

MINUTES OF THE METRO COUNCIL MEETING

November 8, 2001

Metro Council Chamber

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

Councilors Absent: Rod Park (excused)

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

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

There were none.

3. EXECUTIVE OFFICER COMMUNICATIONS

There were none.

4. AUDITOR COMMUNICATIONS

There were none.

5. MPAC COMMUNICATIONS

There were none.

6. CONSENT AGENDA

6.1 Consideration of minutes of the November 1, 2001 Regular Council Meeting.

Motion: Councilor Burkholder moved to adopt the meeting minutes of the November 1, 2001, Regular Council meeting.

Vote: The vote was 6 aye/ 0 nay/ 0 abstain, and the motion passed.

7. ORDINANCES - FIRST READING

Ordinance No. 01-925, For the Purpose of Amending Metro Code Title 8 (Compliance Procedures) and Title 1 (Requirements for Housing and Employment Accommodations) of the Urban Growth Management Functional Plan and Section 7.5 of the Regional Framework Plan Ordinance 97-715B to Revise the Process for Adjudication and Determination of Consistency of Local Comprehensive Plans with the Urban Growth Management Functional Plan, and to Revise the Processes and Criteria for Exceptions from and Extensions to Comply with the Functional Plan.

Presiding Officer Bragdon assigned Ordinance No. 01-925 to the Community Planning Committee.

8. ORDINANCES - SECOND READING

8.1 **Ordinance No. 01-924**, For the Purpose of Annexing Land Containing the Wilsonville Prison Site to the Metro Jurisdictional Boundary.

Motion: **Councilor Hosticka** moved to adopt Ordinance No. 01-924.

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

Mr. Dan Cooper, General Counsel, explained that Ken Martin would report on and explain the recommendations. There was opportunity for anyone else to speak. He explained the process for the decision before the council today. The annexation decision was only the second one that the Metro Council had done since the abolishment of the Boundary Commission.

Councilor Hosticka suggested a presentation of what the ordinance did and asked Mr. Martin to come forward.

Mr. Ken Martin, Annexation Coordinator, Planning Department, said this ordinance approved annexation into the Metro Jurisdictional Boundary, following the previous resolution decision. He described the piece of land that contained the prison. He explained the rules and code requirements. He noted the public notices. He summarized the staff report and noted for the record a letter from an attorney concerning property owners in the surrounding area. He suggested that if the council chooses not to expand this proposal not to include the properties to the north that they instruct staff to include that in revised findings.

Councilor Hosticka asked why they would want to say what they were not doing?

Mr. Martin said in his experience if someone raised an issue, you needed to acknowledge the issue was raised and include this in the findings.

Presiding Officer Bragdon clarified that if council were to add an amendment today, the council could act today on the ordinance itself.

Presiding Officer Bragdon opened a public hearing on Ordinance No. 01-924.

Mr. Robert G. Hoffman, City of Wilsonville, 30000 Town Center Loop East, Wilsonville, Oregon, reaffirmed their desire to include this area to the City of Wilsonville. He reported that the City of Wilsonville Council had acted to approve the original area earlier in the week. He gave the reasons for the annexation. The action of the City of Wilsonville did consider the request to include additional lands and did not approve the additional lands as they believe it would be inconsistent with the annexation Wilsonville initiated.

Councilor McLain asked why the City of Wilsonville Council chose not to honor the additional lands request.

Mr. Hoffman explained why the council did not support the additional lands and noted that it had been a 4 to 1 vote.

Councilor McLain asked for clarification.

Mr. Hoffman clarified that the boundary as proposed included the entirety of Clay Street.

Mr. Jeffrey Premo, Oregon Department of Corrections, 2575 Center Street, Salem, Oregon, summarized testimony from the State of Oregon Department of Corrections (a copy of which may be found in the record). Mr. Premo explained that the Department of Corrections was in partnership with the City of Wilsonville as an applicant for this proposal, and support the annexation of the property into the Metro jurisdictional boundary, and eventually into the urban growth boundary and the City of Wilsonville.

Presiding Officer Bragdon asked if the department was neutral on the inclusion of Clay Street residents.

Mr. Premo said they were neutral

Councilor McLain asked for clarification on the zoning issue.

Mr. Premo said whether it became rezoned or not, they remained neutral.

Mr. David Brown, 9470 SW Day Road, Sherwood, Oregon 97140 suggested that all of the land that was in the old urban reserve be included in the Urban Growth Boundary. He explained why. He spoke to the cherry stem issue, the island concept, and the traffic survey conclusions. He noted the letter from the Governor who supported the annexation of the surrounding properties (said letter included as a part of this record). Lastly, he noted the police issue of not being able to be served by the Clackamas County Sheriff, and having no Washington County Sheriff protection. Mr. Brown said he feels that since the Dammasch site's acquisition, all the eggs have been put in that basket and no resources are being allocated to north Wilsonville.

Regarding a traffic survey Mr. Brown had mentioned, **Councilor Atherton** asked if it included property north of Clay?

Mr. Brown said the survey was done before the prison was put in place so the numbers were projected, but even before the prison is put in, there were 5000 cars per day on Day Road. Mr. Brown added that the lands north of Clay Road was not his issue, but south of Day Road, the old urban reserve, should go inside the UGB.

Councilor McLain spoke to the history of the siting of the prison. She said before the prison was sited, previous legislation before the Metro council said they would change the urban growth boundary and the jurisdictional boundary if and when the prison was sited. She said she thought this action today was following through on that previous action. She also said the land above and below this prison site was in study for decisions for urban growth boundary amendments next year. She clarified what she was acting on today, which was following through with a commitment this council made that if a prison was sited there this body would make sure that the urban usage was inside the urban growth boundary.

Mr. Cooper suggested that since the council was in the middle of taking testimony that perhaps they could come back to that question later. **Councilor McLain** said she felt she needed the answer first. **Mr. Cooper** said to add an increment of land to the urban reserve in between Clay and whatever the road is that's halfway through what's listed as the area to be annexed, which is

the prison site, because the prison site being studied by Corrections included land that was north of the land you had designated as urban reserve, and when the council did that it modified its separation of community standards between Wilsonville and Tualatin to indicate that Clay Road would be the northern boundary for that separation of communities, and that the whole action was contingent on not being built at the Dammasch site, and instead being built at the Day Road site. There is a council action on that, the ordinance, and that's public record.

He continued that the testimony heard here during a presentation by Mr. Epstein on the urban growth boundary recommendation that's tied to this, that Mr. Cox is representing property owners to the south with a separate urban growth boundary application that would deal with these properties.

He also said they've indicated that all of this land is in that area of exception land that's currently part of your alternatives analysis study for the legislative action for moving the urban growth boundary in 2002 in the periodic review process.

Councilor McLain explained to Mr. Brown why she wanted Mr. Cooper to repeat all of this history. Just at face value, it looks rather odd, she said, but she asked if he understood that this was but one opportunity for him to represent his issues on inclusion of this portion of land in that area within the next year.

Mr. Brown said he felt it should be done now so the City of Wilsonville had to deal with the function of those lands. He felt if it was not included now it would not come back for consideration. He felt the process was wearing people out.

Mr. Daniel Kearns, Clay Street Neighbors, 610 SE Alder Suite 803, Portland OR 97205 represented the group of neighbors who lived north of Clay street, briefed the council about the area. He spoke to the history of this group of neighbors. They were asking to modify the annexation proposal to bring the prison property in. He added that his proposal would not change anything regarding Wilsonville's proposal. He noted a letter dated September 14, 2001, from Governor Kitzhaber to the Tualatin City Manager and petitions from the property owners supporting his efforts.

Councilor Hosticka asked about the current zoning of the properties.

Mr. Kearns responded that they were mostly 5-10 acre residential property with one industrial zone towards the west end.

Councilor Hosticka asked what the effect would be to add these properties to the City of Wilsonville.

Mr. Kearns said the primary change would be access to urban services and increased density. He added that rezoning to industrial was also a possibility.

Councilor McLain clarified that any action today would be annexation to the Metro boundary only, and changing the zoning was another process.

Mr. Kearns agreed there were more processes to go through, but this was the first step.

Mr. Jim Jacks, City of Tualatin, 18880 SW Martinazzi Avenue, Tualatin, OR 97062 indicated that the City of Tualatin supported the staff report recommending adding the Coffee Creek

Correctional facility to the boundary. He said they opposed adding any other lands to the proposal, particularly north of Clay Street. Their position was that it was not appropriate for a local regional agency to make land use decisions with regard to making those properties whole, since the State of Oregon sited the prison. He felt decisions adding to the UGB should be made as part of a holistic approach, like periodic review of the boundary. He said they had a 20 year old comprehensive plan to add a connector between Interstate 5 and Highway 99W which was being cut down as a possibility as the property was developed in that area.

Presiding Officer Bragdon asked if the City of Tualatin had adopted the position at a meeting.

Mr. Jacks said they had not adopted by resolution or ordinance, but had come to a consensus through a number of different discussions.

Presiding Officer Bragdon clarified the letter from Steve Marks, Senior Policy Advisor, from the Governor's Office which supported inclusion of the properties on the north side of SW Clay within the UGB based on land use planning principles.

Mr. Jacks summarized that the Governor's office agreed in the letter that the negative affect of siting a prison was a land use solution.

Presiding Officer Bragdon closed the public hearing.

Presiding Officer Bragdon clarified that there were two different sets of neighbors asking for inclusion. He clarified the City of Wilsonville and City of Tualatin's positions opposing inclusion of the area north of Clay Street. He asked about their position regarding neighbors on Day Road.

Mr. Martin did not know if there had been formal discussion regarding that issue.

Mr. Cooper clarified that this was not the UGB amendment. The Metro property currently abuts the property proposed for annexation directly on the eastern side. He said the properties south of Day Road and east of Graham's Ferry Road were already inside Metro's jurisdictional boundary, and the property north of Clay and west of Graham's Ferry were outside the jurisdictional boundary.

Councilor Atherton asked why the City of Wilsonville did not want to annex the area south of Cahalin Road.

Mr. Martin responded that the prison site was the only one who had petitioned to be annexed. He said the City of Wilsonville may at some future date support that inclusion, but they had not petitioned to be included at this time.

Councilor Monroe clarified that the area to the south was already in the Jurisdictional Boundary.

Mr. Cooper responded that the land to the east of the square on the map was part of the Metro Jurisdictional Boundary. The land immediately south of the prison site is outside as is the land to the west and to the north along Clay Road.

Councilor Monroe supported the staff report and the City of Wilsonville's position. He agreed with Councilor Atherton that priority should be given to what the regional partners asked for. He said the Council would be going through a process that would culminate late 2002 to see where the UGB and in some cases, the jurisdictional boundary, would need to expand to meet the 20-

year land law. He added there would be every opportunity at that time to make a case for expansion of any area..

Presiding Officer Bragdon asked Mr. Cooper to elaborate about Mr. Martin's request to amend the findings.

Mr. Cooper responded that Mr. Martin had identified an area where the findings could respond to the issue. He said an amendment would be sufficient if council chose to take the proposed action.

Motion to Amend: **Councilor McLain** moved to direct staff to amend the findings.

Seconded the Amendment: **Councilor Hosticka** seconded the amendment.

Vote on Amendment: The vote was 6 aye/ 0 nay/ 0 abstain. The amendment passed.

Councilor Hosticka urged approval of the ordinance.

Vote on the Main Motion: The vote was 6 aye/ 0 nay/ 0 abstain, and the motion passed.

9. RESOLUTIONS

9.1 **Resolution No. 01-3114A**, For the Purpose of Authorizing an Amendment to an Intergovernmental Agreement with Tri-Met Concerning Transit-Oriented Development and Increasing the Level of Transit Service.

Motion: **Councilor McLain** moved to adopt Resolution No. 01-3114A.

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

Councilor McLain explained the resolution and noted that the Community Planning Committee had already heard this resolution.

Councilor Atherton asked Mr. Phil Whitmore about the concept of creating a new category of TOD to facilitate bus transit. He understood that the explanation as to why this might be difficult had to do with bus capacity. He asked if there was an opportunity to expand on the IGA with Tri-Met to add a new category.

Mr. Phil Whitmore, Transit Oriented Development Manager, responded that this agreement did not allow that. He said they had a bus TOD at 16th and Sandy with Buckman Terrace. He said the problem was meeting the criteria as well as finding the money. He felt that in the future there might be the possibility of bus TODs, but not with the current existing TOD program.

Councilor Burkholder supported Councilor Atherton's proposal. He felt what they would be looking at was creating Pedestrian Oriented Developments (PODs) that had value regardless of whether they were served by transit or not.

Councilor Atherton thanked the council for the discussion of this issue. He suggested the communities might be interested in funding these ideas rather than seeking funding from the federal government.

Councilor McLain urged an aye vote.

Vote: The vote was 6 aye/ 0 nay/ 0 abstain, and the motion passed.

10. COUNCILOR COMMUNICATION

Councilor Hosticka announced that the Natural Resource Committee had scheduled an evening meeting on November 19th at 5:30 p.m. in the Council Chambers to discuss Goal 5.

11. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Bragdon adjourned the meeting at 3:13 p.m.

Prepared by

Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF NOVEMBER 8, 2001

TOPIC	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NUMBER
AGENDA ITEM 8.1	SEPTEMBER 14, 2001	COPY OF LETTER TO STEVE WHEELER, CITY MANAGER, CITY OF TUALATIN, FROM STEVE MARKS, SENIOR POLICY ADVISORY, RE REQUEST FOR SUPPORT FOR STATE FUNDING TO CONDUCE A MASTER PLANNING PROCESS FOR THE AREA BETWEEN THE CITIES OF TUALATIN AND WILSONVILLE.	110801c-01
AGENDA ITEM 8.1	NOVEMBER 5, 2001	LETTER TO PRESIDING OFFICE BRAGDON AND THE METRO COUNCIL FROM DAVID S. COOK, DIRECTOR, OREGON DEPARTMENT OF CORRECTIONS, RE CASE AN-0101, TESTIMONY IN SUPPORT OF ANNEXATION TO METRO JURISDICTIONAL BOUNDARY	110801c-02