the resolution.

Vote: The vote was 5 aye/ 0 nay/ 0 abstain. The motion passed with Councilors McLain and Washington being absent from the vote.

Councilor Morissette declared a potential conflict to the next resolution. He said he would step out. He said he did not have a problem with the rest of the agenda and it had been good working with Councilor Naito.

8.2 **Resolution No. 98-2659**, For the Purpose of Authorizing the Executive Officer to Execute an Intergovernmental Agreement with the Tualatin Hills Park and Recreation District for the Management of Property in the Cooper Mountain Target Area.

Motion: **Councilor McCaig** moved to adopt Resolution No. 98-2659.

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

Discussion: **Councilor McCaig** said this was an intergovernmental agreement to transfer the authority for management of property to the Tualatin Hills Park and Recreation District.

Vote: The vote was 4 aye/ 0 nay/ 0 abstain. The motion passed with Councilors McLain, Washington and Morissette absent from the vote.

8.3 **Resolution No. 98-2660**, For the Purpose of Authorizing the Executive Officer to Execute an Intergovernmental Agreement with the City of Portland for the Management of Property in the East Buttes Boring Lava Domes Target Area.

Motion: **Councilor McFarland** moved to adopt Resolution No. 98-2660.

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

Discussion: **Councilor McFarland** reviewed the resolution. She said it would provide better access to a portion of the Springwater Trail and urged support.

Vote: The vote was 4 aye/ 0 nay/ 0 abstain. The motion passed with Councilors McLain, Washington and Morissette absent from the vote.

9. COUNCILOR COMMUNICATION

Councilor Naito thanked the council for the pleasure of serving with them on the Metro Council. She resigned as Chair of Growth Management and thanked her colleagues.

Presiding Officer Kvistad congratulated Councilor Naito on her election and many weeks of Metro service. He said he knew she would be a good addition to the County Commission.

Councilor McFarland said they had enjoyed having her on the Council. She congratulated Councilor Naito on her new position and wished her good luck.

Presiding Officer Kvistad appointed himself as Chair of the Growth Management Committee due to the vacancy left by Councilor Naito.

10. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 2:55 p.m.

Prepared by,

Chris Billington
Clerk of the Council

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| 061898c-01 | 6/18/98 | Councilor McLain Title 3 remarks for the record | TO: Metro Council FROM: Susan McLain | Ord No. 98- 730c |
| 061898c-02 | 6/18/98 | Findings and Conclusions - Ordinance No. 98- 730c Amendments to Title 3 | TO: Metro Council FROM: Larry Shaw | Ord No 98-730C |
| 061898c-03 | 6/17/98 | Memo on Section 5 of Title 3 | TO: Metro Council FROM: Dan Cooper General Counsel | Ord No 98-730C |
| 061898c-04 | 6/17/98 | Memo on errata for Ordinance No. 98- 730C | TO: Dan Cooper General Counsel FROM: Ken Helm Assistant Counsel | Ord No 98-730C |