

MINUTES OF THE METRO COUNCIL MEETING

March 22, 2001

Metro Council Chamber

Councilors Present: David Bragdon (Presiding Officer), Susan McLain, Rex Burkholder, Rod Park, Bill Atherton, Rod Monroe, Carl Hosticka

Councilors Absent: None

Presiding Officer Bragdon convened the regular council meeting at 2:03 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

Presiding Officer Bragdon said he received a number of testimony cards from citizens wishing to speak on system development charges (SDCs). He would invite them to testify during Agenda Item 9.4 (Resolution No. 01-3046).

There were no citizen communications.

3. METRO'S MINORITY, WOMEN-OWNED, AND EMERGING SMALL BUSINESS UTILIZATION BRIEFING

Scott Moss, Assistant Administrative Services Department (ASD) Director, reviewed the staff report on Metro's Minority, Women-Owned, and Emerging Small Business (MWOESB) Utilization. A copy of the staff report is included in the meeting record.

Cinna'Mon Brannon-Williams, MWOESB Coordinator, reviewed the statistics of the program. The statistics are included in Attachment A to the staff report.

Councilor McLain noted that the council was beginning its budget review. She asked Mr. Moss if the council could further support the program.

Mr. Moss said yes, it was always possible to do more. Some other local jurisdictions had a sponsorship program in which they mentored small businesses by giving them technical support, such as accounting, finance, and contracting. Metro has not had the funds in the past to participate in this type of activity.

Councilor McLain suggested that Metro could partner with other jurisdictions on aspects of the program. While it may not be possible in this budget, she would like the council to continue to review the program and try to improve it.

4. EXECUTIVE OFFICER COMMUNICATIONS

Mike Burton, Executive Officer, said he asked Pete Sandrock, Chief Operating Officer, to review Metro's internal water usage, particularly at the zoo and the parks. He submitted a letter to the council

regarding the status of Metro's contract with Specialty Transportation Services, Inc. (STS). A copy of the letter is included in the meeting record.

Presiding Officer Bragdon noted that STS had been providing its services to Metro and the ratepayers of the region. Therefore, Metro had an obligation to pay for services rendered. It was clear that some of the defaults had been cured. While other portions of the defaults had not been cured, staff was monitoring STS's progress. He advised staff to continue watching the situation closely. While there were some signs that STS was financially distressed, it did not oblige Metro to take any precipitous action at this time. He added that the savings under the change order was another factor to consider. He noted that Metro's relationship with STS was not synonymous with Gilliam County; Metro's relationship with Gilliam County would continue regardless of what happened with STS. He thought Metro was on the right track. The default was ongoing; STS was somewhat on probation.

Executive Officer Burton agreed. The fact that Mr. Hahn, Chief Executive Officer (CEO) of Churchill Corporation, had directly taken control of these matters was both encouraging, and an indication that STS was serious about working through its business plan. Nonetheless, STS had publicly stated that it may file Chapter 11 bankruptcy, and Metro's first obligation was to its constituents. He believed Metro's ratepayers were being protected.

Councilor McLain said Metro had two responsibilities: 1) a contract, in which Metro needed to be a good partner, and 2) the risk to the public if the contract defaulted. Executive Officer Burton and Metro staff were doing a good job balancing those two demands.

5. AUDITOR COMMUNICATIONS

There were none.

6. MPAC COMMUNICATIONS

Presiding Officer Bragdon said the Metro Policy Advisory Committee (MPAC) had not met since the last council meeting.

7. LEGISLATIVE UPDATE

Dan Cooper, General Counsel, gave an overview of the public hearings on House Bill (HB) 2976 and HB 2979. HB 2976 would modify the statutory provisions on how to calculate capacities inside an urban growth boundary (UGB). The Home Builders Association spoke in support of the bill. Mr. Cooper testified in opposition of the bill, as did 1000 Friends of Oregon, the League of Oregon Cities, the Association of Oregon Counties, and Land Conservation and Development Commission (LCDC) staff. The committee chair appointed a working group, which Mr. Cooper joined. HB 2979 would severely restrict Metro's ability to carry out the Goal 5 program. It also received a hearing that week, which Presiding Officer Bragdon attended.

Presiding Officer Bragdon said Councilor Hosticka, Executive Officer Burton and he attended the hearing. He and Executive Officer Burton testified in opposition of HB 2979. The Home Builders Association was the only witness in favor of the bill, and received a number of skeptical questions from the committee. A number of Metro's local partners testified in opposition of the bill and in support of Metro as a valuable partner to local governments.

Councilor Hosticka, who sat in the gallery during the hearing, said the hearing sounded good, especially the testimony from local government partners.

8. CONSENT AGENDA

8.1 Consideration of Minutes of the March 15, 2001, Regular Council Meeting

Motion: **Councilor McLain** moved to adopt the meeting minutes of the March 15, 2001, regular council meeting.

Vote: The vote was 7 aye/0 nay/0 abstain. The motion passed unanimously.

9. RESOLUTIONS

9.1 **Resolution No. 01-3038**, For the Purpose of Approving the FY 2002 Unified Work Program

Motion: **Councilor Monroe** moved, seconded by **Councilor Park**, to adopt Resolution No. 01-3038.

Councilor Monroe introduced the resolution. The Community Planning Committee report on the resolution contains information presented by Councilor Monroe and is included in the meeting record.

Presiding Officer Bragdon opened a public hearing.

John Weigant, Chair, Air Traffic Issues Roundtable, 429 North Bridgeton Road #B, Portland, asked the council to expand its focus on the transportation work plan. In particular, the region needed to focus more on north-south fast rail, and a new regional airport. He asked the council to pay more attention to issues of quality growth and how transportation affects the human need. He noted that Metro held a growth forum on February 28, 2001, and he had requested an opportunity to be on the agenda. He was advised by Sherry Oeser, Administration Manager, that he could make his presentation to the council. The last growth forum was weighted to the issues of economic development. He asked to be on the agenda of Metro's next growth forum to share the new perspective for higher quality of life.

Councilor Burkholder said the Community Planning Committee discussed the need for the council to review the unified work program, and raise any issues, earlier in the process. This summer and fall the council would review the policy issues in its budget planning and unified work plan, and look at how to involve the public.

Mr. Weigant said he was not asking for any change in this work plan, but rather a change in the perspective of the council for its future dealings.

Presiding Officer Bragdon added the council listed its federal priorities as part of a different letter a few weeks ago. One of Metro's priorities was high speed inter-city rail, for which Councilors Monroe and Burkholder lobbied during their recent trip to Washington D.C.

Councilor Park clarified that the February 28, meeting to which Mr. Weigant referred was sponsored by MPAC. MPAC was a committee of Metro, but it was not Metro.

Presiding Officer Bragdon closed the public hearing.

Councilor Monroe said he strongly emphasized the need for funding high speed rail during his meetings in Washington, D.C. with the U.S. Senators and Representatives from Oregon, and the Representative from Southwest Washington.

Vote: The vote was 7 aye/0 nay/0 abstain. The motion passed unanimously.

9.2 **Resolution No. 01-3039**, For the Purpose of Certifying that the Portland Metropolitan Area is in Compliance with Federal Transportation Planning Requirements

Motion: **Councilor Monroe** moved, seconded by **Councilor Park**, to adopt Resolution No. 01-3039.

Councilor Monroe presented Resolution No. 01-3039. The Community Planning Committee report on the resolution contains information presented by Councilor Monroe and is included in the meeting record.

Vote: The vote was 7 aye/0 nay/0 abstain. The motion passed unanimously.

9.3 **Resolution No. 01-3040**, For the Purpose of Adding a New Job Classification of Exhibits Lead at the Oregon Zoo

Motion: **Councilor Burkholder** moved, seconded by **Councilor Atherton**, to adopt Resolution No. 01-3040.

Councilor Burkholder presented the resolution. The Regional Facilities and Operations Committee report on the resolution contains information presented by Councilor Burkholder and is included in the meeting record.

Vote: The vote was 7 aye/0 nay/0 abstain. The motion passed unanimously.

9.4 **Resolution No. 01-3046**, For the Purpose of Providing Direction to PacWest Communication Concerning Bills before the 2001 Oregon Legislature

Motion: **Councilor Park** moved, seconded by **Councilor Hosticka**, to adopt Resolution No. 01-3046.

Presiding Officer Bragdon reviewed the process for consideration of the resolution. Councilor Park would outline the general purpose of the resolution. Next the council would consider the eleven amendments that had been submitted. Following the amendments, he would open a public hearing.

Councilor Park introduced Resolution No. 01-3046, a copy of which is included in the meeting record. He reviewed Exhibit A of the resolution, which outlined the bills Metro generated, supported, opposed and wanted to monitor. He concluded that while he had concerns about some of the bills, he supported the package as a whole, and believed it gave good general direction for the region. The bills included in the resolution mainly pertained to Metro's ability to address issues affecting its charter mandate.

Councilor Hosticka asked about the regional transportation authority. It was discussed yesterday in committee, but he did not see any reference to it in the resolution.

Presiding Officer Bragdon said an amendment had been submitted addressing that point, and would be discussed. He asked Mr. Cooper to review Measure 7 and what action he recommended Metro to take.

Mr. Cooper reviewed the document, Metro Principles Regarding Land Use and Regulatory Fairness Issues, attached to Exhibit A. The House Land Use and Regulatory Fairness Committee was holding hearings on Measure 7 related issues, and had invited Metro to testify. In response, Mr. Cooper, Presiding Officer Bragdon and Executive Officer Burton had drafted a position paper for the Metro Council.

Presiding Officer Bragdon called for discussion of the Metro principles.

Councilor Hosticka suggested a possible way to make Measure 7 fair: if private action diminished the value of public property, then the public should be compensated or the private party should refrain from such action. He asked if there was a way to include this discussion in the measure.

Presiding Officer Bragdon asked Mr. Cooper if Councilor Hosticka's suggestion would be consistent with the Metro principles.

Mr. Cooper said it would not be inconsistent with any of the Metro principles. As Councilor Hosticka noted, it was an additional piece of the conversation. The idea had not been discussed actively in the Measure 7 debate, which focused on the effects of government regulations on private property. However, it was a logical extension of current law on nuisance and pollution, both federal and state, which held private property owners liable for environmental damage that could be linked to their actions.

Councilor Hosticka said he would appreciate legal counsel's advise on how to include the concept in the Metro principles. Fairness said compensation should go both ways, and both the interests of the public and the private should be protected in this environment.

Councilor McLain said Councilor Hosticka raised a good point, which could be included in the last item of the Metro principles. She supported his recommendation.

Presiding Officer Bragdon asked Mr. Cooper to draft language to reflect Councilor Hosticka's suggestion.

Councilor McLain said she supported the Metro principles because they showed that Metro was trying to be a good partner in looking for a solution, trying to understand the intent of the voters, and trying to make sure that any Metro position made sense and was constitutional. She asked if a vote in favor of Resolution No. 01-3046 was also a vote in favor of the Metro principles.

Mr. Cooper said yes, that was correct.

Councilor Atherton suggested adding language that Metro could also collect for the actions of government that increased private property values, such as up-zoning, highway construction and access, expansion of utility service, and the like. Much of the land values being claimed were created by public investment, not mere ownership of private property. A related principle would be to allow communities to collect the full cost of growth. He noted the large number of people in the audience who wished to speak on the subject of system development charges, which was another part of regulatory fairness. Citizens of a community should not be forced to bear a burden by the state. It was an issue of local control.

Councilor Burkholder asked Mr. Cooper for an explanation of the last statement "In urban areas any requirement for compensation should be prospective only."

Mr. Cooper said if there was going to be compensation for regulations that diminished property values in urban areas, it should only apply to regulations adopted after the date on which the constitutional amendment or act went into effect. In other words, it applied to future regulations only.

Councilor Park asked about the distinction between zoning and land use issues, versus regulatory issues. For example, citizens had the constitutional right to buy guns, but there were regulatory laws as to where guns may be fired. The majority of people supported land use planning, but not necessarily the regulation that may go with it, on other non-land use issues.

Mr. Cooper said the current debate in Salem over Measure 7 was greatly narrowed from the potential breadth of the language approved by voters in November. The language approved in Measure 7 in November spoke to any and all regulations of any form whatsoever, adopted by any government, that had the effect of restricting the use of property. Taken literally, it affected requirements for smoke detectors, sprinklers, non-polluting septic tanks, etc. The current discussion was focused much more narrowly on land use regulations, and land use regulations that prohibited specific uses.

Councilor Park said he raised the issue because there was the actual land use zone, such as exclusive farm use, exception area, or urban uses. On top of that zoning, there were non-land use regulations, such as protection of habitat areas. Goal 5 habitat protection was not a land use zone, it was a regulation on top of zoning. He wanted to make sure that the distinction was made.

Mr. Cooper said to the extent that a Goal 5 program adopted by Metro worked as an overlay zone, and would limit how someone could develop in it, but would not prohibit him or her from any kind of development on an existing lot, then it was different from the prohibitions against any development on the lot at all. When the council adopted Title 3, it created a mandatory variance requirement for local governments to address those issues where the Title 3 regulations would render development impossible on individual properties, and directed local governments to find a way to approve something with minimal impact on the resource. A prospective only regulation, as currently discussed, would allow a Goal 5 program to occur.

Presiding Officer Bragdon said he would entertain motions to amend Resolution No. 01-3046.

**Motion to Amend
Main Motion:**

Councilor McLain moved, seconded by **Councilor Monroe**, McLain Amendment #1, to amend the resolution to include Senate Bill (SB) 929 to the list of bills to be voted on by the Metro Council.

Councilor McLain introduced McLain Amendment #1, a copy of which is included in the meeting record. She recommended that Metro oppose SB 929. She believed SB 929 would damage Metro's urban growth boundary amendment processes and the criteria for moving the urban growth boundary.

Councilor Hosticka said he supported McLain Amendment #1. There was another principle at stake: people on both sides of the boundary had a stake in the boundary's location. Arbitrarily deciding that everyone inside the boundary was a constituent of Metro essentially disenfranchised by law anybody who lived outside the boundary. In addition to the practical reasons noted by Councilor McLain, Metro should oppose SB 929 on the principle of fairness and representation.

Presiding Officer Bragdon directed staff to employ Councilor Hosticka's argument when crafting the opposition. He supported Councilor McLain's amendment. If SB 929 passed, it would result in a large, automatic urban growth boundary expansion overnight. He urged an aye vote.

Vote on Motion to Amend Main Motion: The vote was 7 aye/0 nay/0 abstain. The motion passed unanimously.

Motion to Amend #2: **Councilor Burkholder** moved, seconded by **Councilor Monroe**, Burkholder Amendment #1, to amend the resolution to include House Bill (HB) 2311 to the list of bills to be voted on by the Metro Council.

Councilor Burkholder introduced Burkholder Amendment #1, a copy of which is included in the meeting record. He recommended that Metro oppose HB 2311. He said the current transportation system was already under funded, and this bill would allow bonds to be issued on the gas tax revenue for new highway capacity. It would take away money from maintaining existing facilities, and created new facilities that required maintenance. HB 2311 would further bad fiscal policy on the part of the state.

Councilor Monroe concurred with Councilor Burkholder. He added that for the past ten years, Metro had watched highway funding shrink and the legislature struggle to find a solution, with no success. In frustration, the governor finally said the state's top priority would be to maintain current facilities, rather than fund new projects. Instead of trying to find an innovative, fair way to fund Oregon's highway system, the legislature wanted to steal from the maintenance program.

Councilor Atherton said this measure was even worse because it would mortgage our children's future. That was absolutely reprehensible. He urged an aye vote.

Presiding Officer Bragdon also urged an aye vote to oppose HB 2311. He noted that Resolution No. 01-3046 proposed that Metro support HB 2140, which was the flip side of HB 2311. HB 2140 codified the governor's statement, which was to fix it first and take care of maintenance.

Vote on Motion to Amend #2: The vote was 6 aye/0 nay/1 abstain. Councilor Park abstained. The motion passed.

Motion to Amend #3: **Councilor Burkholder** moved, seconded by **Councilor Hosticka**, Burkholder Amendment #2, to amend the resolution to delete the Legislative Counsel (LC) draft from the list of bills to be voted on by the Metro Council.

Councilor Burkholder introduced Burkholder Amendment #2, a copy of which is included in the meeting record. He recommended that Metro track the LC draft, rather than support it. The LC draft would set up a regional transportation authority. At the last Community Planning Committee meeting, there were a number of concerns that it would set up a parallel government to Metro and the Joint Policy Advisory Committee on Transportation (JPACT). He recommended that Metro track the bill and provide input, in hopes of reaching a joint solution to the need for more funding for maintenance and operation of the transportation system. He urged an aye vote.

Councilor Hosticka added that while the Metro Council supported the idea of a regional transportation authority, there was concern that the authority would have the ability to impose taxes and distribute money, but the members of the authority would not be elected by the people.

Councilor Monroe recommended tracking both this bill and SB 933, the other regional transportation authority bill. It was possible that, with amendments, Metro would want to support regional

transportation authority permissive legislation. The bills in their current forms, however, were clearly flawed.

Councilor McLain supported the amendment. She noted the conversation at the last Community Planning Committee meeting, in which the committee agreed that it was important to move from tracking the bill to supporting it, if language in the bill did not create duplication, if it would help Metro with its financial issues, and if the taxing authority had elected representation.

Presiding Officer Bragdon said the intent was to track the bill until it was clear whether Metro would support or oppose it. He said he was also very supportive of the amendment. Metro strongly supported regional transportation authorities, but it was important that it be done correctly, which proper public involvement.

Vote on Motion to Amend #3: The vote was 7 aye/0 nay/0 abstain. The motion passed unanimously.

Motion to Amend #4: **Councilor Burkholder** moved, seconded by **Councilor McLain**, Burkholder Amendment #3, to amend the resolution to include HB 3400 to the list of bills to be voted on by the Metro Council.

Councilor Burkholder introduced Burkholder Amendment #3, a copy of which is included in the meeting record. He recommended that Metro support HB 3400. HB 3400 would establish an affordable housing district in the metropolitan area.

Presiding Officer Bragdon said he was also very supportive of this bill. He added that local leaders Portland Commissioner Erik Sten, Gresham Mayor Charles Becker, Beaverton Mayor Rob Drake and former Multnomah County Commissioner Diane Linn were working hard on the bill and had asked for Metro's support.

Councilor Monroe added that former Metro Councilor Ed Washington had worked hard on the bill.

Councilor Atherton said he had not heard of this bill before now. He was not in favor of the real estate transfer tax, nor of establishing another regional government. There were other ways to approach this issue. Creating a new tax that did not directly relate to the problem was not the right way to go. He urged a no vote.

Councilor Burkholder urged an aye vote in support of the motion.

Vote on Motion to Amend #4: The vote was 4 aye/2 nay/1 abstain. Councilors Park and Atherton voted no. Councilor Hosticka abstained. The motion passed.

Councilor Hosticka said he abstained from the vote because he shared Councilor Atherton's concern about a regional housing authority. As with the regional transportation authority, he thought there were details of it that he could support. The concept was good, but he could not go on record in support of the whole thing.

Councilor Park said he may be able to support a real estate transfer tax, if it paid for something like the purchase of greenspace along open areas. He had trouble making the link between the sale of real estate and the issue of affordable housing. He would prefer a more direct link between the problem and the issue.

Motion to Amend #5: **Councilor Burkholder** moved, seconded by **Councilor Park**, Burkholder Amendment #4, to support enabling legislation to allow localities to levy expanded systems development charges.

Councilor Burkholder introduced Burkholder Amendment #4, a copy of which is included in the meeting record. He recommended that the Metro Council support the concept. Because there were a number of bills at the legislature concerning system development charges (SDCs), and because bills change over time, he thought it would be more productive for the council to support the concept of giving local governments the ability to levy system development charges for all the costs of providing new public facilities created by development.

Councilor Monroe noted that he has been a strong supporter of education for years. School districts in growth areas were in a very frustrating position. They had to go out to the voters, who were already strapped with high property taxes, and ask them for property tax funding to build new schools. That put voters in the difficult position of choosing between continually higher property taxes and the need for schools. It was appropriate to allow SDCs to be used for costs such as building new schools.

Councilor Atherton noted that this was the first time he had seen this amendment. He reminded the council that he had previously proposed an amendment to support a specific bill which included the entire range. He asked Councilors Burkholder and Monroe how they could argue for a general purpose statement here, and at the same time recommend support for specific bills in their previous motions? It seemed inconsistent.

Presiding Officer Bragdon said he understood that the motion would incorporate any particular bill that achieved the stated objectives. It was not inconsistent with Councilor Atherton's motion; it was inclusive of it.

Councilor Burkholder said Burkholder Amendment #4 supported Councilor Atherton's amendment. His intent was to say that this should be a local prerogative, not limited by the state.

Councilor Park said the key difference between HB 3179, the bill to which Councilor Atherton referred, and Councilor Burkholder's proposal was the word "may." In the draft of HB 3179, Section 6(4) stated, "Any capital improvement being funded wholly or in part with system development charge revenues *shall* be included in the plan adopted by a governmental unit" [emphasis added]. He was concerned about mandating a local government to charge for capital improvement; he would prefer to give local governments the flexibility to decide.

Presiding Officer Bragdon recommended discussing the particulars of HB 3179 during consideration of Atherton Amendment #1. He added that he was very supportive of Burkholder Amendment #4. The legislature has tied the hands of local government to recover the capital costs associated with growth. Councilor Monroe mentioned school districts; they have been victimized by this, as have the tax payers who have to pay for capital expansion caused by growth, and yet the legislature will not give local governments the tool to make that growth pay its way. System development charges were one tool, and Metro should support any effort that will enable local government to do that.

Vote to Amend: The vote was 7 aye/0 nay/0 abstain. The motion passed unanimously.

Councilor Monroe withdrew Monroe Amendment No. 1. A copy of the amendment is included in the meeting record.

Motion to Amend #6: **Councilor Atherton** moved, seconded by **Councilor Hosticka**, Atherton Amendment #1, to amend the resolution to include HB 3179 to the list of bills to be voted on by the Metro Council.

Councilor Atherton introduced Atherton Amendment #1, a copy of which is included in the meeting record. He recommended that the Metro Council support the bill. HB 3179 would allow SDCs to be imposed for capital improvements such as public facilities. He said HB 3179 was well drafted and inclusive. It covered the full range of costs to local government, and included police, fire, libraries and schools. He urged the Metro Council to support this bill vigorously.

Presiding Officer Bragdon said he was not familiar with this particular bill. He believed the concept was very good; local governments needed to be permitted to collect systems development charges. As long as the intent of HB 3179 was not to mandate local governments, then it qualified for the council's support under Burkholder Amendment #4. He would not support Atherton Amendment #1, but he would work with Mr. Cooper and Jeff Stone, Chief of Staff, to make sure that if HB 3179 fit Metro's objectives tactically, then Metro would support it, as it would any other bills relative to SDCs.

Councilor Burkholder said he would support Atherton Amendment #1, because it followed the council's general principles. His one concern was whether it could only be for capital improvements, but Section 6(2) of HB 3179 clarified that SDCs could be used to improve existing facilities.

Councilor Hosticka said this bill and concept had been around a long time. In the same spirit of cooperation in which the council voted to support HB 3400 (establishing an affordable housing district), it should also support HB 3179.

Councilor Park said he was uncomfortable with HB 3179 for reasons stated earlier. The prior amendment allowed the council to support HB 3179 later. For that reason, he would not support Atherton Amendment #1 at this time.

Councilor Monroe asked Mr. Cooper whether the bill would allow a jurisdiction to build a new police precinct office or new fire station, if new development required it, or did it also mean that the jurisdiction could pay for the ongoing maintenance and operation of those new facilities.

Mr. Cooper said his reading was that it was limited to capital improvement. It would include a new precinct station and new fire house, but it would not include operating expenses for maintaining the fire station, precinct house, or employee salaries.

Councilor Monroe said with that explanation, he was comfortable with HB 3179.

Councilor McLain said she would also vote in favor of Atherton Amendment #1. Even though the council had approved the concept, it should embrace any worthy bill. The council always had the opportunity to withdraw its support should the bill's language change.

Councilor Burkholder said even if the council supported HB 3179, there were concerns, and the council could act to help improve the bill. He would like to direct Metro's lobbying firm that Metro supported the concept, but wanted to tweak a few pieces.

Councilor Park commented that the council was not voting to support a piece of legislation in an amended form, it was supporting a piece of legislation in its current form.

Councilor Hosticka clarified the purpose of HB 3179. As he read it, the bill would only change current law by adding to the list of purposes for which system development charges could be levied. All other law regarding system development charges would stay the same. HB 3179 was a very modest departure from current law.

Councilor Atherton said he listened to Councilor Park very carefully, and he did not find a mandate of any sort in the bill. As Councilor Hosticka explained, it was a modest change to existing law to expand those facilities which were clearly essential for modern communities. He urged an aye vote.

Vote on Motion to Amend #6: The vote was 5 aye/2 nay/0 abstain. **Councilor Park** and Presiding Officer Bragdon voted no. The motion passed.

Councilor Hosticka said that, for the purpose of brevity, he would move only Hosticka Amendments #2 and #4. Copies of Hosticka Amendments #1 and #3, which were not considered, are included in the meeting record.

Motion to Amend #7: **Councilor Hosticka** moved, seconded by **Councilor McLain**, Hosticka Amendment #2, to amend the resolution to include HB 2837 to the list of bills to be voted on by the Metro Council.

Councilor Hosticka introduced Hosticka Amendment #2, a copy of which is included in the meeting record. He recommended that the Metro Council oppose the bill. HB 2837 would eliminate the authority of Metro to authorize division of land in exclusive farm use (EFU) zone to allow purchase for public parks, open space or nonprofit land conservation. He understood that HB 2837 would appeal legislation that Metro asked to have adopted in the last legislative session.

Councilor Monroe said Councilor Hosticka was correct; this was one of Metro's few wins during the last session. He supported the motion to oppose HB 2837.

Councilor Park said his bill put him between the devil and a hard spot. The Oregon Farm Bureau proposed HB 2837 because it was concerned about government's ability to do something not allowed by a private citizen: to partition off a residential unit on EFU land. Generally in EFU zones, partitioning off a residence could potentially result in the construction of another house on the remaining piece of property. However, Metro did not have that ability on property it purchased. Therefore, he understood Councilor Hosticka's reasoning.

Councilor McLain said she supported the legislation last session, and she would support it again this year. In this situation, Metro's goal was to give individuals a home in which to live, should they decide to give their land to the general public for public benefit.

Councilor Monroe clarified the purpose of the previously passed legislation. The voters in 1995 entrusted Metro with \$138 million in bonded property tax money to buy open spaces. In some cases, open space land included a rather expensive residence. Metro did not want to spend precious taxpayer dollars buying expensive homesteads; it wanted to buy open space to set aside in perpetuity for public good. The legislation allowed the homestead to be divided off and left in the ownership of the private individual, so that Metro could purchase only the surrounding open space. Metro worked very hard for the passage of this measure last session.

Presiding Officer Bragdon said he would support Hosticka Amendment #2, although he understood and respected Councilor Park's reservations. The land use laws were intended to protect farmland from sprawl and development, and purchasing land for a park also protected it from sprawl and development.

Councilor Park said he knew the Oregon Farm Bureau opposed purchasing farmland for any purpose other than farm uses, such as the siting of cell phone towers, gas lines, and utility stations. When the EFU zones initially went into effect, there were only two exceptions; there were now about 35 exceptions. The Farm Bureau's general concern was the siting of urban uses in rural areas, and taking advantage of the price differential to the detriment of farmers.

Presiding Officer Bragdon acknowledged the Farm Bureau's concerns. His concerns for recreation, in his personal case, explained his vote.

Councilor Hosticka urged an aye vote. In response to Councilor Park's concerns, he noted the following language: A parcel that is created pursuant to this subsection is not eligible for siting a dwelling, may not be considered in approving or denying any other, and may not be smaller than 25 acres. The concern about keeping the land from being parcelized for urban purposes was already encompassed in the bill.

Councilor Park added that he understood those particular restrictions, once a site was purchased by Metro for open space purposes.

Vote on Motion to Amend #7: The vote was 7 aye/0 nay/0 abstain. The motion passed unanimously.

Motion to Amend #8: **Councilor Hosticka** moved, seconded by **Councilor McLain**, Hosticka Amendment #4, to amend the resolution to include SB 816 to the list of bills to be voted on by the Metro Council.

Councilor Hosticka introduced Hosticka Amendment #4, a copy of which is included in the meeting record. He recommended that the Metro Council support the bill. He noted Metro's previous study on tolling and congestion pricing, and its work two sessions ago to pass a bill to make it easier to construct tollways. He said SB 816 would move the state further in that direction.

Councilor McLain said she would be voting in favor of the motion. It was very consistent with Metro's work over the last ten years, in looking for other appropriate funding devices for transportation issues, both maintenance and capital improvement. It was a pay-for-service issue.

Councilor Burkholder said he would oppose the motion. The bill would remove the requirement for bicycle paths. This set a bad precedent that he could not support.

Councilor Park said this was the ultimate system development charge. Councilor Burkholder raised a legitimate concern. As he understood the legislation, however, all the rules that applied to the siting of roads would still apply. It would be inconsistent to charge motorists who used the road, but not bicyclists. He supported the motion.

Councilor Monroe said he agreed with Councilor Burkholder. Senator Clarno, who sponsored the bill, represented the Bend area. A beltway was constructed around Bend a few decades ago, which had since been gobbled up by urbanization. The purpose of SB 816 was to build a new beltway a little farther out, and pay for it through tolls. The new beltway would be for cars only, without any rest areas. He felt it would just contribute to the sprawl of the Bend area. There would be a time when certain facilities, such

as bridges, would need to be paid for through tolls, and there may be appropriate times to consider new highways built through tolls. But this was not the right way to do it, and he would not support the motion.

Presiding Officer Bragdon said he also had reservations about SB 816. He believed in the concept of tolls, but he was concerned about removing the requirement for bike paths. He would not support the amendment.

Councilor Hosticka said he shared the concern about bike paths, as it related to new facilities. However, those places in the country in which tolls had been applied were places in which additional lanes had been added to existing highways, and tolls were only collected on the new lanes. It would be counterproductive to require additional bike paths every time new lanes were added. He offered to amend his motion to protect alternative transportation, or to withdraw his motion.

Councilor Burkholder said he supported the concept of tolls but felt SB 816 might be a side issue. Under current state law, every transportation project had to consider how best to accommodate bicycle and pedestrian movement. In Harney or Deschutes County, there may not be the same need. He asked if SB 816 would simply remove an extra requirement, or if it would give an exemption from the state requirement to consider those facilities.

Councilor Monroe asked, as a point of parliamentary inquiry, if Councilor Hosticka had withdrawn the motion. He noted that if Councilor Hosticka wished to withdraw his motion, he must ask the second if she agreed.

Presiding Officer Bragdon said Councilor Hosticka had offered to withdraw, but the measure was still before the council.

Councilor McLain said it would be a mistake for the council to not support SB 816. Metro's legislative team could testify that Metro supported SB 816, but was concerned about the bike areas.

Presiding Officer Bragdon agreed, and said the legislative team would convey the concerns of individual councilors.

Councilor Hosticka agreed with the discussion of tolls and with the councilors' reservations. The concept of highway tolls was gathering increasing strength, and the Metro should help move that forward.

Vote on Motion to Amend #8:	The vote was 5 aye/2 nay/0 abstain. Councilor Monroe and Presiding Officer Bragdon voted no. The motion passed.
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There were no further amendments. Presiding Officer Bragdon opened a public hearing on Resolution No. 01-3046 as amended.

Richard Ellmeyer, Alternatives to Growth Oregon, 9124 North McKenna, Portland, thanked several of the citizens who came to the public hearing and yielded their time to him. He thanked the council for doing excellent work in the SDC department. He thanked Councilor Atherton for supporting HB 3179, which Alternatives to Growth Oregon submitted to the legislature. He noted that HB 3179 simply gave jurisdictions the option of extending the use of SDCs. He noted that while SDCs were nothing new, the political environment surrounding the issue had changed. HB 3179 was supported by teachers, 1000 Friends of Oregon, and *The Oregonian*.

Candice Guth, Executive Director, Alternatives to Growth Oregon, 522 Southwest Sixth #930, Portland, said Alternatives to Growth Oregon (AGO) was a grassroots citizens movement concerned about the costs of growth and its impact on quality of life and the environment. Representative Bill Witt had promised to hold a hearing on HB 3179 in the Smart Growth and Commerce Committee, and she would notify Metro once the hearing date had been set. She thanked the council for its vote of support.

Ugo Pezzi, 1500 Southwest Fifth Avenue #2605, Portland, said it was clear that the predicted population and traffic increases for the region would become an impenetrable problem. To avoid traffic clots and the resulting time loss, pollution and increased accident rates, he recommended looking to transit oriented development, focusing not just on light rail, but on areas that already had streets, schools and other required services.

Dr. Jean Anderson, 1500 Southwest Fifth Avenue #2605, Portland, said she was astounded and extremely pleased by what she had seen today at the council meeting. The council clearly understood the scope of the problem. Historically, the concept of endless development in new areas was considered a completely positive concept. The question of who profited and who paid was never truly considered. The necessity of services in those new areas constituted a payoff for the builder. While the services may provide a benefit to the residents, all the taxpayers paid for it, and that was not fair. She asked Metro to lobby in favor of SDCs for the region, and said she appreciated the council's work and was really impressed.

Ralf Raines, AGO, 8601 Southwest Summit Avenue, Gaston, **Judy Davis**, AGO, 17617 Arbor Lane, Lake Oswego, **Leigh Knot**, AGO, 1875 Southwest 187th, Aloha, and **Bob Riddle**, AGO and Centennial Community Association, 15306 Southeast Gladstone, Portland, yielded their time to Mr. Ellmyer. Written testimony submitted by Mr. Riddle in included in the meeting record. **Boyd Dunford**, 1853 Southeast Ladd Avenue, Portland, and **Michael Litt**, 42 Wheatherstone Place, Lake Oswego, yielded their time to Ms. Guth.

Steve Berliner, Friends of Kellogg and Mt. Scott Creeks, Post Office Box 22229, Milwaukie, reiterated the earlier citizen comments. His organization represented about 200 families who lived along Kellogg and Mt. Scott Creeks, from Happy Valley to Milwaukie. They strongly supported the increased use of system development charges as a creative way to address the pressures and costs of growth. He thanked the council for its support.

W.R. Adams, West Linn Planning Commission, 2310 Century Lane, West Linn, thanked the council for its support of SDC legislation. He urged the council to take the following actions: 1) when making decisions, keep in mind the changing paradigm that growth was not necessarily inevitable and to give proper attention to the concepts of carrying capacity, sustainability and the ecological footprint, 2) to publicly support and work for appeal of moratorium limiting laws, and 3) to publicly support and work for legislative action allowing and seeking full SDC recovery by local jurisdictions.

Presiding Officer Bragdon closed the public hearing.

Motion to Amend #9: **Councilor Hosticka** moved, seconded by **Councilor McLain**, to amend the Metro Principles Regarding Land Use and Regulatory Fairness Issues to add substantially the following language: "Private persons that take actions that reduce the value of public resources, including but not limited to the air and the waters of the state, should compensate the public or refrain from taking such action."

Councilor Park expressed concern that what one person may consider degradation might be considered a farming practice by someone else.

Councilor Hosticka said it was his intent that if the action reduced water quality in a measurable way, it would fall under the purview of his motion. In general, however, he hoped that any language added to the state constitution would be brief. He hoped to include a principle in the constitution, and leave the details to legislation.

Vote on Motion to Amend #9: The vote was 7 aye/0 nay/0 abstain. The motion passed unanimously.

Councilor Park closed by saying that Resolution No. 01-3046A was a balanced measure. The council's approach of focusing on the general intent of each bill rather than specific language gave Metro's legislative team the flexibility to be effective in Salem. He urged an aye vote, recognizing that not everyone would be happy with every aspect of the package.

Vote on Main Motion as Amended: The vote was 7 aye/0 nay/0 abstain. The motion passed unanimously.

11. COUNCILOR COMMUNICATION

Councilor McLain distributed a memo to the council regarding the 2040 map changes, and asked to speak with each councilor after he had reviewed the memo. A copy of the memo is included in the meeting record.

Councilor Atherton thanked the citizens who appeared to testify in support of growth paying its own way and system development charge shift. He noted that he had prepared two proposals on carrying capacity issues, and would let the citizens know when the proposals were before the council for consideration.

10. METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM APPLICATION (*PUBLIC HEARING*)

Presiding Officer Bragdon noted that the Metropolitan Transportation Improvement Program (MTIP) application process would close on April 2, 2001.

Andy Cogutno, Planning Director, reviewed his memo regarding the proposed Metro MTIP project nominations. A copy of the memo contains information presented by Mr. Cotugno and is included in the meeting record. He asked for council approval of the Community Planning Committee's recommendation.

Motion: **Councilor Monroe** moved, seconded by **Councilor Burkholder**, approval of the proposed MTIP nominations.

Councilor Monroe said the nominations were discussed at Community Planning Committee, which was a committee of the whole. He had nothing to add.

Presiding Officer Bragdon opened a public hearing. No one appeared to speak with regard to the MTIP application process. Presiding Officer Bragdon closed the public hearing.

Councilor Burkholder said he was not clear where the regional cooperative initiatives fit in the whole picture.

Mr. Cotugno said the rules allowed a project's sponsor to withdraw any project from the list and substitute another project. In the case of the Willamette Shoreline project, the list already included \$550,000 worth of activity. The proposal was to retain that amount of money on the list, but shift the emphasis to settling the corridor's rail and trail issues, rather than emphasizing the trestle. It was included on Metro's application to ensure that it was not overlooked. The Willamette Shoreline project was not considered part of Metro's cap.

Vote: The vote was 6 aye/0 nay/0 abstain. Councilor McLain was absent.
The motion passed.

ADJOURN

Presiding Officer Bragdon noted that council would not meet on Thursday, March 29, 2001. There being no further business to come before the Metro Council, Presiding Officer Bragdon adjourned the meeting at 4:36 p.m.

Prepared by,

Chris Billington
Clerk of the Council

Attachments to the Public Record for the Meeting of March 22, 2001

The following have been included as part of the official public record:

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
032201c-01	3/22/2001	Letter RE: Default Status of Specialty Transportation Services (STS)	TO David Bragdon/ FROM Mike Burton	Executive Officer Communications
032201c-02	3/21/2001	Community Planning Committee Report, Resolution No. 01-3038	TO Metro Council/ FROM Rod Monroe	Res. No. 01-3038
032201c-03	3/21/2001	Community Planning Committee Report, Resolution No. 01-3039	TO Metro Council/ FROM Rod Monroe	Res. No. 01-3039
032201c-04	3/20/2001	Regional Facilities & Operations Committee Report, Resolution No. 01-3040	TO Metro Council/ FROM Rex Burkholder	Res. No. 01-3040
032201c-05	3/22/2001	Resolution No. 01-3046		Res. No. 01-3046

032201c-06	3/22/2001	Resolution No. 01-3046, McLain Amendment #1	TO Metro Council/ FROM Susan McLain
032201c-07	3/22/2001	Resolution No. 01-3046, Burkholder Amendment #1	TO Metro Council/ FROM Rex Burkholder
032201c-08	3/22/2001	Resolution No. 01-3046, Burkholder Amendment #2	TO Metro Council/ FROM Rex Burkholder
032201c-09	3/22/2001	Resolution No. 01-3046, Burkholder Amendment #3	TO Metro Council/ FROM Rex Burkholder
032201c-10	3/22/2001	Resolution No. 01-3046, Burkholder Amendment #4	TO Metro Council/ FROM Rex Burkholder
032201c-11	3/22/2001	Resolution No. 01-3046, Monroe Amendment #1 (not considered)	TO Metro Council/ FROM Rod Monroe
032201c-12	3/22/2001	Resolution No. 01-3046, Atherton Amendment #1	TO Metro Council/ FROM Bill Atherton
032201c-13	3/22/2001	Resolution No. 01-3046, Hosticka Amendment #1 (not considered)	TO Metro Council/ FROM Carl Hosticka
032201c-14	3/22/2001	Resolution No. 01-3046, Hosticka Amendment #3 (not considered)	TO Metro Council/ FROM Carl Hosticka
032201c-15	3/22/2001	Resolution No. 01-3046, Hosticka Amendment #2	TO Metro Council/ FROM Carl Hosticka
032201c-16	3/22/2001	Resolution No. 01-3046, Hosticka Amendment #4	TO Metro Council/ FROM Carl Hosticka
032201c-17	3/22/2001	Written Testimony RE: SDCs	TO Metro Council/ FROM Bob Riddle, Alternatives to Growth Oregon
032201c-18	3/22/2001	Written Testimony RE: SDCs	TO Metro Council/ FROM Phil Hamilton
032201c-19	3/21/2001	Memo RE: Proposed Metro MTIP Project Nominations	TO Metro Council/ FROM Andy Cotugno
032201c-20	3/7/2001	Memo RE: Map Changes Title 4 Map	TO Washington County Commission, Hillsboro City Council/FROM Susan McLain

Councilor
Communication