

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: January 10, 2002
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. EXECUTIVE OFFICER COMMUNICATIONS

4. AUDITOR COMMUNICATIONS

5. MPAC COMMUNICATIONS

6. CONSENT AGENDA

6.1 Consideration of Minutes for the December 13, 2001 and January 3, 2002 Metro Council Regular Meetings.

7. RESOLUTIONS

7.1 **Resolution No. 02-3151**, For the Purpose of Approving Funds for the Sunnyside Road and Boeckman Road Projects (resolution will be available on 1/7/02, please contact the Council Office for a copy).

**8. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e).
DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE
REAL PROPERTY TRANSACTIONS.**

8.1 **Resolution No. 02-3150**, For the Purpose of Authorizing the Executive Officer to Purchase the Steele Foundation Property in the Tonquin Geologic Target Area.

9. COUNCILOR COMMUNICATION

ADJOURN

Cable Schedule for Week of January 10, 2002 (PDX CABLE)

	Sunday (1/13)	Monday (1/14)	Tuesday (1/15)	Wednesday (1/16)	Thursday (1/10)	Friday (1/11)	Saturday (1/12)
CHANNEL 11 (Community Access Network) (most of Portland area)		4:00 PM				2:00 PM (previous meeting)	
CHANNEL 21 (TVCA) (Washington Co., Lake Oswego, Wilsonville)					1:00 AM		
CHANNEL 30 (TVCA) (NE Washington Co. - people in Wash. Co. who get Portland TCI)					1:00 AM		
CHANNEL 30 (CityNet 30) (most of City of Portland)	8:30 PM	8:30 PM					
CHANNEL 30 (West Linn Cable Access) (West Linn, Rivergrove, Lake Oswego)	4:30 PM			5:30 AM	1:00 PM 5:30 PM	3:00 PM	
CHANNEL 32 (ATT Consumer Svcs.) (Milwaukie)		10 AM 2 PM 9 PM					

PLEASE NOTE THAT ALL SHOWING TIMES ARE TENTATIVE BASED ON THE INDIVIDUAL CABLE COMPANIES' SCHEDULES. PLEASE CALL THEM OR CHECK THEIR WEB SITES TO CONFIRM SHOWING TIMES.

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Agenda Item Number 6.1

Consideration of the December 13, 2001 and January 3, 2002 Regular Metro Council Meeting minutes.

**Metro Council Meeting
Thursday, January 10, 2002
Metro Council Chamber**

MINUTES OF THE METRO COUNCIL MEETING

December 13, 2001

Metro Council Chamber

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

Councilors Absent:

Presiding Officer Bragdon convened the Regular Council Meeting at 2:02 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

Presiding Officer Bragdon said the committee met last night and discussed several items on the current agenda. He will note MPAC recommendation as each item comes up.

6. CONSENT AGENDA

6.1 Consideration of minutes of the December 11, 2001 Regular Council Meeting.

Motion: Councilor McLain moved to adopt the meeting minutes of the December 11, 2001, Regular Council meeting.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed.

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 01-925B, For the Purpose of Amending Metro Code Title 8 (Compliance Procedures) and Title 1 (Requirements for Housing Employment Accommodation) of the Urban Section 7.5 of the Regional Framework Plan Ordinance No. 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; and Declaring an Emergency.

Motion: Councilor Park moved to adopt Ordinance No. 01-925B.

Seconded: Councilor Atherton seconded the motion.

Motion to

Amend #1: Councilor Park moved to amend Ordinance No. 01-925B with Amendment No. 1. Exhibit A, Early Notice of Applicable Functional Plan Requirements.

Seconded: Councilor McLain seconded the amendment.

Councilor Park spoke to process and the amendment (a copy of which may be found in the meeting record and identified as Amendment No. 1 to Ordinance No. 01-925B, Exhibit A, Early Notice of Applicable Functional Plan Requirements). This ordinance was a code clean up to bring together the areas that extensions were allowed to the Functional Plan for compliance by local partners. He spoke to current code, this ordinance pulled the extension language together into one section, making it a lot more readable. It also dealt with a process that had not been put in place yet, that was exceptions to those Functional Plans for a jurisdiction that may not be able to meet part of the requirements due to geographic configuration or other items that could not be anticipated.

Councilor McLain added her comments on the eleven amendments that had already been brought forward. This ordinance had been discussed at Community Planning Committee meeting and at MPAC twice. She noted two amendments; one had to do with substantial compliance and the other had to do with citizen involvement and participation in Functional Plan compliance. She also spoke to the "list" issue.

Presiding Officer Bragdon opened a public hearing on Ordinance No. 01-925B.

Al Burns, City of Portland, Bureau of Planning, 1900 SW 4th, Portland, OR said the proposed amendment #11 addressed at MPAC addressed their last concern and allowed for a 120 days extension to get ready for direct application. They appreciated the certification proceeding in the annual report. This gave citizens a chance to know about things they did not know about before and provide direct access to Metro. Portland strongly supported citizen involvement.

Presiding Officer Bragdon said that the amendment he referred to that was discussed at MPAC last night would probably be considered at this meeting once they closed the public hearing.

Ted Kyle, MCCI Chair, 2465 Randall St., West Linn, OR noted a number of changes that Councilor McLain had addressed. He thought the addition of citizen involvement was helpful. He expressed concern about Section 820, he felt it didn't make sense and explained why. He noted the letter to Lisa Naito, MPAC Chair from MCCI concerning this issue (a copy of which may be found in this meeting record). The work that had gone on had brought citizens back into the process.

Kay Durtschi, MCCI member, 2230 SW Caldw, Portland, OR spoke to the ordinance concerning the citizen involvement and asked for clarification. She supported the City of Portland, their comments and amendments. She acknowledged Mr. Kyle's concerns and the fact sheet issue.

Presiding Officer Bragdon spoke to what happened at MPAC and noted the citizen involvement discussion. He also acknowledged a letter from Beaverton addressed at MPAC.

Mary Kyle McCurdy, 1000 Friends of Oregon, 534 SW 5th Ave., Portland, OR supported Ordinance No. 01-925B, gave her recommendation and read her letter into the record (a copy of which may be found in the meeting record).

Councilor McLain asked if we were going through a review wouldn't our regular ordinance process and regular Code have that kind of notification requirement already?

Ms. McCurdy said she did not know, apparently it had been in place previously in the Metro Code.

Councilor McLain said she would check with the Metro attorney.

Councilor Atherton asked staff why that language was deleted.

Dick Benner, Senior Assistant Counsel, responded to Councilor Atherton by saying the language that Ms. McCurdy referred to was language he wrote. It was in the first draft of the ordinance in a condensed version of the citizens involvement provisions in 850 and when there had been a lot of comment about needing to restore 850, he took 850 and put it back in 890. The language was not in the current Code, it could easily be added.

Presiding Officer Bragdon closed the public hearing.

Councilor Park responded the Mr. Kyle's concern and explained the process, he asked Mr. Benner for clarification.

Mr. Benner said it was a requirement of state law, that when a local government is proposing to make an amendment to a comprehensive plan or a land use regulation, it must notify DLCD 45 days before the first hearing. The Metro Code, today, required notification to Metro on the same time schedule, 45 days before the first public hearing. 820 sub A repeated that. The two notice requirements tracked one another.

Councilor Park asked why would Metro be duplicating a process that they were doing at the state level. Why would we be wanting to put a Ballot Measure 56 notification out when the local would have to be doing so in their own area anyway?

Mr. Benner responded that Measure 56 was not implicated by the requirement in this ordinance that local governments send notice to Metro. Measure 56 talked about notification to property owners if there was a proposed measure that might effect re-zonings and the like. It did not implicate Measure 56 at all, it was not duplicative because state law required notice to DLCD, this required notice to Metro. It was on the same timeline.

Councilor Park asked what would be the typical action by a local jurisdiction when they were making comprehensive land use changes in their own city, what notification process did they go through?

Mr. Benner responded that there was state law that required a certain kind of notification of people in the jurisdiction. This was separate from the notification to DLCD and this requirement of notification to Metro.

Councilor Park said the request, in terms of citizen involvement, was that Metro send out notification that Metro had received notification from a local city and that Metro notified the citizens that this had come forth. It seemed that there were multiple notifications in multiple locations and obviously there was a cost to that.

Mr. Benner said, if Councilor Park was referring to the proposal that Mary Kyle McCurdy made, he believed what she wanted was a requirement in this ordinance that Metro maintained a list of persons who asked Metro to be notified of various activities or hearings that would take place under this title as opposed to notifying citizens, which would be the responsibility of the local government when it was about to undertake an amendment.

Councilor McLain said she understood that the language that Mr. Benner wrote addressed Mary Kyle McCurdy's, Ted Kyle's and Kay Durtschi's concerns. Metro had a notice process using newspapers, newsletters, the web-site, independent letters to let people know that this was a review process that Metro was in and when action would be taken. She would like to receive some guidance from Mr. Benner.

Presiding Officer Bragdon suggested that there would be a motion for an amendment, based on the discussion at MPAC, if that passed, the ordinance would be held over and provided some time for a continuation of this discussion.

Councilor Atherton asked Mr. Benner how citizens would challenge a compliance determination by Metro? How did this ordinance provide for that and how would a citizen receive notice of that?

Mr. Benner responded to Councilor Atherton by saying there were two general situations in which the question of compliance by a local government arose, one was where a local government made an amendment to a plan or a land use regulation, so there was an action by the local government. If a citizen believed that that action by the local government did not comply with the requirement of the Functional Plan, that citizen's remedy would be to appeal that decision to LUBA. In that instance there was no formal determination of compliance by Metro. Metro got notification from the local government that it was considering the amendment. Metro reviewed it, if Metro had a concern with it, Metro, itself, participated in the local process and if ultimately, after the local government acted, Metro believed that it violated the Functional Plan requirement, Metro, like the citizen, had a remedy to go to LUBA.

The second way, dealt with inaction by the local government, so if there was no action to appeal to LUBA, there had to be some other way to get the question of compliance raised. Today's Code did not provide that kind of opportunity, this section 880 in this Ordinance did provide the opportunity for citizens, local governments, anyone else, to bring the question of inaction that was non-complying before the Council. Under section 880, the staff at Metro prepared a report on how local governments were doing in compliance with the Functional Plan requirements. So, there would be a report every year that said the local jurisdiction had met certain requirements and what requirements had not been met. Then Council scheduled a public hearing, if a local government, DLCD, a citizen or Metro itself believed that a local government had not done something to comply that it must do then that would be the time for the issue to be raised. At the conclusion of the hearing, based upon the report and the testimony at the hearing, Metro would

make a conclusion. That was the Council's determination as to whether the jurisdiction had complied. If someone disagreed with Metro, they could appeal the Council's order to LUBA. This was a change in this ordinance from the existing Code.

Motion to

Amend: **Councilor McLain** moved to further amend the Ordinance with Amendment #1 that was discussed at MPAC and read further her amendment (a copy of which is found in this meeting record).

Seconded: **Councilor Park** seconded the amendment.

Councilor McLain explained her amendment, a revision in 3.07.810, Compliance with the Functional Plan, #E, as underlined in the copy.

Presiding Officer Bragdon said this amendment was addressed at MPAC in the Beaverton letter.

Mr. Benner responded that there was an important point that would be addressed by the amendment. In the discussion at the MTAC subcommittee, there was concern that there was not enough time for a local government to prepare and make adjustments it might need to make to its own ordinances. He explained the provision further and suggested that this would help the local government better prepare to be ready.

Presiding Officer Bragdon said he was in favor of this amendment, he felt it was responsive to some of the needs expressed at MPAC.

Vote to

Amend: The vote was 7 aye/ 0 nay/ 0 abstain. The amendment passed.

Motion to

Amend: **Councilor McLain** moved an amendment concerning language in Ms. McCurdy's letter (a copy of which may be found in the meeting record and noted as McLain Amendment #2). She read the amendment into the record.

Seconded: **Councilor Atherton** seconded the amendment.

Councilor McLain explained the amendment concerning citizen involvement and notification.

Councilor Atherton said some of the language may be redundant however following the principle of writing law he felt it was appropriate that in the section on citizen involvement that this language be reinserted. He urged support.

Vote to

Amend: The vote was 7 aye/ 0 nay/ 0 abstain. The amendment passed.

Presiding Officer Bragdon announced that this was now Ordinance No. 01-925C and would be held over until January 2002. He asked that MPAC be notified of the Council's action.

7.2 Ordinance No. 01-929, For the Purpose of Amending the Regional Framework Plan Ordinance No. 97-715B and Metro Code Sections 3.01.010, 3.01.025, 3.01.030, 3.01.035, 3.01.040, 3.01.045, 3.01.050, 3.01.055, 3.01.060, 3.01.065, and 3.07.1120 and Repealing Metro

Code Sections 3.01.037 and 3.01.075 to Revise the Scope and the Criteria for Quasi-Judicial Amendments to the Urban Growth Boundary; and Declaring an Emergency.

Motion: **Councilor McLain** moved to adopt Ordinance No. 01-929

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

Councilor McLain spoke to the ordinance and expressed concern about previous language concerning similarly situated land. She thought this amendment was important to the Code. This language made the Code more readable for the quasi-judicial requirements for Urban Growth Boundary process. She noted the minor and major amendment language and explained the changes. She spoke to an amendment that she would be bringing forward today.

Presiding Officer Bragdon read the MPAC letter indicating that the ordinance was supported (a copy of which is found in the meeting record).

Councilor McLain noted they would return to the original language in the ordinance that included the land trades in both the major and minor amendments. She explained the difference between minor and major amendments.

Motion to Amend #1: **Councilor McLain** moved to amend Ordinance No. 01-929 adding back the language land trade.

Seconded: **Councilor Park** seconded the amendment.

Councilor McLain explained her amendment.

Councilor Atherton spoke further to the amendment, Exhibit A. He noted there was more to the amendment than just land trades.

Councilor McLain agreed that the amendment was partly administrative, this amendment was recommended by Mr. Benner.

Councilor Park gave an example of why the amendment was included.

Councilor Atherton said he felt this was not what the amendment said and could be misinterpreted. He asked Mr. Benner for further explanation.

Mr. Benner responded it was important to understand the relationship in what Councilor Atherton was looking at in Exhibit A, Regional Framework Plan language and the implementing language that was actually in the Code. You wouldn't see the criteria in Exhibit A but rather in the Code.

Councilor Atherton asked where the criteria was?

Mr. Benner said he could find the criteria in Exhibit F, Criteria for Minor Adjustments could be found in subsection D.

Councilor Park said he thought the concern that the Councilor Atherton brought forward was valid but there was only a two-acre limitation.

Councilor Atherton acknowledged Councilor Park's concern. He noted the limitation.

Councilor Burkholder spoke to Mayor Judie Hammerstad's concerns at MPAC last night about adding land trades into the minor amendments. He wondered if this change was worth it and explained why.

Councilor McLain said this amendment did not address every element of what MPAC had to say last night. They had reviewed issues of this type at the Community Planning Committee. She thought by putting back the original language they maintained land trades in the minor Code. She thought it was worthwhile as a minor type amendment.

Councilor Park said he thought that adding minor amendments with other criteria that was added still removed resource lands from being able to be a minor amendment. These types of land would come in front of the Council as part of the major amendment process.

Mr. Benner clarified that the motion would restore what was in a previous draft of this ordinance and treated trades in two different ways. If the trade didn't involve any resource land coming into the boundary and it would not bring in a net gain of more than twenty acres it could be treated as a minor adjustment. If the trade involved resource land coming into the boundary or if there would be a net gain as a result of the trade of more than twenty acres, it would be treated as a major amendment.

Vote to Amend: The vote was 6 aye/ 1 nay/ 0 abstain, the amendment passed with Councilor Burkholder voting no.

Presiding Officer Bragdon opened a public hearing on Ordinance No. 01-929.

Al Burns, City of Portland, Bureau of Planning, (address noted previously in the minutes) thanked the Council for Code amendments, it was a change that was a long time coming. He suggested future amendments that might be considered. He urged enactment of this ordinance today.

Councilor Park said he understood the concerns that were brought up at MPAC in voicing the opinion about protection or not expanding for retail and commercial purposes. He explained current Metro Code, did Mr. Burns have suggestions on how to protect those other uses?

Mr. Burns said there was a name for that technique, it was called bait and switch. For the next urban growth decision, he suggested taking another look at Title 4, if the need was for a large industrial purpose have regional regulations that preserved it for that purpose.

William Cox, Attorney, Chairperson of the Home Builders Association of Metropolitan Portland, Government Affairs and Legal Action Committee, 0244 SW California St. Portland, OR 97219 read his letter into the record (a copy of which is found in the meeting record).

Kelly Ross, Vice President, Government Affairs, Home Builders Association, 15555 SW Bangy Road Suite 301, Lake Oswego, OR 97035 supported Mr. Cox and read his letter into the record (a copy of which is found in the meeting record).

Councilor Hosticka said he was trying to get clear what they were objecting to. He shared his interpretation of the ordinance. He asked Mr. Cox and Mr. Ross, if you removed the part that said only for non-housing needs would you then still be objecting to the rest of the ordinance?

Mr. Ross said if that language was removed they would not object to the rest of the ordinance.

Councilor Hosticka followed up saying all of the objected language had to do with housing need.

Mr. Cox said Mr. Ross' opinion was not his opinion, his opinion was that this whole concept had to be revisited and explained why. He asked why these cases should not come before Council.

Councilor Hosticka said he was trying to understand the Home Builders Association issues. He asked legal counsel if other non-housing need were available to be petitioned for under that kind of language.

Mr. Benner said Councilor Hosticka's interpretation was correct. Mr. Cox was concerned about industrial land and private schools but both of those would come in under the definition, under the definition of non-housing needs.

Councilor Hosticka said he wanted to make sure the record was clear so they knew they were talking about the same thing when they proceeded.

Mr. Cox said if that in fact was their intention he asked that the ordinance spell it out. Then he asked why they were discriminating against housing needs? If the quasi-judicial process could still be used for all of the other issues such as schools, why were they discriminating against housing needs? He shared his interpretation of the ordinance and suggested clarification in the statute.

Councilor Atherton asked Mr. Benner about the five-year timeframe and housing. He asked if this ordinance was consistent with state law?

Mr. Benner responded that it was correct that state law required Metro to do a major review of the capacity of its Urban Growth Boundary every five years and then take whatever action it deemed appropriate in order to ensure that that capacity was enough to accommodate the next twenty year of growth. It was only local government that had that statutory requirement. The ordinance was consistent with that state law.

Councilor Atherton said, in effect, Metro was not denying anyone their due process or their constitutional rights by adopting this ordinance?

Mr. Benner responded that he believed that to be correct. The process at the five-year cycle or any other legislative review that the Council would want to do of its boundary, which could happen between five-year cycles, provided a process.

Councilor Park asked Mr. Benner about the necessity of the clean up in the Code? He reiterate that after HB 2709 was codified by adopting this ordinance it brought Metro back into compliance with state law. He asked about doing a major amendment for just housing and the effect of this?

Mr. Benner responded that the state law said that if a local government was conducting periodic review or any other legislative review of its Urban Growth Boundary then it had to do all of the work that was set forth in the statute. Metro was undergoing that work right now in Periodic Review. If a major amendment came before the council and it would make a significant addition of land to the UGB or housing that would constitute a legislative amendment regardless of the name put on it, it would be a legislative amendment to the UGB under 197.296 and would require Metro to do the kind of work they were currently doing in order to look at the capacity of the UGB and determine how to satisfy the need. This was not just his interpretation. He noted Metro recently had a major amendment working through Metro's process and the determination made by the hearings officer in recommending that Metro deny it was that this quasi-judicial major amendment was in fact a legislative amendment under 197.296 and you could only make the amendment if you went through the full 296 analysis.

Presiding Officer Bragdon suggested continuing with the public hearing.

Mr. Cox addressed one of the things that legal counsel had brought up, the question that Mr. Atherton asked Mr. Benner was directed at whether the five-year program was legal. The question that he understood that was being dealt with here was whether the elimination of quasi-judicial processes was legal. He felt this was a different question.

Mary Kyle Curdy, 1000 Friends of Oregon, (address listed previously in the minutes) strongly supported the ordinance and read her letter into the record (a copy of which may be found in the meeting record).

Presiding Officer Bragdon closed the public hearing.

Motion to

Amend: **Councilor McLain** moved a second amendment to Ordinance No. 01-929 (a copy of the language in found in the meeting record, noted in the packet as Amendment No 1, to Ordinance No. 01-929, Exhibit C, Delegation of Local Government Position.)

Seconded: **Councilor Burkholder** seconded the amendment.

Councilor McLain explained the amendment indicating that these amendments were more housekeeping in nature and was advised by legal counsel that they could go forward with this ordinance with these two amendments.

Councilor Park clarified further the amendment and indicated that there were minor grammatical changes as well.

Councilor McLain acknowledged that those changes were also included and considered housekeeping in nature.

Councilor Park said they were housekeeping in nature.

Presiding Officer Bragdon acknowledged that legal counsel had verified that both the land trade and this amendment were technical in nature and would not prevent Council from taking action on the ordinance today.

Vote to

Amend: The vote was 7 aye/ 0 nay/ 0 abstain, the amendment passed.

Councilor Atherton asked about Exhibit C and wanted further clarification.

Mr. Benner responded that the language was intended to mirror state law. He explained further consideration of all seven factors and the necessity for findings.

Councilor Atherton explained why he wanted clarification and suggested "consider all" the following factors.

Mr. Benner said he thought this language was implied.

Dan Cooper, General Counsel, said they strongly recommended sticking with the exact parallel of the state goals so they all knew the standard was what the current state law was.

Councilor McLain said she thought there was a need to let those who testified today know they were heard, they did not believe they were taking away private rights or rights for housing. It was important to note that the resident type quasi-judicial issue that had come to Council recently was so complicated that it didn't pass the muster of Metro's own criteria or the hearings officer understanding between the difference of quasi-judicial and legislative. Secondly, they were constantly in review of the UGB and constantly in a legislative mode. Councilor McLain said because the Home Builders Association as well as other groups had gone down to the state to make the formula so detailed and complicated, it had taken Metro close to five years to make sure they went through the review process to make sure the numbers were right. They were trying to make sure whatever process the citizen went through, the process was doable. This ordinance was similar, cleaner and clearer. She would not be supporting this today if it took away any constitutional rights. Second, as far as the language, it did not discriminate between private and public. Once there were qualifiers, there would be problems. She pointed out that there were still quasi-judicial amendments allowed. They also realized that the application process had to be doable. The Council followed state law and state process.

Councilor Park said there were several questions that were brought up as to why they needed to take this action. He recapped and explained the "whys". He noted that it cost money to go through the processes. He felt the voters had told them to be guarded of public funds.

Councilor Hosticka asked who had to establish the need, was the applicant the one who bared the burden of proof and analysis to establish the need?

Mr. Benner said the applicant had the burden to put evidence into the record that positioned the council to make the finding, ultimately it was the council's responsibility to find that there was a need that must be satisfied by expanding the boundary. If the matter was to go to court the first thing that LUBA would look at was did the Council make the finding of need.

Councilor Hosticka asked who did the work. He was trying to understand who did the actual work to create the record, to establish the need, was it Metro's staff or the applicant?

Mr. Benner said typically the applicant developed extensive materials aimed at demonstrating to the Council that each factor was addressed and weighed in his or her favor. Often the staff was called upon to review the material and sometimes that involved developing other information to help the Council make their decision. He felt the answer to Councilor Hosticka's question was it was the applicant that came in with the initial material.

Councilor Hosticka said as he understood it Metro charged the applicant a fee for doing the work. What did that fee cover?

Mr. Cooper said the fee covered the outside cost for the hearings officer, it did not cover the internal staff time.

Councilor Hosticka said he was trying to determine how much work there was on Metro's part that the taxpayers were paying for when Metro considered an amendment and how much of that was borne by the applicant.

Andy Cotugno, Planning Director, responded that the fee covered all of the costs of processing including the outside cost of hearings officer cost as well as staff processing costs, notice, any costs Metro incurred.

Councilor Hosticka said if the conclusion was that if someone wanted to pursue an application it was up to them to make the record and pay the costs of processing that conclusion.

Mr. Cotugno said that was a fair conclusion however that staff was working on that project not working on periodic review.

Councilor McLain closed by saying when she said that it costs people money she didn't say that it just cost Metro money, it cost applicants money, it was real money, time and resources. She did not want to put them through a process where they couldn't pass the test. She gave the example of Bethany. Second, when you were looking at this, she wanted you to stop and think about how they were trying to make the Code better. Local jurisdictions didn't know what locational adjustment meant. There were so many different definitions of locational adjustment. They had redefined this into minor and major amendments with definite definitions of what they meant, they had tightened the criteria and they were covering the opportunities for small pieces to be amendment to the UGB when appropriate. They wanted to adopt the ordinance before the end of 2001 so that the new application process could be under the new Code.

Vote on the

Main Motion: The vote was 6 aye/ 0 nay/ 1 abstain, and the motion passed. Councilor Hosticka abstained from the vote. (Councilor Monroe was out of the chamber at the time of the vote but once he returned to the chamber voted on Ordinance No. 01-929A with an aye vote).

8. RESOLUTION

- 8.1 Resolution No. 01-3141A, 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.**

Motion: Councilor Hosticka moved to adopt Resolution No. 01-3141A.

Seconded: Councilor Atherton seconded the motion.

Motion to Substitute: Councilor Hosticka moved to substitute Resolution No. 01-3141B.

Seconded: Councilor Atherton seconded the motion to substitute.

Vote to

Substitute: The vote was 5 aye/ 0 nay/ 0 abstain, the substitution passed with Councilors Park and Atherton absent from the vote.

Councilor Hosticka reviewed the processes that the resolution had gone through. He noted MPAC's recommendations. He said if it passed, this resolution would complete the first phase of a three step Fish and Wildlife Habitat program. He said the formal bodies who have reviewed the resolution were in agreement.

Presiding Officer Bragdon noted that several faxes, emails and letters had been received on this issue and would be included in the permanent record. He read MPAC's recommendation and motion (a copy of which may be found in the meeting record).

Presiding Officer Bragdon opened a public hearing on Resolution No. 01-3141B.

Marc Liverman, National Marine Fisheries Service, 525 NE Oregon St #500, Portland, OR 97232, felt the proposal to establish criteria was scientifically sound and consistent with actions which are necessary to promote the recovery of salmon and steelhead populations in the Metro area. He felt the proposed approach to identify significant riparian resources was reasonable, conservative, respectful and proper. He urged the Council to support Option 1.

Patricia Snow, Habitat Biologist for Oregon Department of Fish and Wildlife, P.O. Box 79, Portland, OR 97207 read her letter of support for Metro's process for applying Goal 5 into the record (a copy which is in the meeting record). She urged approval of Option 1.

Dick Schouten, Washington County Board of Commissioners, District 1, 6105 SW 148th Ave., Beaverton, OR 97007 spoke in support of Option 1. He also urged consideration of a basin approach because it would give the jurisdictions in the Tualatin Basin further opportunity to work closely with Metro.

Jill Fuglister, Coalition for a Livable Future, 1220 SW Morrison #535, Portland OR 97205 read her letter of strong support for Option 1 into the record (a copy of which is found in the meeting record).

Mary Kyle McCurdy, representing 1000 Friends of Oregon and Coalition for a Livable Future, (address listed above) expressed support for Option 1. They felt the decision was a scientific technical one and it was important to be as broad as possible at this stage of the work because later stages will only narrow the resources that were protected.

Mike Houck, Audubon Society, Coalition for a Livable Future, 5151 NW Cornell Rd, Portland OR read his letter regarding Goal 5 issues and support of Option 1 into the record (a copy of which may be found in the meeting record).

Marty Sevier, MTAC member, 260-7 SW 28th Dr, Portland OR 97219, representing the Peterkort Family, said he has acted as the family's development coordinator since 1994. He said a master plan had been developed for their property in 1981 and commented on the problems and hurdles that had come up since the plan's development. He said every time they amended their master plan, another regulation from Metro or Tri-Met made them change it again. They want to finally get on with their plan without more problems. He said the family supported adopting the basin approach.

Councilor Hosticka commented that under Resolve 13 the resolution asked staff to do the uplands as soon as possible so when the program was finally adopted it could include both uplands and riparian areas.

Bill Barnes, private citizen, PO Box 2373, Hillsboro OR 97123, said he had recently moved to the area and liked to be involved in his community. He said after reading the science paper, he felt the resolution made a lot of sense. He felt 7A was the way to go.

Al Burns Portland Planning Bureau (address listed above) supported the MPAC report. He also felt the Basin approach should be explored. He felt it was prudent to rely on the state and federal fish agencies' advice regarding the science in this case.

Matthew Udziela, 2431 NW Irving St. #13 Portland OR 97210 reviewed his e-mail testimony (a copy of which may be found in the record). He supported Option 7A. He thought the staff had done an incredible job over the years.

Ann Gardner, representing the Schnitzer Group, 3200 NW Yeon, Portland, OR, said she understood that Goal 5 was to protect and restore. She felt it was important to choose to invest where it would make the most sense and the sooner they could reach clarity on what was truly important, the more helpful it would be to achieve the goals of the program. She understood the ESEE analysis was the next phase and said it was infinitely important to have a balanced assessment. She encouraged the council to be sure they fully understood the economic consequences of the decisions that would follow. She said failure to set priorities would ultimately diminish the effectiveness and success of the program to preserve and protect, enhance and restore those resources that were truly regionally significant.

Tom Wolf, Trout Unlimited, Tualatin Watershed Council, 27875 NW Chestnut, Hillsboro, OR 97124 supported Option 1, 7A. He congratulated and commended staff for the job they had done so far. He also believed everything was truly regionally significant.

Patti McCoy, representing Columbia Corridor Association, PO Box 55651, Portland, OR 97238 read her letter of concern regarding Goal 5 riparian "significant" and "regional" resources into the record (a copy of which may be found in the meeting record). She felt there was a rush to judgement that prevented open and informed comment on these important decisions. She said the Association was most particularly concerned about their ability to transfer or sell their property if they should choose to do so with the proposed regulations. She said they could support Option 4.

Councilor Atherton asked how she perceived the ESEE analysis.

Ms. McCoy responded that they saw it being every bit as much a look to the future, especially with current economic conditions, as it was a look at the present.

Bob Durgan represented Anderson Construction Development and Acquisition, CREEC, Zian, Inc. LP, 6712 N Cutter Circle, Portland OR read his own letter opposing Metro's science paper into the record (a copy of which may be found in the meeting record) and acknowledged the Anderson Construction letter of concern regarding Goal 5 as well, also in the meeting record.

Jim Kimble, 17645 NW Rolling Hills Lane, Beaverton, OR 97006, MCCI, and Washington County resident, supported Option 1. He saluted the Tualatin Basin Goal 5 group's approach. He asked that a basin approach be negotiated carefully because so far it seemed nebulous. He hoped

for Metro local cooperation. He noted a lack of citizen involvement process in Washington County. He said that was a reason for Metro to be particularly concerned in evaluating all the testimony. He felt Metro had made a serious attempt at citizen involvement and was ready for a decision based on that.

Presiding Officer Bragdon closed the public hearing.

Councilor Hosticka suggested they look at the Options. He noted MPAC had recommended Choice 2. He said there was a list of questions that needed answers before a basin approach could be adopted. He described the differences between the choices and suggested moving to adopt Choice 2 and have 7B incorporated into the resolution for discussion.

Motion to

Amend: Councilor Hosticka moved to adopt Option 2, 7B.

Seconded: Councilor Atherton seconded the motion to amend.

Councilor Hosticka explained the Options. He said the basin approach would allow for earlier protection if they could negotiate a good agreement

Councilor McLain said she was in support of the motion with the understanding that they were not committing to a basin approach, only to consider it.

Councilor Atherton also wanted to consider the basin approach because of some testimony he had heard today.

Vote to

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

Councilor McLain commented that this amendment supported the advisory committees and tonight's testimony to encompass the entire inventory as they went to the ESEE analysis stage. She said voting for the resolution as amended meant voting for a clear, concise process for scientific review. Regarding the fact that folks felt rushed about the review, she said work had been going on for 3 years and she had never seen a longer or more thorough process. She added that this was only the first step of the process and there was still the ESEE analysis in which there would be a number of notifications and public process at the program stage. She said this Council had committed to do more than the state standard on notification and public review on this issue.

Councilor Park understood the concerns about economic development and how this process had clouded it, as had the Endangered Species Act. He said the purpose of the Goal 5 program was to eliminate that cloud and move the certainty forward. He also understood that all sides had a stake in this and wanted to get on with it. However, the process required a certain amount of steps that needed to be done. He said at some point they were going to have to make the hard choice dealing with the urban growth boundary and what would they do with protection and how much land had to be brought in at the next stage. He said the first step had to be what is regionally significant. His struggle was if the areas were not considered regionally significant, then how could there be a regional ESEE analysis to balance the uses. The basin approach came into what was the program. Therefore he would support the resolution.

Councilor Atherton wholeheartedly supported the resolution because, he said, if they were going to have things look different here, they had to do things different here. He appreciated the good work done by everyone, but the role of Metro was to figure out how much was too much on one hand, and not enough on the other. He said staff had outlined an extraordinary effort to respond to that question. He said it was simply not true that going through this process would destroy the economy of this region. He urged support of the resolution.

Andy Cotugno, Planning Director, commented that the process dealing with these criteria had been started in July when Council adopted a draft set of criteria. Those criteria were applied to the mapping. This resolution would produce amendments to some of those criteria based on the testing and review process they had gone through. The resolution also called for corrections of fact where there may be situations they had not had time to address yet. The resolution recognized that the mapping covered all waters of the state and that the recommendation had not been developed yet. Regarding the science paper challenge, he said staff had provided a point by point analysis of issues that were raised and a few refinements would be incorporated into the science paper, but they recommended in their response that there was nothing there that would change the fundamental basis upon which this decision was made. Finally, he noted there had been a lot of comment about how could everything be significant and what constituted significant. He underscored that there was a lot of difference in significance from an area that had one point versus an area that had 30 points. That whole range of significance was the point of the ESEE analysis.

Councilor Burkholder said he would be voting in favor of this resolution. He was eager to investigate the basin approach and they should also be aware of the timeline for making their decision.

Presiding Officer Bragdon said he would be voting in favor of this as well. He commented on some of the history of the work. He felt the criticisms had been addressed in great detail and it was not a one size fits all approach. He said it was not rushed, as the timeline would point out. He said the next step would be the most difficult. He said he would support the resolution.

Councilor Hosticka said this had been a daunting task and a lot of people had wondered if they would ever meet the timeline. He said staff, local governments and interest groups, as well as private citizens had put in a lot of dedicated effort to get to this point. He commended those folks including Mr. Curtis and the Tualatin Basin Coordinating Committee people. He echoed comments that this had been hard work and they would be right back at it in January.

Vote on Main

Motion: The vote was 7 aye/ 0 nay/ 0 abstain, and the resolution passed unanimously

Mr. Cotugno thanked Goal 5 staff Mark Turpel, Paul Ketchum, Carol Krigger, Malu Wilkerson, Justin Houk, Lori Hennings, and Lynn Sutton; Legal Counsel Ken Helm; Data Resource Center staff Carol Hall and Joe Price; Council staff Michael Morrissey; Planning clerical support staff Sherry Blackledge and Paulette Copperstone; Outreach support from Gina Whitehill-Batziuk and Marilyn Matteson, and one of his deputies, Mike Hoglund and finally, Councilor Hosticka who kept all of them on task.

8.2 Resolution No. 01-3123A, For the Purpose of Granting Time Extensions to the

Functional Plan Compliance Deadline for the Cities of Beaverton, Durham, Gladstone, Gresham, Lake Oswego, Milwaukie, Oregon City, Portland, Rivergrove, Tigard, West Linn, and Wilsonville and Clackamas County and Multnomah County.

Motion: Councilor McLain moved to adopt Resolution No. 01-3123A.

Seconded: Councilor Park seconded the motion.

Councilor McLain reviewed the resolution and the process they had gone through. This resolution granted some final extensions. She spoke to a letter from Lake Oswego asking for an extension on Title 1 until March 1, 2002 (a copy of which is found in the meeting record). They had followed Metro's requirement. They had given many extensions to many jurisdictions. There was a good faith effort by the jurisdictions. These extensions should be allowed.

Mr. Cooper clarified that this was a resolution and could be amendment without being held over.

Presiding Officer Bragdon thought this process had been very healthy and felt there had been a lot of progress by the communities and with different approaches used. They were trying to do things in a sounder fashion. He felt the local jurisdictions merited these extensions.

Councilor Park said he felt the partners out there had been doing very good work. This showed a lot of progress as a region. It was a signal that people were making a good faith effort. He thanked Brenda Bernards and Tim O'Brien for all of their good work. He also acknowledged Mary Weber and Rooney Barker for their efforts.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed.

8.3 Resolution No. 01-3127B, For the Purpose of Authorizing the Study of Tiers of Lands Selected According to ORS 197.298 and Goals 2 and 14 to Complete an Alternative Analysis in Anticipation of Possible Urban Growth Boundary Amendments.

Motion: Councilor Park moved to adopt Resolution No. 01-3127B.

Seconded: Councilor Burkholder seconded the motion.

Councilor Park explained the resolution, authorizing certain tiers of land according to LCDC Goal 2 and 14. This was the first phase of the study. He spoke to phase 2, addressing Goal 14. He asked Mr. Cotugno to point out the particular areas on the proposed map. He continued with explaining the different tiers; Tier 1 exception lands, Tier 1-A lands resource land that were contiguous, Tier 2 marginal lands, Tier 3 resource lands, Tier 4 mix of soils majority class 3 and 4. This was the first attempt for anyone to go through this process in the State of Oregon.

Mr. Cotugno spoke to the number of acres mapped.

Councilor Park said this was beyond what was required by law.

Mr. Cotugno clarified what was proposed for consideration. He spoke to Exhibit H in Resolution No. 01-3127B. He noted minor amendments to the maps.

Councilor McLain spoke to Exhibit H and the criteria used.

Presiding Officer Bragdon opened a public hearing.

Jon Holan, City of Forest Grove, PO Box 326, Forest Grove, OR 97116 submitted to Council a UGB land swap. It was all Tier 6 lands. This land would not have an opportunity to go through this analysis because it was Tier 6 lands.

Councilor McLain asked about the sizes of the acreage.

Mr. Holan responded that they each were approximately 48 acres in size, both the proposed exclusion and inclusion. City of Forest Grove submitted a map (a copy of which is found in the meeting record).

Councilor McLain asked about the one to be removed.

Mr. Holan responded that it was wetland areas, Council Creek.

Councilor McLain asked about the overlay.

Mr. Holan said it was primarily industrial, there was some high density residential.

Councilor McLain asked if the other piece of property was contiguous to the UGB?

Mr. Holan said yes.

Councilor McLain asked if it was EFU land?

Mr. Holan said yes.

Susan Muir, Multnomah County Land Use Planning Commission, 1600 SE 190th, Portland, OR had a letter for the record asking the Council to defer consideration of the lands within the west of Sandy River rural area plan. They had been planning it for two years now and were on the last six months. They would like to finish up that process before this discussion of whether it should be urbanized was before the Council. The reason why was what they were finding through their planning process was that what they had designated as exception lands and what was decided were exceptions lands 20 years ago may in fact need to go to exclusive farm use or EFU lands through their rural area plan process. They would like to be given the opportunity to do that at the local level before the lands were considered for urbanization.

Councilor Park asked Ms. Muir to point out what lands she was speaking about.

Ms. Muir said there was a map attached to the back of the letter, she then pointed out the area on the map and described the area (a copy of the letter and map is found in the meeting record).

Councilor Park asked if there were specific areas in that area that needed to be reclassified.

Ms. Muir responded that they were not going to suggest that they be reclassified yet, they were asking for a deferment of that decision until they could decide whether they needed to go from exception lands to exclusive farm use lands as part of their planning process. They were in that planning process right now, they were beginning their legislative process, the hearings would begin in January with Multnomah County Planning Commission. She suggested that it may be they will remain exception lands, in which case, they would be eligible for consideration but if

they go to exclusive farm use lands then they believed the flexibility should be there to remove them from consideration.

Councilor McLain asked if the process would be going to a hearing level in January?

Ms Muir said yes, with the Planning Commission.

Councilor McLain said their decisions would be happening at the end of the year so if Council studied them right now it did not mean that they were tagged, it just meant that they were studying them.

Ms. Muir said they realized the lands were not tagged yet for urbanization but they believed that the study would encumber the Planning Commission finishing their process and moving through this with the property owners. They would like to not have that issue on the table as they moved through the process.

Councilor Park asked Mr. Cooper if about this issue.

Mr. Cooper said there was too great an emphasis placed on the fact that Metro was studying land. There were 108,000 acres being looked at. Metro didn't really know yet what that study area was. They had selected it based on what Metro thought it was and right now they thought this land might be exception land. If may be that the study found it was EFU land in which case it went into a very different category. If it didn't move and you hadn't studied it, you had tainted your study of the exception land. Sometimes the fact that you had deemed it for study created the perception that it was already in the UGB. He said this was not truly the case. Metro was studying 108,000 acres, it was extremely unlikely that even half would be in the UGB within two years. He suggested including the land in the study.

Councilor McLain said they had to deal with the status quo. If the property changed and it became something else then they would deal with the property in a different way. At the present time, they had to deal with what was on the record. The other element had to do with turning EFU land into exception land or visa-versa. This was very difficult. She didn't think that they could hold up their process to assist the Planning Commission.

Richard Meyer, City of Cornelius, PO Box 608, Cornelius, OR 97113 read his letter into the record (a copy of the letter and map may be found in the meeting record). He was requesting inclusion of Tiers 5 and 6 as well as sub-regional analysis be studied and explained why.

Councilor McLain appreciated all of the testifiers input. Metro had studied the lands that Mr. Meyer was talking about at least twice. There were two points, one, LCDC support of the sub-regional analysis and second, Metro wanted to do it right. She pointed out that this study did not mean they would not study land around Forest Grove and Cornelius. They were working on other legislation having to do with "trade-in", "trade-out".

Mr. Meyer responded, they would like Tier 5 and 6 studied, he likened this to the Goal 5 study. Cornelius would help pay for the study.

Councilor Park said he appreciated what Cornelius was requesting and encouraged them to continue their work. He understood Mr. Meyer's concern, in order to get to a sub-regional issue they needed a good definition. He echoed Councilor McLain's comments about this being the first step but not the final step in the process.

Councilor McLain added that it was hard to show findings if land that had been industrial had been switched to residential. She gave several examples of this.

Presiding Officer Bragdon closed the public hearing.

Councilor Monroe said in accordance with ethics laws he reported that prior to voting on this, he wished to report that he had received a contribution from Baker Affordable Housing. They may be effected by decisions made today.

Councilor Park mentioned the budget impact.

Councilor McLain made it clear to the testifiers that they heard the desire to deal with sub-regional issues and they had made a commitment to address those issues.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed.

Councilor Park acknowledged staff who had worked on this resolution, Lydia Neill, GIS staff, Mary Weber, Michael Morrissey, Andy Cotugno.

8.4 Resolution No. 01-3130, For the Purpose of Confirming Sheryl Manning to the Metropolitan-Exposition Recreation Commission.

Motion: **Councilor Burkholder** moved to adopt Resolution No. 01-3130.

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

Councilor Burkholder urged the appointment of Sheryl Manning. He detailed her credentials.

Councilor Park echoed his support. She should be a great addition. He acknowledged Ron Fortune who she was replacing, he served on the Commission for many years.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed.

8.5 Resolution No. 01-3131, For the Purpose of Approving Curt Winkler to the Metro Committee for Citizen Involvement (MCCI).

Motion: **Councilor Hosticka** moved to adopt Resolution No. 01-3131.

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

Councilor Hosticka said Mr. Winkler had been recommended by MCCI for representing District 3. He recommended approval.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed.

8.6 Resolution No. 01-3138, For the Purpose of Approving New Classification Specifications Resulting from the Classification/Compensation Study of Metro Positions Represented by AFSCME 3850.

Motion: **Councilor Burkholder** moved to adopt Resolution No. 01-3138.

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

Councilor Burkholder spoke to the resolution. He noted that the last study that had occurred had occurred over five years ago. He urged approval.

Councilor McLain said this resolution had been held over. She asked staff to provide additional materials. She would not be in support of this resolution and gave the reason why. She needed to review the report before she could act on this.

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

Councilor Park urged that if employees felt they were mis-classified to work through the process for reclassification.

9. CONTRACT REVIEW BOARD

9.1 **Resolution No. 01-3133, For the Purpose of Authorizing the Executive Officer to Execute a Sole Source Contract with Ducks Unlimited for Fish Monitoring Services at Metro's Multnomah Channel Properties.**

Motion: **Councilor Atherton** moved to adopt Resolution No. 01-3133.

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

Councilor Atherton spoke to the resolution.

Councilor Park said he was finding it a bit troublesome about a potential conflict of interest. Ducks Unlimited helped get the grant and then became the sole source contractor.

Mr. Cooper said the conflict of interest issue wasn't there but appearance of impropriety might be an issue.

Councilor Atherton responded to Councilor Park's concern and explained the credentials of Ducks Unlimited.

Councilor Burkholder spoke to Councilor Park's concern. He asked if the contract was consistent with state law?

Mr. Cooper said it was consistent with state law.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed.

9. COUNCILOR COMMUNICATION

Councilor Park said there would be a report from Community Planning Committee on the completion of its goals for the year. He noted LCDC had approved Metro's Task 1.

Councilor Burkholder said Regional Facilities/Metro Operations Committee had finished up their committee work for the year. There would also be a report produced about facilities.

Presiding Officer Bragdon announced that the Transition Advisory Task Force would meet next Wednesday, December 19th at 3:00 p.m. He gave thanks for his two years of service as Presiding Officer and explained why.

11. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Bragdon adjourned the meeting at 6:30 p.m.

Prepared by

Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF DECEMBER 13, 2001

TOPIC	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NUMBER
ORDINANCE NO 01-925B	12/12/01	LETTER FROM THEODORE S. KYLE TO LISA NAITO	121301c-01
ORDINANCE NO 01-925B		MCLAIN AMENDMENT # 1	121301c-02
ORDINANCE NO 01-925B	12/13/01	MCLAIN AMENDMENT # 2	121301c-03
ORDINANCE NO 01-929	12/13/01	LETTER FROM CATHY KIRCHNER TO DAVID BRAGDON	121301c-04
ORDINANCE NO 01-929	12/13/01	LETTER FROM DICK BENNER AMENDMENT # 1 TO METRO COUNCIL	121301c-05
ORDINANCE NO 01-929	12/13/01	LETTER FROM KELLY ROSS TO METRO COUNCIL	121301c-06
ORDINANCE NO 01-929	12/12/01	LETTER FROM KELLY ROSS TO LISA NAITO	121301c-07
ORDINANCE NO 01-929	12/13/01	LETTER FROM WILLIAM C. COX TO METRO COUNCIL	121301c-08
ORDINANCE NO 01-929	12/13/01	LETTER FROM MEG FERNEKEES TO METRO COUNCIL	121301c-09
ORDINANCE NO 01-929	12/13/01	LETTER FROM MARY KYLE MCCURDY TO METRO COUNCIL	121301c-10
ORDINANCE NO 01-929	12/11/01	EMAIL FROM RICHARD BENNER TO CHRISTINA BILLINGTON	121301c-11
RESOLUTION NO 01-3123A	12/04/01	LETTER FROM RONALD B. BUNCH TO ROD PARK AND CPC COMMITTEE	121301c-12
RESOLUTION NO 01-3123A		LETTER FROM BRENDA TO ROD PARK	121301c-13
RESOLUTION NO 01-3123A	12/06/01	LETTER FROM JUDIE HAMMERSTAD MAYOR TO DAVID BRAGDON	121301c-14
RESOLUTION NO 01-3127B	12/13/01	LETTER FROM DIANE LINN TO METRO COUNCIL	121301c-15
RESOLUTION NO 01-3127B	12/04/01	LETTER FROM JOHN INGLE TO METRO COUNCIL	121301c-16
RESOLUTION NO 01-3127B	12/13/01	MEMORANDUM FROM CITY OF CORNELIUS TO MIKE BURTON AND METRO COUNCIL	121301c-17
RESOLUTION NO 01-	12/09/01	LETTER FROM GEORGE F.	121301c-18

3127B		HOFMANN TO ROD PARK	
RESOLUTION NO 01-3127B	12/06/01	LETTER FROM JOHN W. FERGUSON TO BILL ATHERTON	121301c-19
RESOLUTION NO 01-3127B	12/06/01	MEMORANDUM FROM LYDIA NEILL TO ANDY COTUGNO	121301c-20
RESOLUTION NO 01-3127B	12/05/01	EMAIL FROM THOMAS AUFENTHIE TO METRO COUNCIL	121301c-21
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM WINSLOW C. BROOKS TO METRO COUNCIL	121301c-22
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM PATRICIA SNOW TO DAVID BRAGDON	121301c-23
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM MIKE HOUCK TO METRO COUNCIL	121301c-24
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM JILL FUGLISTER TO METRO COUNCIL	121301c-25
RESOLUTION NO 01-3141B	12/10/01	FAX FROM ROGER J. NEU TO DAVID BRAGDON	121301c-26
RESOLUTION NO 01-3141B	11/28/01	METRO'S RIPARIAN CORRIDOR INVENTORY	121301c-27
RESOLUTION NO 01-3141B	12/13/01	FAX FROM APRIL DEBOLT TO METRO COUNCIL	121301c-28
RESOLUTION NO 01-3141B	12/12/01	FAX FROM DAWN UCHIYAMA TO METRO COUNCIL	121301c-29
RESOLUTION NO 01-3141B	12/11/01	BASIN APPROACH ISSUES AND SUGGESTED ANSWERS FROM MARK TURPEL	121301c-30
RESOLUTION NO 01-3141B	12/12/01	MTAC	121301c-31
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM CATHY KIRCHNER TO METRO COUNCIL	121301c-32
RESOLUTION NO 01-3141B	11/21/01	METRO'S SCIENTIFIC LITERATURE REVIEW FOR GOAL 5 REVISED DRAFT	121301c-33
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM CATHY KIRCHNER TO METRO COUNCIL	121301c-34
RESOLUTION NO 01-3141B	11/01	DRAFT METRO' RIPARIAN CORRIDOR INVENTORY	121301c-35
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM MARK D. WHITLOW TO METRO COUNCIL	121301c-36

RESOLUTION NO 01-3141B	11/21/01	PROPOSED RESOURCE SITES	121301c-37
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM FRANK M. FLYNN TO METRO COUNCIL	121301c-38
RESOLUTION NO 01-3141B		RESOLUTION NO 01-3141B	121301c-39
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM STEVEN L. PFEIFFER TO METRO COUNCIL	121301c-40
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM ROBERT T. DURGAN TO METRO COUNCIL	121301c-41
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM ROBERT T. DURGAN TO METRO COUNCIL	121301c-42
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM PATTI MCCOY TO METRO COUNCIL	121301c-43
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM FRANK M. FLYNN TO METRO COUNCIL	121301c-44
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM MEG FERNEKEES TO DAVID BRAGDON	121301c-45
RESOLUTION NO 01-3141B	12/13/01	LETTER FROM WINSLOW C. BROOKS TO METRO COUNCIL	121301c-46
RESOLUTION 01-3141B, 3127A, 3123A ORDINANCE No. 01-925B, ORDINANCE No. 01-929	12/12/01	MPAC MEETING MINUTES AND SUMMARY	121301c-47

Agenda Item Number 7.1

**Resolution No. 02-3151, For the Purpose of Approving Funds for the Sunnyside Road
and Boeckman Road Projects.**

**Metro Council Meeting
Thursday, January 10, 2002
Metro Council Chamber**

**Resolution No. 02-3150, For the Purpose of Authorizing the Executive Officer
to Purchase the Steele Foundation Property in the Tonquin Geologic Target Area.**

**EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e).
DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE
REAL PROPERTY TRANSACTIONS.**

Metro Council Meeting
Thursday, January 10, 2002
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 02-3150
THE EXECUTIVE OFFICER TO)
PURCHASE THE STEELE FOUNDATION) Introduced by Mike Burton,
PROPERTY IN THE TONQUIN) Executive Officer
GEOLOGIC TARGET AREA)

WHEREAS, in July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, at the election held on May 16, 1995, the Metro area voters approved the Open Spaces, Parks and Streams bond measure (Ballot Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements; and

WHEREAS, on March 14, 1996, via Resolution 96-2300, the Metro Council adopted a refinement plan for the Tonquin Geologic regional target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, Steele Foundation, et al. has agreed to sell and Metro has agreed to buy an approximately 39.4-acre parcel that lies in Tier I of the Tonquin Geologic target area, as described in the attached Exhibit A, conditional on Metro Council approval; and

WHEREAS, on September 27, 2001, the Metro Council approved Resolution 01-3106, modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition regional target area refinement plans to require Metro Council approval of all acquisitions in target areas where minimum acreage goals have been met; and

WHEREAS, Steele Foundation, et al. will only agree to sell the Property to Metro at a price that is 14% above Metro's appraised value; and

WHEREAS Metro has exceeded the minimum 275-acre goal established for the Tonquin Geologic target area, and therefore purchase of the Steele Foundation property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; now therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Metro Executive Officer to purchase the Steele Foundation Property as identified in Exhibit A, at a price that is 14% above Metro's appraised value, in accordance with the terms and conditions set forth in the Agreement of Purchase and Sale for this Property.

ADOPTED by the Metro Council this _____ day of _____, 2002.

Carl Hosticka, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

EXHIBIT "ONE"

Parcel I

A tract of land in the South one-half of the Southwest one-quarter of Section 11, Township 3 South, Range 1 West of the Willamette Meridian, in the City of Wilsonville, Clackamas County, Oregon, said tract being a portion of those tracts of land conveyed to Edward W. Boeckman as described in Book 106, page 316, Deed Records, and to Ernst A. Boeckman as described in Book 106, page 317, Deed Records, said tract being described as follows:

Beginning at the point of intersection of the South line of the Southwest one-quarter of Section 11 with the most Easterly line of the 125.00-foot transmission line easement conveyed to the United States of America, as described in Book 522, page 49, and Book 515, page 231, Deed Records; thence South $89^{\circ} 34' 52''$ West, along said South line, 1329.70 feet to a 1/2-inch iron pipe at the Southwest corner of said Section 11; thence North $00^{\circ} 11' 59''$ East, along the Westerly line of said Section 11, a distance of 1315.76 feet to the Southwest corner of the tract of land conveyed to George F. Boeckman, as described in Book 105, page 454, Deed Records; thence North $89^{\circ} 28' 53''$ East, along the Southerly line of said George F. Boeckman, 1314.73 feet to said most Easterly line of said transmission line easement; thence South $00^{\circ} 27' 08''$ East, along said Easterly line, 1317.97 feet to the point of beginning.

Excepting Therefrom that tract of land described in a deed to the City of Wilsonville, recorded November 1, 1972, as fee no. 72 33376, Film Records.

And Further Excepting Therefrom the Easterly 30 feet thereof conveyed to Richard H. Boeckman and Eleanor M. Boeckman, by deed recorded October 8, 1984, as fee no. 84 34845.

Parcel II

A right of way for ingress, egress and rail spur purposes, over a 30-foot strip of land as described in instrument recorded October 16, 1984, as fee no. 84 36055.

Staff Report

CONSIDERATION OF RESOLUTION NO. 02-3150 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE THE STEELE FOUNDATION PROPERTY IN THE TONQUIN GEOLOGIC TARGET AREA

Date: January 3, 2002

Presented by:

**Charles Ciecko
Jim Desmond**

Description

Resolution No. 02-3150 requests authorization for the Executive Officer to purchase the 39.4-acre Steele Foundation property (hereafter referred to as "the Property") in the Tonquin Geologic target area.

Existing Law

In May 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure that authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and certain park-related capital improvements. Metro Code 2.04.026 (a) (3) requires that the Executive Officer obtain the authorization of the Metro Council prior to executing any contract for the purchase of real property. The Open Spaces Implementation Work Plan, adopted by the Metro Council via Resolution 96-2424 (For the purpose of authorizing the executive officer to purchase property with accepted acquisition guidelines as outlined in the amended Open Spaces Implementation Work Plan) established acquisition parameters that authorize the Executive Officer to purchase property, within the Council-approved target area refinement plan maps. Purchases that do not meet these criteria or have "unusual circumstances" (as that term is defined in the Work Plan) require specific Council approval. Via Resolution 96-2300 (For the purpose of approving a refinement plan for the Tonquin Geologic Area as outlined in the Open Space Implementation Work Plan), the Metro Council adopted a refinement plan, which outlined a land protection strategy for the Tonquin Geologic target area. Through that resolution, the Metro Council also approved the Tonquin Geologic target area refinement plan tax-lot specific map, which includes the subject Steele Foundation property as a Tier I priority.

On September 27, 2001, the Metro Council adopted Resolution 01-3106 (For the purpose of modifying the Open Spaces Implementation Work Plan and Open Spaces acquisition regional target area refinement plans to direct future acquisitions of properties that satisfy specific identified criteria), which modifies the Open Spaces Implementation Work Plan and requires that the Metro Council formally authorize all acquisitions in target areas where minimum acreage goals (as established in the bond measure) have been met.

Background

This resolution proposes to approve an unusual circumstance purchase, and authorize the purchase of the Property subject to the terms of Purchase and Sale Agreement executed by the Property owners and Metro. Moreover, since Metro has exceeded the

minimum 277-acre goal established for the Tonquin Geologic target area, the purchase of the Property also requires Metro Council authorization pursuant to Resolution 01-3106.

Metro has entered into an agreement with the current owner, the Steele Foundation, et al, to purchase approximately 40 acres located northwest of the western terminus of Boeckman Road in Wilsonville, Oregon. The Property comprises two tax parcels that are undeveloped. This site connects to several Metro Open Spaces properties and is a key connection for a trail, wildlife, and hydrological corridor from the Tualatin National Wildlife Refuge to the Willamette River.

There are approximately 29 acres of wetland on the Property and 11 acres of forested upland. Nearly the entire portion of the Property below the forested upland is within the 100-year flood plain. The site provides excellent wildlife habitat and is an important site for groundwater recharge and discharge. It forms part of the historic Coffee Lake/Seely Ditch north-south corridor from the Tonquin scablands area in the north to the Willamette River in the south. The city of Wilsonville in its local wetlands inventory states the Property is significant because it is “[p]art of the nicest wetland complex in Wilsonville” and has “patches of very diverse sedges and rushes ...” Moreover the report states that it is a “[g]reat wildlife spot with nesting waterfowl and diverse species.” The forested upland portion of the site is comprised of a maturing forest made up of Douglas fir, bigleaf maple, and western red cedar. The large woody debris and other native vegetation provide diverse habitat for animals that live outside the wetlands. Moreover, the uplands provide escape relief for other animals during times of flooding. These natural resource and open space values are even more significant because the Property is located in the rapidly growing Wilsonville area and is near the Wilsonville Tract, a Green Ribbon Committee site, and the future 2,400+ housing unit urban village at the Dammasch site.

Acquiring the Property meets three Tier I objectives of the Tonquin Geologic target area refinement plan. More specifically the plan states in part:

- “Link the Tonquin Geologic Area with the Willamette River Greenway.”
- “Create a Tonquin Greenway to provide linkages between Division of State Lands properties and the Tualatin River National Wildlife Refuge and/or the Tualatin River including the varied geological features, and allow for connected wildlife and greenbelt corridors.”
- “Preserve the 100-year flood plain and associated wetlands and riparian areas of the three main creeks (Rock, Coffee, and Mill) within the Target Area.”

The Property also is an important link for the future regional Tonquin Trail, which is identified in the Greenspaces Master Plan (July 1992) as:

“The Tonquin Trail connects the Tualatin River National Wildlife Refuge to the Willamette River near Wilsonville. It passes through the Tonquin Geological Area and the Dammasch property recently acquired by the Division of State Lands [now the Wilsonville Tract], before joining the Willamette Greenway Trail.”

Currently, the Property represents a gap in public ownership in the critical Tonquin Geologic wildlife, trail and greenway corridor. Metro owns other parcels immediately adjacent to the Property on the north and south. Because the Property is located amidst

Metro open space lands, it remains key to the assemblage of the regional scale natural area contemplated by the refinement plan.

The city of Wilsonville has agreed to contribute 22% of the purchase price and a private partner, Ducks Unlimited, has agreed to contribute 33% of the purchase price. The acquisition of the Property would complement the nearby Wilsonville Tract, identified in the Green Ribbon process as a high priority for future funding, and connect the Wilsonville Tract to the larger corridor previously acquired by Metro.

Unusual circumstance

There is one unusual circumstance regarding the transaction for which Council approval is sought:

- The agreed upon purchase price is 14% above the appraised value confirmed by Metro's review appraiser.

While the Property is inside the urban growth boundary and is designated future industrial on the Comprehensive Plan of the city of Wilsonville, the Property lies within the city of Wilsonville's Significant Resource Overlay Zone (SROZ). Over nearly the last six years, Metro has negotiated with the landowners to purchase the Property. Through these lengthy negotiations, a price and terms were finally agreed to in November 2001. Notwithstanding, the lowest purchase price at which the landowner will agree to sell is 14% above appraised fair market value. The purchase price is consistent on a per acre basis to that paid by Metro for the Wilsonville Tract (outside the UGB) and other nearby sites.

Metro's share of the purchase price is only 45% of the purchase price because of significant financial contributions from two local partners. Ducks Unlimited, Inc., a national non-profit organization committed to conserving and restoring habitat for migratory waterfowl, has received a federally funded North American Wetlands Conservation Act (NAWCA) grant to help preserve habitat in the historic Coffee Lake area. They have agreed to contribute this money, which amounts to 33% of the purchase price, toward the acquisition of the Property through a Cooperative Agreement with Metro, which applies only to the northern parcel (Tax Lot 1300) of the Property. The city of Wilsonville has also agreed to contribute 22% of the purchase price.

In accordance with the Open Spaces Implementation Work Plan adopted by Metro Council, the Open Spaces Acquisition Committee met on December 3, 2001, and recommended that the Property be purchased by Metro on these terms.

FINDINGS

Acquisition of this Property with the above-stated terms is recommended based on the following:

- This Property lies in Tier I of the Tonquin Geologic target area and fulfills the goals of the Tonquin Geologic refinement plan.
- The Property has significant natural resource value, including approximately 29 acres of wetlands and 11 acres of forested upland in the historic Coffee Lake area.

- The Property lies entirely within the urban growth boundary and has the potential to serve as a high quality, natural area near the former Dammasch Hospital site, which is anticipated to rapidly urbanize during the next several years.
- The Property fills a key gap in creating a critical wildlife corridor, trail and greenway from the Tualatin National Wildlife Refuge to the Willamette River.
- The Property is adjacent to existing Metro ownership and is a key remaining parcel necessary to accomplish the assemblage of a regional scale natural area, consistent with the goals and objectives as set forth in the Tonquin Geologic target area refinement plan.
- The city of Wilsonville has committed to contribute 22% to the purchase price and Ducks Unlimited has committed to contribute 33% to the purchase price by using NAWCA funds from their Willamette Valley Ecoregion Restoration Project. These funds constitute significant financial contributions from a local government and another outside partner.
- The Property is a key link in the future Tonquin Trail that will connect to the nearby Wilsonville Tract which is ranked number three on the Metro Green Ribbon Committee recommended site list.
- While the overall minimum acreage goal of the Tonquin Geologic target area has been met, the acquisition of this Property is highly desirable from a regional perspective due to its high quality natural area features, connectivity to previously acquired Metro Open Space sites, impact on water quality, opportunity to preserve important wildlife habitat, and its proximity to the rapidly growing Wilsonville area.
- The Open Spaces Acquisition Committee met and recommended that the Property be purchased by Metro on the conditions set forth in the purchase and sale agreement.

BUDGET IMPACT

Bond funds will supply Metro's share of the acquisition money. Land banking costs are expected to be minimal.

OUTSTANDING QUESTIONS

None.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends passage of Resolution No. 02-3150.

METRO COUNCIL ROLL CALL AND VOTE RECORD

Meeting Date: 1/10/02

Agenda Item No.: Minutes 12/13/01 & 1/3/02

Start		Present/ Absent	Moved	2nd	Aye	Nay	Abstain
	Park				✓		
	Burkholder				✓		
	McLain				✓		
	Bragdon		✓		✓		
	Atherton				✓		
	Monroe				✓		
	Hosticka				✓		

The vote is:

Agenda Item No.: Res No 02-3151

Start		Present/ Absent	Moved	2nd	Aye	Nay	Abstain
•	Park				✓		
	Burkholder				✓		
	McLain				✓		
	Bragdon				✓		
	Atherton		✓		✓		
•	Monroe			✓	✓		
	Hosticka				✓		

The vote is: 7/0

Agenda Item No.: Res No 02-3150

Start		Present/ Absent	Moved	2nd	Aye	Nay	Abstain
	Park				✓		
•	Burkholder		✓		✓		
	McLain		✓	✓	✓		
	Bragdon			✓	✓		
	Atherton				✓		
	Monroe				✓		
	Hosticka				✓		

The vote is: 7/0

MINUTES OF THE METRO COUNCIL MEETING

Thursday, January 3, 2002

Metro Council Chamber

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

Councilors Absent: None

Presiding Officer Bragdon convened the regular council meeting at 2:02 p.m.

1. PRESIDING OFFICER WELCOME

Presiding Officer Bragdon welcomed all of those who were here and spoke to turning the gavel over. He felt there had been a lot of good days in the past. He said he had pardoned all of the animals at the Zoo. He spoke to the history and of future of Metro. He introduced Mr. Chet Orloff, Emeritus Director of the Oregon Historical Society.

2. REMARKS BY CHET ORLOFF

Chet Orloff, Historian, made remarks about the future of Metro and our community (a copy of his remarks may be found in this meeting record).

3. COUNCIL REORGANIZATION FOR 2001

Presiding Officer Bragdon reviewed the presiding officer election process (a copy of which is included in the meeting record).

3.1 Presiding Officer Nominations and Election

Motion: Councilor Monroe nominated Councilor Hosticka as Presiding Officer.

Councilor Burkholder nominated Councilor Park as Presiding Officer.

Presiding Officer Bragdon declared the nominations closed.

Written ballots were passed out. The Clerk of the Council announced that the vote was 4/3 in support of Councilor Hosticka as the new Presiding Officer for 2002.

Vote: The vote by written ballot was 4 aye/ 3 nay/ 0 abstain. The motion in support of Councilor Hosticka's nomination passed with Councilors Burkholder, Park and Bragdon voting no.

Presiding Officer Hosticka thanked the council for its vote of confidence. Presiding Officer Hosticka presented former Presiding Officer Bragdon with a gavel. He spoke to accomplishments of the past and the continued ethics of working together. He noted the necessary future work of Metro.

3.2 Resolution No. 02-3144, For the Purpose of Reorganizing the Metro Council for 2002.

Motion: Councilor McLain moved to adopt Resolution No. 02-3144.

Seconded: Councilor Monroe seconded the motion.

Vote: The vote was 4 aye/ 3 nay/ 0 abstain. The motion passed with Councilors Park, Burkholder and Bragdon voting no.

Presiding Officer Hosticka reviewed Resolution No. 02-3144. A copy of the Metro Council Committee Structure was passed out and included in the meeting record, attached to the resolution.

3. COUNCILORS REMARKS ON 2002

Deputy Presiding Officer McLain acknowledged her work with the other councilors, working as a team. She spoke to the issues they would face in the Natural Resources Committee, fish, wildlife and clean water issues. She also acknowledged the work needed in the Solid Waste arena and other issues that Metro faced to keep our community a great place to live. She noted the dedication of the staff and elected officials and the need for tools to ensure preservation of the quality of life.

Councilor Bragdon echoed Deputy Presiding Officer McLain's comments about their working relationship. He congratulated Presiding Officer Hosticka and looked forward to working with him. He spoke to history, Metro's current issues, the progress made and the future steps that needed to be taken. He looked forward to continuing the work and having the courage to make difficult decisions.

Councilor Atherton reflected on Mr. Orloff's comments. He talked about the "Let's Talk" piece and where the region was going. He noted a key issue to the future vision, the concept of carrying capacity. How do we sustain and maintain the region. He encouraged a mature conversation on this issue.

Councilor Monroe noted the hard work that had been done over the last decade. He spoke to the issues that still needed to be addressed in transportation, funding, Urban Growth Boundary expansion, air quality, solid waste system, recycling. He reviewed Presiding Officer Hosticka's qualification for the job why he supported him.

Councilor Burkholder commented on his look toward the future. He noted the qualities of our region and the role that Metro played in continuing to maintain that livability.

Councilor Park talked about 'where and how do we grow from here' and the need for efficiency in doing the job. He spoke to the issues of the Urban Growth Boundary, the openspaces expansion and the process that was necessary for good effective planning.

4. EXECUTIVE OFFICER REMARKS

Mike Burton, Executive Officer, added his remarks concerning Metro, the future, transition and acknowledged Metro's wonderful staff.

5. AUDITOR REMARKS

Alexis Dow, Metro Auditor, said as we embarked on a new year, she was looking forward to the challenges of the future. She congratulated Presiding Officer Hosticka on his new role. She acknowledged

the future challenges that the council faced including the UGB issue, the transition, and running Metro efficiency. She would continue to do her best.

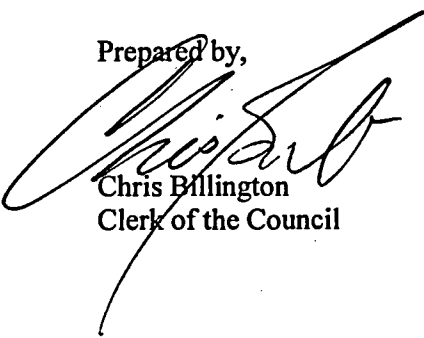
6. COUNCILOR COMMUNICATIONS

Presiding Officer Hosticka welcomed Claudia Wilton as a new Council Assistant. He invited all to the reception following this meeting.

8. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Hosticka adjourned the meeting at 2:53 p.m.

Prepared by,



Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JANUARY 3, 2002

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

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
010302c-01	Jan. 3, 2002	Remarks by Chet Orloff	Metro Council/Chet Orloff	
010302c-02	Jan. 3, 2001	Reorganization resolution of the Metro Council for 2002 and committee structure	Metro Council/Carl Hosticka	Resolution No. 02-3144
010302c-03	Jan. 3, 2001	Process for Election of the Presiding Officer	Metro Council/Jeff Stone	
010302c-04	Jan. 3, 2001	Council signed Presiding Officer ballots	Metro Council/Clerk of the Council	

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING)
 FUNDS FOR THE SUNNYSIDE)
 ROAD AND BOECKMAN ROAD)
 PROJECTS.)

RESOLUTION NO. 02-3151

Introduced by
 Executive Officer Mike Burton

WHEREAS, the 2001 Oregon Legislature passed HB 2142 Establishing the Oregon Transportation Investment Act (OTIA); and

WHEREAS, the OTIA included \$200 million for Lane Capacity and Interchange projects statewide; and

WHEREAS, the Oregon Transportation Commission (OTC) identified a \$70 million Oregon Department of Transportation (ODOT) Region 1 target for Lane Capacity and Interchange projects; and

WHEREAS, the OTC requested input from the Joint Policy Advisory Committee, on Transportation (JPACT) on project recommendations for the \$70 million Region 1 Target for Lane Capacity and Interchange projects; and

WHEREAS, JPACT provided project funding recommendations for Lane Capacity and Interchange projects on November 2, 2001, that totaled \$78.462 million; and

WHEREAS, JPACT requested \$8.462 million more than the Region 1 target amount in order to achieve statewide equity for the region; and

WHEREAS, the \$8.462 million would be used to complete funding for two Clackamas County projects: Boeckman Road in Wilsonville; and Sunnyside Road in Clackamas County; and

WHEREAS, the Boeckman Road project will serve a significant compact, mixed-use development project at the Dammasch Hospital site that will provide needed housing in Wilsonville and is consistent with region's 2040 Growth Concept and Regional Transportation Plan (RTP), as well as state objectives for compact development; and

WHEREAS, the Sunnyside Road project provides needed access to an area urbanizing consistent with ORS 197.298 and state Goal 14 for urban expansion on "exception lands," and is consistent with region's 2040 Growth Concept and the RTP; and

WHEREAS, at their December 12, 2001, meeting, the OTC retained the \$70 million Region 1 target for Lane Capacity and Interchange projects and requested that JPACT develop a program within that target; and

WHEREAS, at their December 13, 2001, meeting JPACT requested that representatives of Clackamas County, Wilsonville, ODOT, and Metro work with the JPACT representative for the Cities of Clackamas County to develop a strategy for balancing the Region 1 OTIA project list at \$70 million with consideration given to recommending either in whole or in part the Boeckman and Sunnyside projects; and

WHEREAS, the Clackamas County, Wilsonville, ODOT, and Metro representatives met in Lake Oswego on December 18, 2001, and recommended a strategy that results in a combination of OTIA, Metro MTIP, ODOT STIP, and local funds to complete both the Boeckman and Sunnyside projects by Fiscal Year (FY) 2006; and;

NOW THEREFORE BE IT RESOLVED that the Metro Council and JPACT find that:

1. A funding and implementation strategy for Boeckman Road and Sunnyside Road (122nd to 142nd) should be pursued as shown in Exhibit A to this resolution.
2. The strategy shown in Exhibit A represents a Metro Council and JPACT commitment of \$1,956,625 from the FY 04-07 MTIP to the Boeckman project.
3. The Metro Council and JPACT will request an additional \$1,956,625 from ODOT as a Region 1 priority for the 2004-2007 STIP.
4. That these MTIP commitments are ~~is~~ ~~-conditioned on an additional local~~ commitments of \$1,956,625 each from ODOT, the City of Wilsonville and Clackamas County to both the Sunnyside and Boeckman Road projects.
5. Efforts will be made to avoid or minimize the above funding commitments by seeking other sources such as federal discretionary funds.
6. This strategy, together with previously recommended projects identified in the letter from JPACT to the OTC dated November 2, 2001, results in a \$70 million Region 1 Metro area recommendation for OTIA Lane Capacity and Interchange projects and is consistent with the OTC Region 1 target.
7. The strategy be forwarded to the OTC for their consideration at their January 16, 2001, meeting.

ADOPTED by the Metro Council this _____ day of _____, 2002.

Carl Hosticka, Presiding Officer

Approved as to form:

Dan Cooper, General Counsel

Sunnyside Road/Boeckman Rd. Funding Proposal

21-Dec-01

**Exhibit A
to Resolution 02-3151**

Sunnyside Rd. - 122nd to 142nd

				Sources			
		start	finish	Local	OTIA	STIP/MTIP	Total
PE	\$1,500,000	Apr-02	Oct-03	\$916,357	\$583,643	0	\$1,500,000
Environmental	\$0	Apr-02	Oct-03	\$0	\$0	0	\$0
Right-of-Way	\$8,350,000	Jun-02	Dec-03	\$5,101,052	\$3,248,948	0	\$8,350,000
Construction	<u>\$11,850,000</u>	Apr-04	Nov-06	<u>\$7,239,217</u>	<u>\$4,610,783</u>	0	<u>\$11,850,000</u>
	\$21,700,000			\$13,256,625	\$8,443,375	\$0	\$21,700,000

Local	\$13,256,625	61.09%
State/Region	\$8,443,375	38.91%
	\$21,700,000	100.00%

Boeckman Rd. - Tooze Rd. Connection

				Sources			
		start	finish	Local	OTIA	STIP/MTIP	Total
PE	\$1,215,000	May-02	May-03	\$758,988	\$456,012	\$0	\$1,215,000
Environmental	\$275,000	May-02	May-03	\$171,787	\$103,213	\$0	\$275,000
Right-of-Way	\$2,170,400	May-03	May-04	\$1,355,808	\$814,592	\$0	\$2,170,400
Construction	<u>\$12,032,600</u>	Apr-04	Dec-05	<u>\$7,516,541</u>	<u>\$602,809</u>	<u>\$3,913,250</u>	<u>\$12,032,600</u>
	\$15,693,000			\$9,803,125	\$1,976,625	\$3,913,250	\$15,693,000

Local	\$9,803,125	62.47%
State/Region	\$5,889,875	37.53%
	\$15,693,000	100.00%

Grand Total				\$23,059,750	\$10,420,000	\$3,913,250	\$37,393,000
Target				\$23,059,750	\$10,420,000	\$3,913,250	\$37,393,000

Note: funding schedule between project phases could change to increase or decrease local share within the overall allocated amounts.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION 02-3151, FOR THE PURPOSE OF APPROVING FUNDS FOR THE SUNNYSIDE ROAD AND BOECKMAN ROAD PROJECTS

Date: December 21, 2001

Prepared by: Andrew Cotugno

DESCRIPTION

This resolution would commit future Metro Transportation Improvement Program (MTIP) funding toward the construction of a projects on Sunnyside Road in Clackamas County and Boeckman Road in Wilsonville; it would also recommend that the Oregon Department of Transportation (ODOT) commit \$10.4 million of Bond funds from the Oregon Transportation Investment Act (OTIA) toward both the Sunnyside Road and Boeckman Road projects these projects and commit \$2 million of future funds from the State Transportation Improvement Program (STIP) toward the Boeckman Road project. These commitments are recommended conditioned on Clackamas County and Wilsonville each committing another \$2 million toward the projects.

Existing Law

These actions are proposed under the authority of the Metro Council, in concert with the Joint Policy Advisory Committee on Transportation (JPACT), operating as the Metropolitan Planning Organization under federal law, to allocate federal transportation funds.

Background

At their October 4, 2001, meeting, JPACT recommended projects for funding through the OTIA. Included in that recommendation was a request to fund \$13.0 million toward a Sunnyside Road project from 122nd to 142nd Avenues as well as \$7.8 million toward an extension of Boeckman Road to Tooze Road in Wilsonville. At their December 12, 2001, meeting, JPACT was informed that the Oregon Transportation Commission was prepared to fund \$10.4 million from the OTIA Bond funds toward these projects and directed JPACT to recommend how to split these funds between the two projects. At the meeting there was discussion of committing the full amount toward a Sunnyside Road project from 122nd to 142nd (with \$11.3 million of matching funds from Clackamas County) -or- to commit the requested \$7.8 million toward the Boeckman Road project, leaving \$2.6 million to go toward the Sunnyside Road project. JPACT concluded they preferred not to chose between the two projects and asked staff to return at the January 10, 2002, JPACT meeting with a recommendation on how to fund both projects. Staff suggested that additional funding contributions from all four parties (MTIP, STIP, Clackamas County and Wilsonville) should be considered.

Budget Impact

There is no impact on the Metro budget. However, this does represent a commitment of \$2 million against Fiscal Year 20056/067 MTIP funding toward these projects and a request to commit \$2 million of Fiscal Year 20056/067 STIP funding by ODOT.

Outstanding Questions

This recommendation is subject to concurrence by the other parties, particularly the Oregon Transportation Commission, Clackamas County, and Wilsonville. In addition, cash-flow and project phasing requirements could result in the precise schedule of funding being altered within the total amounts approved. Future commitments of MTIP and STIP funding is proposed from currently unallocated FY 2006/07 funds. However, at that time, consideration can be given to advance these funds if other MTIP and STIP cash flow requirements allow.

Recommendation

It is recommended that the funding for the two projects be revised as follows:

	Current Proposal	Changes	Recommended Proposal
Sunnyside Road – 122 nd to 142 nd			
Local	\$11,300,000	+1,956,625	\$13,256,625
OTIA	10,400,000	-1,956,625	8,443,375
Total	\$21,700,000	0	\$21,700,000
Boeckman Road Extension to Tooze Rd.			
Local	\$7,846,500	+1,956,625	\$9,803,125
OTIA	7,846,500	-5,869,875	1,976,625
MTIP	0	+1,956,625	1,956,625
STIP	0	+1,956,625	1,956,625
Total	\$15,693,000	0	\$15,693,000

(Note: See Exhibit A to Resolution 02-3151 for a more detailed breakdown of funding by project phase and schedule.)

The change in funding described above results in a recommendation to the OTC that the OTIA Bond Funds be split \$8,443,375 toward the Sunnyside Road project and \$1,976,625 toward the Boeckman Road project. This is predicated on a future commitment of FFY '056/067 MTIP funding and a request that ODOT commit future FFY '056/067 STIP funding in the amount of \$1,956,625 each. Further, it is conditioned on Clackamas County and Wilsonville each committing another \$1,956,625 toward each of their projects.

In addition, because of the increased local share, it is recommended that ODOT consider a loan to Wilsonville and/or Clackamas County from the State Infrastructure Bank. This would help alleviate local cash-flow problems. Since both local shares are planned to be paid for through various development fees, this could be an important financing tool.

Approval of this recommendation would complete the funding for the Boeckman Road project. However, it would only complete the funding for the Sunnyside Road project from 122nd to 142nd. It is anticipated that future applications for MTIP funding will be considered for the remaining sections to 152nd and 172nd.

On January 4, 2002, the Transportation Policy Alternatives Committee (TPAC) recommended an amendment to Resolution 02-3151 to read:

WHEREAS, now therefore be it resolved that the Metro Council and JPACT find that:

5. Efforts will be made to avoid or minimize the above funding commitments by seeking other sources such as federal discretionary funds.