

## MINUTES OF THE METRO COUNCIL MEETING

Thursday, March 22, 2007  
Metro Council Chamber

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

Councilors Absent:

Council President Bragdon convened the Regular Council Meeting at 2:02 p.m.

### 1. INTRODUCTIONS

There were none.

### 2. CITIZEN COMMUNICATIONS

There were none.

### 3. CONSENT AGENDA

#### 3.1 Consideration of minutes of the March 15, 2007 Regular Council Meeting.

Motion:

Councilor Newman moved to adopt the meeting minutes of the March 15, 2007 Regular Metro Council.
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Vote:

Councilors Burkholder, Harrington, Liberty, Park, Newman, Hosticka and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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### 4. ORDINANCES – FIRST READING

#### 4.1 **Ordinance No. 07-1144**, Adopting the Annual Budget for Fiscal Year 2007-08 Making Appropriations, and Levying Ad Valorem Taxes, and Declaring an Emergency.

Council President Bragdon assigned Ordinance No. 07-1144 to Council and called for a motion for discussion purposes only.

Motion:	Councilor Park moved to adopt Ordinance No. 07-1144.
Seconded:	Councilor Newman seconded the motion

Bill Stringer, Chief Financial Officer (CFO), reviewed an outline of the FY 2007-08 budget and an overview of the budget. He provided a PowerPoint presentation on the highlights of the FY 2007-08 Budget (a copy of which is included in the record). He noted fiscal environment of the region. He reviewed the history of Metro's budget over the last three years, current revenues by source, enterprise revenues by year, a review of property taxes, excise tax by year, yield on investments, current expenditures by type, salaries, wages and benefits, health care contributions, capital budget with natural areas program, capital budget, expenditures by Council goals

(program budget) strengthened reserves in 2007-08. He also talked about the challenges Metro faces. He then thanked all of the staff for their involvement in preparation of the budget.

Council President Bragdon said this was a good news budget and we got there with a lot of hard work within the agency. He talked about where we've been, priorities: 2003-07, financial discipline pay offs, voters support of natural areas, smarter government results, highlights of FY 2007-08 budget, natural areas acquisitions, regional parks networks, Oregon Zoo, New Look at Regional Choices, solid waste and recycling, convention center hotel, and innovative government. He said, in summary, we were in a good financial situation, due to good management and courageous decisions of the Council. He provided a timeline of the next steps through June 21, 2007. He added his thanks to those staff, which worked so hard. He acknowledge Michael Jordan, Chief Operating Officer (COO), for his effort in this process.

Councilors asked clarifying questions during Mr. Stringer's presentation.

Council President Bragdon opened a public hearing on Ordinance No. 07-1144. No one came forward. Council President Bragdon closed the public hearing.

## 5. ORDINANCES – SECOND READING

- 5.1 **Ordinance No. 07-1145**, Amending the FY 2006-07 Budget and Appropriations Schedule Providing for Expenditures Related to the Regional Parks and Greenspaces Department and Declaring an Emergency.

Motion:	Councilor Burkholder moved to adopt Ordinance No. 07-1145.
Seconded:	Councilor Hosticka seconded the motion

Councilor Burkholder said this transferred \$20,000 from the Capital fund into Materials and Services to do some public opinion surveying concerning conservation education and outdoor school. They wanted to find out the public's interest in this initiative. Councilor Newman said he supported the ordinance particularly as it related to conservation education. He suggested a council project if this was indeed something that they wanted to move forward on. Council President Bragdon thought this was a good suggestion and spoke to a number of initiatives under consideration. Councilor Liberty thought this was a good opportunity to hear from the public.

Council President Bragdon opened a public hearing on Ordinance No. 07-1145. No one came forward. Council President Bragdon closed the public hearing.

Vote:

Councilors Park, Hosticka, Burkholder, Harrington, Newman, Liberty and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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## 6. RESOLUTIONS

- 6.1 **Resolution No. 07-3792**, For the Purpose of Entering an Order Relating to the Appeals by David W. Morelli and the City of Forest Grove of Chief Operating Officer Order 06-201 (Relating to the Application for a Minor Adjustment to the Urban Growth Boundary Near the Intersection of "D" Street and 18<sup>th</sup> Avenue within the City Limits of Forest Grove).

Motion:	Councilor Harrington moved to adopt Resolution No. 07-3792.
Seconded:	Councilor Newman seconded the motion

Councilor Harrington said this appeal involved a minor adjustment to an area in Forest Grove. She described the area under consideration. Tim O'Brien, Planning Department, said as noted this was an appeal for a minor adjustment in Forest Grove for residential purposes. It was based on a flood plain. The appeal was made because of a question of density. He provided the history of the property and the code requirements for minor adjustments. He reviewed the COO's original order. The land was designated as inner neighborhood. Mr. Morelli and the City of Forest Grove were appealing the density assignment. He explained the amended order (a copy of which is included in the meeting packet). Staff recommended Council's approval of the new order. City of Forest Grove agreed with the order, Mr. Morelli did not agree. Councilor Newman asked about inner and outer neighborhood designations. Mr. O'Brien responded to his question.

Council President Bragdon opened a public hearing.

Jon Holan, City of Forest Grove, PO Box 326, Forest Grove, OR 97116 talked about their original concerns and their appeal. The City was neutral to the revised language. He noted design and other constraints of the property. There would be some reduction in density because of slope issues. They had yet to establish the zoning for this area.

Chris Crean, City of Forest Grove Attorney, 1750 SW Harbor Way #380 Portland OR 97210 said it was fair to say that at this point they were word-smithing the proposal. He spoke to the staff report and proposed language. He talked about the two standards that the City could use for land designation and density. He suggested how to fix the proposed language. He noted Metro Council would be able to review the zoning once the City had zoned the area. Councilor Liberty asked clarifying questions about 10 units per acre versus 14 persons per acre. Mr. O'Brien said the 14 persons language was in the Urban Growth Management Functional Plan (UGMFP). Dick Benner, Senior Attorney, said the language in the UGMFP had no regulatory requirement and provided a history for clarifying the language. Councilor Newman asked about the appellant. Mr. Crean said he would encourage an adjustment in the language as suggested by Mr. Benner. He said the City would zone the area consistent with the Metro plan. Councilor Burkholder asked for clarification on the "at least" 10 units per acre. He wanted to be clear on what this meant. He wanted to make sure we didn't limit the number of units per acre. This was a floor not a ceiling. Councilor Hosticka asked for clarification on the Code language, was it one or two clauses. Mr. Benner said the language was written to be one clause. He further clarified the Council's responsibility. Mr. Crean made further clarifying comments about number of units. Council President Bragdon clarified that the City of Forest Grove was neutral on this order.

David Morelli, 1320 Cedar Street Forest Grove, OR 97116, talked about the Metro Code and the density requirement. He said they were in an Urban Growth Boundary hearing. How do you convert units per acres to people per acre? He talked about density in inner neighborhoods. He noted the information that he provided for the record (a copy of which is included in the record). He said he had proposed a revised resolution. He requested Council conducted their discussion on the alternate resolution. He explained his objection. Councilor Liberty said on the conversion factor the units were net. He asked what Mr. Morelli wanted to do on the property. Mr. Morelli said he was not the owner of the property but wanted to see the development done right from the get go. Their comprehensive plan suggested 8.5 units per acre. They could comply with the City zoning as well as Metro's UGMFP if the Council accepted his recommendation on language.

Thomas Cutler, 5000 SW Meadows, Lake Oswego, OR 97235 said there was a letter presented to Metro staff on February 14, 2007 about the proposed language in the resolution. In the letter, the City said they were neutral. If the City had changed its provision, he would be happy to address the changed position of the City. The developer didn't have an objection to the original language. Simply designating inner neighborhood on the map wasn't the only language in the 2040 Growth Concept text. He noted this was a minor amendment. It was Metro's role to designate the density, which was different from the City's role and their zoning authority. The original language would pass muster. He spoke to appropriate density on this property. They were supportive of the staff's change. He would recommend adding back in the language "at least." Essentially, they were comfortable that the City would honor the 10 units per acre. He spoke to the Code language about specifying density. He felt Mr. Morelli was trying to limit the density to half of the 10 units per acre. He agreed with Mr. Benner about the single clause in the Code language. Finally, he noted, the statute that Mr. Morelli cites was not from a land use decision.

Bob Browning, Attorney for the owners to the property, the Raus, Box 430, Forest Grove OR 97116, talked about his history establishing the UGB in 1975. They believed that the balloon analogy applied. He talked about the flood plain in the area. He said Mr. and Mrs. Rau sold their property about three years ago. Lastly, they had put the letter in that was in Mr. Morelli's packet of information. They believed Mr. O'Brien was correct on what should be done.

Councilor Hosticka asked Mr. Browning about the slope. Mr. Browning said development couldn't extend beyond the setting of the UGB line. The slope had to be dealt with in terms of construction standards but didn't effect the designation of the property. Councilor Hosticka asked about zoning. Mr. Benner said there was nothing in our function plan that required Metro to limit density because of slope, however, Forest Grove had some qualifications for slope.

Council President Bragdon closed the public hearing.

Motion:	Councilor Burkholder moved to amend Resolution No. 07-3792 to add the "at least" into the language.
Seconded:	Councilor Hosticka seconded the motion

Councilor Burkholder explained his amendment. Councilor Newman expressed his concern about this added language. Councilor Harrington asked Mr. O'Brien why "at least" was left out. Mr. O'Brien said they used the language in letter.

Vote to amend:	Councilors Park, Newman, Harrington, Liberty, and Council President Bragdon voted against the motion. The vote was 2 aye/5 nay, the motion failed with Councilors Hosticka and Burkholder voting aye.
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Councilor Liberty spoke to the resolution and suggested language for future minor adjustment.

Motion:	Councilor Park moved to amend Resolution No. 07-3792 to add the "at least" into the language.
Seconded:	No seconder came forward so the motion died due to the lack of a seconder.

Councilor Hosticka asked about procedures for approving versus rejecting the resolution. Mr. Benner responded to his question. Councilor Harrington said there was a minor adjustment to the UGB. The COO followed through on his obligation and the information that was provided to the

City would be designated as inner neighborhood. An appeal had been made, the recommendation from staff was that the COO change direction to the City and continue to designate the land as inner neighborhood. This property had been worked through Forest Grove's Planning Commission. She believed staff's recommendation will achieve Metro's objectives and allow the City to continue their zoning. She urged support.

Vote:

Councilors Park, Hosticka, Newman, Harrington, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye/1 nay, the motion passed with Councilor Burkholder voting no.
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Councilor Liberty asked about a change in the standard for appeals of minor adjustments. Michael Jordan, COO, said there probably needed to be some route of appeal beyond staff.

6.2 **Resolution No. 07-3778**, For the Purpose of Entering an Order Relating to the Lila and Kenneth Saxon Claim for Compensation under ORS 197.352 (Measure 37).

Ray Valone, Planning Department, provided a better locator map to the property as well as a color copy of the map. He provided a summary of the claim (a copy of which is included in the meeting packet). He noted staff had done an evaluation on the value of the property. The COO's recommendation was denial of the claim.

Council President Bragdon opened a public hearing.

Don Bowerman, Attorney representing Ms. Saxon, said he thought there was a fundamental misunderstanding. The date of acquisition was relevant. The property was purchased in 1965 and it was zoned for one-acre lots. On the date the claim was filed Ms. Saxon could not develop her property. He spoke to flaws in the staff report. He said the COO's report claimed that the property had not lost value. He also talked about the theory used in valuing the property. He noted that in a State court ruling, the method of value used was the only method that could be used.

Councilor Liberty asked if Mr. Bowerman had information on properties, which have received waivers from Measure 37. He explained his point. Mr. Bowerman said that property development was frozen brought when the land was brought into the UGB. Councilor Liberty explained Metro's options. Mr. Bowerman said Clackamas County had waived about 50 claims. They had agreed that there had been a reduction in value.

Councilor Hosticka talked about the State's court case. Mr. Bowerman responded to his comment. Mr. Benner said the question posed to the court was, was the assessment appropriate? The ruling said that the State's assessment was appropriate but not the only way to assess value.

Kathryn O'Meere, 11265 SE 190<sup>th</sup> Ct Damascus, OR 97089 said she was here to testify in support of the staff's recommendation. She felt the staff report was very stellar. She congratulated Metro for the caliber of the report. She talked about the natural attributes of the property. She added a letter and signed petition into the record, which was in support of the staff's findings.

Council President Bragdon closed the public hearing.

Councilor Liberty asked if we had any data on land value with the State or County rulings. Mr. Conder responded to his question.

Motion:	Councilor Burkholder moved to adopt Resolution No. 07-3778.
Seconded:	Councilor Harrington seconded the motion

Councilor Burkholder spoke to orderly urbanization and the 20-acre lot size as a temporary measure until the City could develop a comprehensive plan. They had spent a lot of time on looking at the value and determining if there had been a loss in value. He talked about the burden of the claims on the County. Their goal was to have the property owners develop their property. There needed to be a comprehensive plan to develop. He was comfortable in supporting the denial of the claim.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Harrington, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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6.3 **Resolution No. 07-3783**, For the Purpose of Entering an Order Relating to the Virginia Bleg Claim for Compensation under ORS 197.352 (Measure 37).

Ray Valone, Planning Department, provided a better locator map to the property and as well as a color copy of the map. He provided a summary of the claim (a copy of which is included in the meeting packet). He noted staff had done an evaluation on the value of the property. The COO's recommendation was denial of the claim. Councilor Hosticka asked clarifying questions about Measure 37 and were there physical limitations on the property. Mr. Benner responded to Councilor Hosticka's question about market's perception of the value.

Council President Bragdon opened a public hearing.

Sarah Morris, 1214 Stonehaven Ct. West Linn OR 97068 said she was here as part owner of the property. They could not develop the land. She spoke to the standard way to determine fair market value, property appraisal. She said the land was designated as inner neighborhood at present but there was no guarantee that this designation would hold. She also said the Plantinga Jaeger method was not an accepted method. She asked Council if they felt comfortable using untested methods as the basis for claim denial. She noted that she had submitted additional materials for the record (a copy of which is included in the meeting record). Councilor Hosticka asked about their assertion of the value of the property. Ms. Morris said they had used an appraiser to evaluate the value of the land. Councilor Liberty asked if the valuation was tied to the 400+ lots. Ms. Morris responded to his question. Mr. Conder said the appraiser presumed Inner Neighborhood designation. He talked about the slope issue. Councilor Liberty summarized Mr. Conder's comments. He asked further clarifying questions. Mr. Benner responded to his concerns and questions. Councilor Hosticka talked about expected future use and if there was data on acreage 20 miles from the UGB versus acreage close to the UGB. Mr. Conder said they had data on this.

Council President Bragdon closed the public hearing.

Motion:	Councilor Liberty moved to adopt Resolution No. 07-3778.
Seconded:	Councilor Park seconded the motion

Councilor Park said they had not shown a reduction in value. He encouraged the claimant to work with the City of Damascus. He noted the hold was temporary. He spoke to the fairness issue and development. The sooner there was a plan the sooner the property could be developed. Councilor

Hosticka said the market does respond to expectation on the land. He urged additional analysis to support that view.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Harrington, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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**7. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e), DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE REAL PROPERTY TRANSACTIONS.**

7.1 **Resolution No. 07-3771**, Authorizing the Chief Operating Officer to Enter into an Agreement to Purchase Property in the Dairy/McKay Creeks Confluence Target Area under the 2006 Natural Areas Bond Measure and the Natural Areas Implementation Plan.

Time began: 4:49pm

Members Present: Jim Desmond, William Eadie, Paul Garrahan, Kristin Leiser, Jim Morgan, Kaylene Kirchen, Kathleen Brennan-Hunter

Time ended: 5:12pm

Motion:	Councilor Harrington moved to adopt Resolution No. 07-3771.
Seconded:	Councilor Hosticka seconded the motion

Councilor Harrington said this was a resolution to move forward with a purchase of property in the Dairy/McKay Creeks Confluence Target Area. The property owner came to Metro and requested the property be purchased. Mr. Desmond introduced Kathleen Brennan-Hunter. Councilor Park said this was one of those properties that needed to be considered now. Metro was living up to its agreement with farmers to look at a process to preserve natural areas as well as farmland. He was supportive of this acquisition. Council President Bragdon said this was a really exciting step, which showed the innovative practices that Metro has taken. They had spent a lot of time in the community. They were delivering on their promises of protection of natural areas and farmland, defining community and proximity to fast population growth. Councilor Newman suggested contacting Councilor McLain and letting her know about this success. Councilor Liberty talked about the challenges of the 21<sup>st</sup> century and how we were helping lay a foundation for preservation. Councilor Harrington asked if this was the first west side property. Mr. Desmond they had acquired one other property but not in Washington County. He also noted protection of water quality with this property.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, Harrington, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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**8. CHIEF OPERATING OFFICER COMMUNICATION**

Michael Jordan, COO, said he will be out tomorrow and next week. Mr. Stringer will be standing for him.

**9. COUNCILOR COMMUNICATION**

Councilor Burkholder said the co-chairs of the Joint Ways and Means Committee had released the budget. The committee supported housing and education funding. He said the lottery request to fund the Milwaukie light rail was also in the budget.

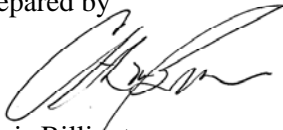
Councilor Liberty said he had appeared before two neighborhood associations in his district. They were supportive of the Milwaukie Light Rail.

Councilor Harrington said she met with a neighborhood association. They had questions about the Bethany development. She expected similar interests from other neighborhood associations in her district.

**10. ADJOURN**

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:22 p.m.

Prepared by

A handwritten signature in black ink, appearing to read "Chris Billington", written over a faint circular stamp.

Chris Billington  
Clerk of the Council



**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF  
MARCH 22, 2007**

<b>Item</b>	<b>Topic</b>	<b>Doc. Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
3.1	Minutes	3/15/07	Metro Council Meeting Minutes of March 15, 2007	032207c-01
4.1	Power Point Presentation	3/22/07	To: Metro Council From: Council President Bragdon Re: Fiscal Year 2007-08 Budget Presentation	032207c-02
6.1	Supplemental documents to the record	3/22/07	To: Metro Council From: David Morelli Re: Proposed resolution and additional documents for issue	032207c-03
6.3	Memo and supplemental documents	3/22/07	To: Metro Council From: Virginia Bleeg and Sarah Morris Re: Memo on Bleeg Claim and attachments	032207c-04
6.2	Letter and petition	3/21/07	To: Metro Council From: Kathleen O'Meere and other residents in the area Re: Petition to support the COO's order and recommendation	032207c-05
6.2	Property maps	3/22/07	To: Metro Council From: Ray Valone, Planning Department Re: Saxon Measure 37 claim property maps	032207c-06
6.3	Property maps	3/22/07	To: Metro Council From: Ray Valone, Planning Department Re: Bleeg Measure 37 claim property maps	032207c-07