

NATURAL RESOURCES COMMITTEE MINUTES

November 21, 2001

Metro Council Chamber

Members present: Councilor Carl Hosticka, Chair, Councilor Bill Atherton, and Councilor Susan McLain

Also present: Councilor Rod Park

Chair Hosticka called the meeting to order at 1:10 p.m.

1. Consideration of the Natural Resources Committee Minutes of November 7, 2001.

The minutes of the November 7, 2001 Natural Resources Committee meeting were set over to the December 5, 2001 meeting.

2. Resolution No. 01-3125, For the Purpose of Authorizing the Executive Officer to Replace the Dam at Smith and Bybee Lakes with a Water Control Structure

Charlie Ciecko, Director, Regional Parks and Greenspaces Department, provided background information regarding the replacement of the dam. A Natural Resources Management Plan for Smith and Bybee Lakes was adopted by the Councils of both Metro and the City of Portland in 1991 for management actions that would maintain or enhance the lakes in a manner that was faithful to their original and natural condition. The dam removal has been supported by the Smith and Bybee Lakes Management Committee. This proposal authorizes the existing dam removal with a water control structure. Ducks Unlimited will fund, as well as provide design, engineering and construction of the structure.

Jim Morgan, Program Supervisor, Regional Parks and Greenspaces Department, said extensive studies had been completed on the sediments, water quality, plant community, mammals, reptiles and amphibians in the area. Many different issues were explored, such as, the potential effects of the landfill's impact on water quality in the lakes; ground water monitoring in the wells within and surrounding the landfill; and review of groundwater models to predict what the potential rate was for leaching inside the landfill. Removal of the dam returns the area to its previous condition, that of a tidal marsh. There is no expectation of degradation of water quality in the lakes, and very likely the expectation of improvements in water temperature. With the control structure, dominant plants which have reduced the plant diversity can, in a cost effective manner, be controlled. The fisheries will benefit from the diversity and productivity of the system.

Chair Hosticka opened a public hearing.

Troy Clark, 2821 NE Klickitat, Portland, OR 97212, President, Friends of Smith and Bybee Lakes, and the Audubon Society's Management Committee of Smith and Bybee Lakes spoke as an advocate for restoration and maintenance. The dam removal would return it to a seasonal tidal wetland. He was supportive of dam removal.

Emily Roth, 3811 SE Taggart, Portland, OR ,97202, Friends of Smith and Bybee Lakes. She spoke in support of taking the dam out.

Peter Tenneau, 2715 N. Terry, Portland, OR 97217, Friends of Smith and Bybee Lakes, said the new structure would diminish the use of canoeing in the spring and fall, but restoration would bring this natural area back to life.

Steve Donovan, 1101 SE Tech Center Drive, Suite 115, Vancouver, WA 98683, Ducks Unlimited, a non-profit organization dedicated to enhancing, restoring and protecting habitat that provides for the lifecycle needs of North American waterfowl. It has established a partnership with Metro to help bring in financial resources, engineers and support for creating this new structure. He urged the committee to endorse this project.

Nancy Hendrickson, 1120 SW 5th Avenue, Room 1000, Portland, OR 97204, Columbia Slough Watershed Manager, Bureau of Environmental Services, City of Portland, and Chair of Smith and Bybee Management Committee spoke in support of removing the dam and replacing it with a water control structure.

Mindy Brooks, 1120 SW 5th Avenue, Room 1000, Portland, OR 97204, Endangered Species Act Program of the City of Portland. This fish-friendly structure is strongly endorsed by the ESA Program.

William Jones, 2716 NE Mason, Portland, OR 97227 spoke against the water structure replacement's location in the lakes. He stated he was adamantly opposed to it. **Councilor Atherton** asked that Mr. Jones' issues be addressed.

Chair Hosticka closed the public hearing.

Mr. Morgan spoke to Mr. Jones' issues. Issue 1: Because the intent was to restore the lakes to their former, natural conditions, and due to the historical shape of the basin, the water enters where the proposed structure is to be built. Mr. Jones' suggested site is considerably higher, meaning there would be a limited period in which the water could move in the system. A secondary opening could be added, but does not appear to offer any additional enhancement. Issue 2: The natural vegetation is not dominated by blackberries and thistles. The inundation caused by the control structure would prevent the seeds from becoming established, allowing the native vegetation to dominate. Issue 3: The laws involved are the Clean Water Act, and the potential acquisition of a taking under the Endangered Species Act. **Dan Cooper**, Legal Counsel, has reviewed the Intergovernmental Agreement (IGA) and its attached plan and found the documents in order. He was not aware of other City of Portland documents not included in the IGA. **Mr. Morgan** addressed the issue of the City of Portland's ordinance creating the management committee. He said the plan that was adopted was the Natural Resources Management Plan for Smith and Bybee Lakes, at a joint council session of Metro Council and the City of Portland. Metro is named the trust fund manager and the management committee is advisory to the trust fund manager. **Mr. Cooper** said the City of Portland, by its charter, takes all actions in the form of ordinances.

Chair Hosticka asked legal counsel to examine the legal basis for Mr. Jones' contention that the Resource Management Plan is part of the land use planning of the City of Portland, and report back with an analysis before the full Council considers this legislation.

Councilor Atherton moved this legislation, and **Councilor McLain** seconded it. **Councilor McLain** added that since 1991, Metro has been involved in the management process working with the City of Portland and the land use responsibilities of both the City of Portland and Metro. **Councilor Atherton** said if there is any leaching from the landfill, it needs to be directly addressed. The control structure provides the opportunity to deal with erosion. **Councilor McLain** also emphasized that there has been careful work done in coordination with the solid waste staff regarding the closure of the St. John's Landfill. **Mr. Cooper** added that this water control feature was not in violation of any commitments contained in the management plan adoption. He said he would prepare a written analysis.

Motion: Councilor Atherton moved, and Councilor McLain seconded Resolution No. 01-3125.

Vote: The vote was unanimous and Chair Hosticka will carry it forward to Council.

3. Fish and Wildlife Habitat Protection

Chair Hosticka summarized the intent of the meeting, and opened a public hearing.

Mike Houck, 5151 NW Cornell Road, Portland, OR 97210, Coalition for a Livable Future and Audubon Society, said his position had not changed, and that he was looking forward to today's staff presentation.

Jennifer Snyder, WRG Design, 5415 SW Westgate Drive, Suite 100, Portland, OR 97221, representing Mr. Maring's property in Hillsboro. **Ms. Snyder** reviewed a letter she was submitting to the committee which is attached and incorporated in the permanent record of this meeting.

Jim Standring, 5 Nansen Summit, Lake Oswego, OR 97035, property owner, read a letter which is attached and incorporated in the permanent record of this meeting.

Bruce Pollock, 9601 NW Leahey #201, Portland, OR 97229, asked that the mapping of his property be reviewed as the Washington County assessor's office map that was used is not relevant. He requested real data be used before a decision is made.

Sue Beilke, 11755 SW 114th Place, Tigard, OR 97223, provided a letter for the record which is attached and incorporated in the permanent record of this meeting.

David Lawrence, 123 W. Main, Hillsboro, OR 97123, Deputy City Manager, City of Hillsboro, submitted a memo with maps which are attached and incorporated in the permanent record of this meeting. He discussed significance and how both primary and secondary relate to it. He discussed the conflicts the City had with Metro. They were mapping, determination of what is significant, and what areas are actually covered in the resource, and why.

Lise Glancy, Port of Portland, said comments will be provided by December 5, 2001. She said one of their challenges is to be sure there is a consistent understanding and perspective within their organization.

Noel L. Vennes, Intel Corporation, 2501 NW 229th, Hillsboro, OR 97201, represented their campuses in Washington County, read a letter which is attached and incorporated in the permanent record of this meeting.

Bob Durgan, 6712 N. Cutter's Circle, Portland, OR 97217, expressed concern that the riparian corridor is not about clean water; that the Clean Water Act is separate from riparian. With the Clean Water Act and now the riparian protection program, Portland seems to be mixing too many things up. The processes of cleaning the rivers and streams, the change in agricultural land from Level 1 to Level 8 and upland protection are economically unfeasible for the construction industry and the development industry to provide jobs and future because of the uncertainty of construction costs. He said the Forests Practice Act Committee in Washington state is far advanced in this process, and suggested Metro investigate their work rather than create its own science.

Chair Hosticka closed the public hearing.

Chair Hosticka asked Mr. Cooper to review the draft resolution prepared by the legal department.

Mr. Cooper read the document, and referenced two documents from Ken Helm, Legal Counsel and Paul

Ketcham, Planning Department which are attached to and incorporated in the permanent record of this meeting. **Mark Turpel**, Planning Department, said Goal 5 requires that data be provided by resource site. The resource sites to be presented today are not new, but are compiled, organized, analyzed and compared by site. The two major pieces are Title 3, and the inventory, which is the first step in the Goal 5 process. The recommendations from the Goal 5 Technical Advisory Committee and the Water Resources Policy Advisory Committee are now written and will be distributed. The materials in the inventory are consistent with the recommendations of the Executive Officer which are that the primary and secondary functions of the first five criteria be considered both the resource and significant resource. **Paul Ketcham**, Planning Department, said the information in the inventory is intended to be a sufficient basis to address the four step inventory process. There is sufficient information in the document to comply with the Goal 5 rule. The following is his review: Page 3, a chart identifying the channel habitat types in the region using the Oregon Watershed Enhancement Board's methodology for looking at channel types; Page 4, Table 2 is a description of the primary GIS data layers, providing a basis for riparian corridor determinations and significance determinations; Page 5, Table 3, contains a description of the consultations Metro has undertaken with state and federal agencies, special districts, local governments and other entities to collect information about the riparian corridors; Page 17 describes the watershed in the region and how they are identified; Page 18 identifies resource sites composed of subwatersheds in the region; Page 19 is a description of other information included about the resource sites; Pages 20-56 form the bulk of the analysis of 27 resource sites; Page 57 is a summary of Goal 5 compliance with respect to quality and quantity and a conclusion that this information represents an adequate inventory under Goal 5; Page 63 begins the section on significance and regionally significant resources with a recommendation from staff that the riparian corridor be defined under Goal 5 as those areas in the landscape that receive a primary or secondary score value for the first five functions, and that they be deemed significant resources under Goal 5; Page 65 begins a discussion on regionally significant resources; Pages 67-68 have a chart to be used as a basis for initiating a discussion regarding what alternatives might be considered for regional resources for riparian corridors. The criteria the Council may wish to use the alternatives are on Page 66, with the exception of one omission which is "connectivity criteria." They total nine criteria. Page 69 has a box for a staff recommendation on regional resources which has been left unfilled by staff.

Chair Hosticka said the committee would welcome any recommendations on regionally significant resources. Any recommendations directly related to the decisions being made are welcome from citizens and groups.

Mr. Ketcham reviewed 4 alternative, oversized maps.

Councilor McLain commented that today's information actually began years ago in documents such as the RUGGOs. Balance, economic integrity and environmental integrity are incorporated.

Chair Hosticka said the next committee meeting would be December 5, 2001, and the record will be open until that time. In the meantime, there will be a Council Informal meeting, MTAC, MPAC and other groups will be reviewing this material, and the committee looked forward to their recommendations.

5. COUNCILOR COMMUNICATION

There was none.

There being no further business, the meeting was adjourned at 3:40 p.m.

Respectfully submitted,

Patricia Mannhalter
Council Assistant

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF
 November 21, 2001

| Document Number | Date | Document Description | RES/ORD |
|------------------------|-------------|---|----------------|
| 112101.01 | 7/15/2001 | Letter from Jeffrey Gottfried to Carl Hosticka, Chair, Natural Resources Committee and Lisa Naito, Chair, Metro Policy Advisory Committee re: supportive of Metro's determination of regional significance | |
| 112101.02 | 11/11/2001 | Letter from H. Havercamp to Natural Resources Committee re: comments on restoring fish and wildlife in the Metro area | |
| 112101.03 | 11/21/01 | Email from Kemper McMaster, State Supervisor, US Fish and Wildlife Service to Carl Hosticka, Chair and Natural Resources Committee and Lisa Naito, Chair, MPAC re: support of the proposal presented in their November 16, 2001 letter to Goal 5 TAC | |
| 112101.04 | 11/06/2001 | Letter from Patricia Snow, Land and Water Use Coordinator, State of Oregon to Chair Hosticka re: comments on criteria for determining Goal 5 significance | |
| 112101.05 | 11/21/2001 | Letter from Mark J. Greenfield for Mr. Jim Standing to Chair Carl Hosticka re: Metro Goal 5 Riparian Mapping and Determination of Regional Resources – Standing Property | |
| 112101.06 | 11/8/2001 | Letter from Frank M. Flynn to Carl Hosticka, Natural Resources Committee and Andy Cotugno, Planning Department re: notification of ERR and request for correction of Metro's primary and secondary riparian functional values for the Majestic Realty, Inc. property in Hillsboro, OR | |
| 112101.07 | 11/19/2001 | Letter from Sue Beilke, member, Friends of Summer Creek to Metro Planning Department re: protection of more habitat for fish and wildlife species | |
| 112101.08 | 11/21/2001 | Letter submitted by David Lawrence for City of Hillsboro to Natural Resources Committee re: Metro significant resource and regional resource determinations | |
| 112101.09 | 11/19/2001 | Letter from John D. Rees, President, Rees & Associates to Metro Councilors re: Proposed Metro Natural Resource Mapping Designations/Goal 5 Issues | |
| 112101.10 | 11/21/2001 | Email from Jennifer Thompson, US Fish and Wildlife Service to Chair Carl Hosticka, Natural Resources | |

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| | | Committee and Lisa Naito, Chair, MPAC re: support of the proposal presented in their November 16, 2001 letter to Goal 5 TAC | |
| 112101.11 | 11/20/2001 | Memorandum from Ken Helm, Legal Counsel to Carl Hosticka, Chair, Natural Resources Committee re: Analysis of Local Goal 5 Data, Reports and Regulations | |
| 112101.12 | 11/21/2001 | Letter from Noel L. Vennes, Intel Corporation to Chair Carl Hosticka, Natural Resource Committee re: Regionally Significant Riparian Corridors | |
| 112101.13 | 11/2001 | Draft Metro's Riparian Corridor Inventory | |
| 112101.14 | 11/21/2001 | Letter from Jennifer Snyder, WRG Design to Chair Carl Hosticka re: Property of Mr. John Maring | |
| 112101.15 | 01/29/2002 | Ducks Unlimited, Inc. Drawing of OWEB Proposal Smith/Bybee Lakes | |
| 112101.16 | 11/19/2001 | Significant Resources, Regional Resources and Riparian Corridors Recommendations of the Water Resource Policy Advisory Committee (WRPAC) | |
| 112101.17 | 11/16/2001 | Goal 5 Technical Advisory Committee Recommendations Concerning Riparian Corridors Significant Resources and Regional Resources | |
| 112101.18 | 11/20/2001 | Draft Resolution No. 01-____ For the Purpose of Establishing Criteria to Define and Identify Regionally Significant Fish Habitat and Approving a Draft Map of Regionally Significant Fish Habitat Areas | |

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