



METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND OR. 97201, 503/221-1646

A G E N D A -- REGULAR COUNCIL MEETING

Date: November 5, 1981
Day: Thursday
Time: 7:00 PM - Informal Discussion
7:30 PM - Regular Council Meeting
Place: Council Chamber

CALL TO ORDER

ROLL CALL

1. Introductions.
2. Written Communications to Council.
3. Citizen Communications to Council on Non-Agenda Items.
4. Consent Agenda.
 - 4.1 A-95 Review.
5. Ordinances:
 - 5.1 Ordinance No. 81-117, An Ordinance Amending the Metro Urban Growth Boundary in Washington County for Contested Case No. 81-3. (Second Reading) (7:35*)
 - 5.2 Ordinance No. 81-118, An Ordinance Amending the Metro Urban Growth Boundary in Washington County for Contested Case No. 81-4. (Second Reading) (7:40*)
 - 5.3 Ordinance No. 81-119, An Ordinance Amending the Metro Urban Growth Boundary in Washington County for Contested Case No. 81-5. (Second Reading) (7:45*)
 - 5.4 Ordinance No. 81-120, An Ordinance for the Purpose of Exempting the Recycling Support Fund Program from Competitive Bidding. (Second Reading) (7:50*)
6. Reports:
 - 6.1 Executive Officer's Report. (7:55*)
 - 6.2 Committee Reports. (8:05)*

ADJOURN (8:20*)

*Times listed are approximate.



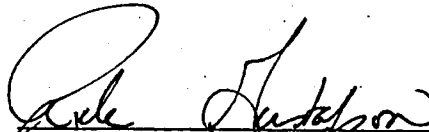
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C O N S E N T A G E N D A

The following business items have been reviewed by the staff and an officer of the Council. In my opinion, these items meet the Consent List Criteria established by the Rules and Procedures of the Council. The Council is requested to approve the recommendations presented on these items.



Executive Officer

4.1 A-95 Review



METRO

METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

MEMORANDUM

Date: November 5, 1981
To: Metro Council
From: Executive Officer
Regarding: A-95 Review Report

The following is a summary of staff responses regarding grants not directly related to Metro programs.

1. Project Title: Water Resources (No. 8109-8).
Applicant: State of Oregon Water Resources Department
Project Summary: Funds will be used to fill nine planning positions in the Water Resources Department to assist in Statewide water management planning.
Federal Funds Requested: \$188,200 U.S. Water Resources Council
Staff Response: Favorable action.
2. Project Title: Adult Group Home (No. 8109-10).
Applicant: Urban Indian Council, Inc.
Project Summary: Funds will be used to operate two adult group homes for Indian elders.
Federal Funds Requested: \$130,000 Department of Health and Human Services
Staff Response: Favorable action
3. Project Title: Non-urbanized Public Transportation (No. 8109-11).
Applicant: Tri-Met
Project Summary: Funds will be used to purchase nine vehicles with lifts for transportation services in rural Clackamas, Multnomah and Washington Counties.
Federal Funds Requested: \$256,800.00 Department of Transportation
Staff Response: Favorable action.
4. Project Title: Davies Overcrossing (8109-13).
Applicant: State of Oregon Department of Transportation
Project Summary: Funds will be used to widen the existing overpass at the Davies Overcrossing in Washington County.
Federal Funds Requested: \$855,100 Department of Transportation
Staff Response: Favorable action.

MH/le
4417B/D5

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Executive Officer
SUBJECT: Contested Case No. 81-3, In the Matter of a Petition from the City of Hillsboro for Locational Adjustment of Metro's Urban Growth Boundary (UGB)

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Adoption of attached Order, Ordinance, Resolution and Findings.
- B. POLICY IMPACT: The City's petition is one of eight petitions for locational adjustment of the UGB submitted pursuant to Metro Ordinance No. 81-105, which establishes procedures and standards for review of some amounts to the UGB. Approval of the City's petition is consistent with the standards of Ordinance No. 81-105.

The City has requested the addition of 50 acres to the urban area. Section 16 of Ordinance No. 81-105 provides that over the next three years, the average annual net addition of land should not exceed 100 acres. A summary of all petitions received and the total acreage requested for addition is attached as Appendix B.

Approval of the attached Resolution affecting land not included in the City's petition, but "islanded" by it, will establish an appropriate procedure for dealing with problems of this kind.

- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: The City is requesting this adjustment to remedy what it believes to have been an error made at the time the UGB was adopted by CRAG in 1976. Because all earlier review maps of the UGB had shown the affected property as "urban," Hillsboro was not aware of the alleged mistake excluding this property when the UGB was finally adopted until Metro completed its draft review of Hillsboro's plan in November 1979 and identified a discrepancy between the UGB as shown on Hillsboro's plan and the UGB as adopted by Metro. In a June 4, 1980 letter to Rick Gustafson, Hillsboro Planning Director, Dave Lawrence, requested that the UGB be revised to correct the apparent mistake. In response, Metro advised the City that Metro could not, under the current policy, act on the City's request until the affected property was annexed to Metro, but that rules for locational adjustments to the

UGB that would establish procedures and standards for action in such cases were scheduled for adoption later in the year.

The owners of the property proceeded with an annexation to Metro, but two properties for which the owners objected to annexation both to Metro and to the City were excluded from this action. As a result, these two lots could not be included in the City's petition for a UGB amendment, since Metro Ordinance No. 81-105 requires that petitions affecting land outside Metro must be accompanied by petition for annexation to Metro. The City has asked, however, that Metro express its intent to approve a UGB adjustment for these lots if so requested following city annexation, at which time the property would also automatically annex to Metro.

The City's petition originally included all land in common ownership in this area, including land in the floodplain to the south. Metro asked the City to revise its petition to propose a UGB that would better approximate the floodplain boundary in order to (1) limit the size of the addition to 50 acres or less, as required by Ordinance No. 81-105; and (2) include only those lands alleged to have been excluded from the UGB in error.

The City accordingly redefined its proposed boundary but some of the materials attached still refer to the larger area included in the original petition, some 100 acres. The Regional Development Committee conducted a public hearing on the petition at its October 5, 1981 meeting. Based on the staff review, the Committee found that the petition meets the appropriate standards and recommended that it be approved. The Committee also recommended that the Council approve a resolution of intent to amend the UGB to include the two islanded lots if and when annexed to the City.

In contested cases, only parties present at the hearing may submit exceptions to the Committee's Findings and the Council should limit public testimony to argument by the parties on written exceptions filed. No other parties besides the petitioners testified at the October 5 hearing and no written exceptions have been filed.

The following materials are attached for Council review:

1. Proposed Order for Contested Case 81-3;
2. Ordinance for the purpose of amending the Urban Growth Boundary as requested in Contested Case No. 81-3;

3. Resolution for the purpose of expressing Metro's intention to amend the Urban Growth Boundary to include Tax Lots 1600 and 1700 if and when annexed of the City;
4. Findings and Conclusions on Contested Case No. 81-3;
5. Appendix: Summary of disposition of all petitions for locational adjustment received to date.

The complete file for this case is available for review at the Metro office and will be entered into the record at the hearing.

- B. ALTERNATIVES CONSIDERED: The reasons for rejecting the alternative of denying the City's request are discussed in the Committee's Findings.
- C. CONCLUSION: The locational adjustment requested by the City will remedy a past error and place the UGB in a location superior to the existing one and should, consistent with the standards in Ordinance No. 81-105, be approved.

JH/srb
4073B/252
10/09/81

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING THE	)	ORDINANCE NO. 81-117
METRO URBAN GROWTH BOUNDARY)	
IN WASHINGTON COUNTY FOR	)	Introduced by the Regional
CONTESTED CASE NO. 81-3	)	Development Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The District Urban Growth Boundary (UGB), as adopted by Ordinance No. 79-77, is hereby amended as indicated in Attachment A of this ordinance which is incorporated by this reference.

Section 2. In support of the amendment in Section 1 of this ordinance, the Council hereby adopts findings of fact, conclusions and proposed order in Attachment B of this ordinance which is incorporated by this reference.

Section 3. In support of the findings of fact, conclusions and proposed order adopted in Section 2 of this Ordinance, the Council hereby designates as the record herein those documents and records submitted before or at the hearing in this matter on October 5, 1981.

Section 4. This Ordinance is the final order in Contested Case No. 81-3 for purposes of Metro Code Section 5.02.045.

Section 5. Parties to Contested Contested Case No. 81-3 may appeal this Ordinance under 1979 Or. Laws ch. 772.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1981.

Presiding Officer

ATTEST:

Clerk of the Council

JH/srb/4192B/252

METROPOLITAN SERVICE DISTRICT

1		
2		
3	IN THE MATTER OF A PETITION	) CONTESTED CASE NO. 81-3
4	FOR LOCATIONAL ADJUSTMENT BY)
5	THE CITY OF HILLSBORO	) FINDINGS OF FACT, CONCLUSIONS
6		) AND PROPOSED ORDER

This petition for a locational adjustment to the Urban Growth Boundary (UGB) was presented at a hearing before the Regional Development Committee on October 5, 1981.

The city of Hillsboro is requesting the addition of 50 acres south of the City, as shown on the attached map. The City is requesting this adjustment to remedy what it believes to have been a mapping error made at the time CRAG adopted its UGB in 1976.

At that time, both Hillsboro and Washington County's plans showed the Tualatin River floodplain as the urban boundary, and all draft maps of the UGB prior to its adoption showed the proposed CRAG boundary following the floodplain. The map of the UGB as adopted, however, showed the Hillsboro city limits as the UGB for this area. The record of the adoption process does not include any discussion of an intentional change in this area and indicates, instead, that the change was made in order to provide a more specific description for the proposed boundary, without either the CRAG Board or the affected jurisdictions being aware that land which had always been proposed as urban was thereby excluded. As a result, both Hillsboro and Washington County continued to show the property as "urban" on their plans.

The City wishes to annex the site for industrial

1 development. A 36" sewer line runs through the property and it can
2 readily be provided with all other urban services.

3 In order to establish a clear, definable boundary, the UGB
4 requested is defined not by the floodplain itself but by a legal
5 description following straight lines which most closely approximate
6 the floodplain. The proposed boundary thus includes 13 acres that
7 lie within the floodplain and 37 buildable acres. One single family
8 dwelling is located on the property.

9 This property was annexed to Metro prior to adoption of
10 Metro Ordinance No. 81-105 in March of 1981. Because the property
11 owners objected to Metro annexation, two small tax lots adjacent to
12 the existing UGB were excluded, thereby creating an "island" in the
13 Metro district. Because Ordinance 81-105 requires that any petition
14 affecting land outside Metro be accompanied by a petition for Metro
15 annexation, the city of Hillsboro was not able to include these two
16 lots in its request. In a July 24, 1981 letter, however, the City
17 has asked Metro to indicate its intent to approve UGB adjustment for
18 these lots if and when they annex to the City, at which time they
19 would automatically be annexed to Metro as well.

20 The city of Hillsboro has submitted Findings of Fact and
21 Conclusions applying Metro's standards. The findings that follow
22 below represent the Regional Development Committee's conclusions
23 based upon the City's Findings and the Metro staff recommendation.

24 The Regional Development Committee has determined that the
25 standards which must be met for approval of this petition are
26 contained in Section 8, paragraph d of Metro Ordinance No. 81-105.

1 Therefore, the undersigned, being fully advised of the issues and
2 facts in this case, makes the following findings of fact under each
3 of the applicable standards for approval.

4
5 FINDINGS OF FACT

6 D (1): Not applicable.

7 D (2) THE PROPOSED UGB MUST BE SUPERIOR TO THE UGB AS
8 PRESENTLY LOCATED, BASED ON A CONSIDERATION OF THE FACTORS IN
9 SUBSECTION (a)....

10 A(1): Orderly and economic provision of
11 public facilities and services. A locational adjustment shall
12 result in a net improvement in the efficiency of public facilities
13 and services, including but not limited to water, sewerage, storm
14 drainage, transportation, fire protection and schools in the
15 adjoining area within the UGB; any area to be added must be capable
16 of being served in an orderly and economical fashion.

17 - All urban services can be efficiently
18 provided.

19 - The city of Hillsboro is responsible for
20 the provision of sewer and water service,
21 storm drainage and fire protection. Each
22 affected City department supports
23 approval. There will be no impact on the
24 school system since the property is
25 designated for industrial use.

26 - Since a 36" sewer line currently runs

1 through the property, allowing urban
2 development that would hook up to this line
3 constitutes a net improvement in the
4 efficiency of services for the existing
5 urban area.

6 A(2): Maximum efficiency of land uses.

7 Consideration shall include existing development densities on the
8 area included within the amendment, and whether the amendment would
9 facilitate needed development on adjacent existing urban land.

10 - The proposed UGB does not follow existing
11 property or ownership lines. However,
12 approval of this adjustment would bring the
13 UGB to the natural limit to development in
14 this area, the floodplain. This proposed
15 UGB would replace a boundary which follows
16 city limits, rather than any clear, fixed
17 physical demarcation.

18 - The advantages of placing the UGB in a
19 location which approximates a natural
20 barrier to development thus outweighs the
21 disadvantages of not following property
22 lines. The property should, however, be
23 partitioned along lines coterminus with the
24 UGB if this adjustment is approved.

25 - The density of development is too low to
26 either promote or preclude efficient

1 urbanization.

2 - Based upon the evidence available, there is
3 no apparent reason why approval of this
4 adjustment would facilitate development of
5 adjacent urban lands. A positive finding
6 for this consideration is not required for
7 approval, however.

8 A(3): Environmental, Energy, Economic, and
9 Social Consequences. Any impact on regional transit corridor
10 development must be positive, and any limitations imposed by the
11 presence of hazards or resource lands must be addressed.

12 - The proposed adjustment would have no
13 impact on regional transit corridor
14 development.

15 - Inclusion of land in the floodplain is
16 necessary to locate the UGB along straight
17 lines which can be legally described.

18 - The proposed adjustment would allow the
19 subject property to be developed for
20 industrial use. Metro makes no finding,
21 however, on whether the adjustment would
22 have positive economic consequences, since
23 no documentation has been submitted on the
24 need for additional industrial land, either
25 in the Hillsboro area or in the region as a
26 whole, nor would such evidence be relevant,

1 since the standards for locational
2 adjustment do not address issues relating
3 to the need for additional urban land.

4 - No negative environmental, energy, economic
5 or social consequences of the proposed
6 adjustment have been identified.

7 A(4): Retention of Agricultural Lands. When
8 a petition includes land with Class I through IV Soils that is not
9 irrevocably committed to nonfarm use, the petition shall not be
10 approved unless the existing location of the UGB is found to have
11 severe negative impacts on service or land use efficiency in the
12 adjacent urban area, and it is found to be impractical to ameliorate
13 those negative impacts except by means of the particular adjustment
14 requested.

15 - The presence of a 36" sewer line running
16 outside the UGB has a negative effect on
17 service efficiencies. Efficient use of
18 this line would be enhanced if properties
19 adjacent to it could hook up to it.

20 - The City's plan, which included this land
21 as urban, was designed to provide a 60/40
22 ratio of land for housing and economic
23 development. Failure to correct the error
24 that excluded this land from the regional
25 UGB would have the negative land use impact
26 of upsetting the balance of land uses

1 desired by the City.

2 - In general, neither the service or land use
3 inefficiencies resulting from the location
4 of the existing UGB constitute a "severe"
5 negative impact warranting the conversion
6 of agricultural land for urban use.

7 - However, the burden of proof in cases
8 involving the correction of a past mistake
9 is intended to be light, since if this land
10 had been included in the UGB as originally
11 intended, its urban designation would not
12 have been questioned.

13 - Where the burden of proof is light, the
14 severity of the negative impacts that must
15 be present to comply with this standard
16 should be relatively less than in cases
17 where the addition of more than an acre or
18 two of agricultural land is requested for
19 reasons other than to remedy a past mistake.

20 - Accordingly, the service and land use
21 inefficiencies created by the existing UGB
22 can be considered sufficiently severe to
23 warrant the conversion of agricultural land
24 in a case involving the correction of a
25 past error.

26 //

1 A(5): Compatibility of Proposed Urban Uses

2 with Nearby Agricultural Activities. When a proposed adjustment
3 would allow an urban use in proximity to existing agricultural
4 activities, the justification in terms of factors (1) through (4) of
5 this subsection must clearly outweigh the adverse impact of any
6 incompatibility.

- 7 - Some of the land in the adjacent floodplain
8 is currently being farmed.
9 - The subject property is currently
10 designated for industrial use on
11 Hillsboro's comprehensive plan.
12 - Industrial uses are generally more
13 compatible with agricultural uses than are
14 residential uses, as many of the potential
15 land use conflicts (house dogs, complaints
16 about farm noise and spraying) are avoided.
17 - Nonetheless, any non-farm use not separated
18 from agricultural use by natural or manmade
19 buffering will be less compatible than a
20 farm use.
21 - Dairy Creek provides a natural buffer for
22 farm uses to the south and west of the
23 creek, but agricultural activity in the
24 floodplain north and east of the property
25 is not buffered from the subject site.

26 However, limitations on development in the

1 floodplain will ensure that any
2 incompatibility does not lead to further
3 urban encroachment.

4 - The justification for the proposed
5 adjustment is to make the UGB consistent
6 with legislative intent, at the time the
7 UGB was adopted, to include within the UGB
8 in this area all land outside the
9 floodplain, consistent with local plans;
10 and to provide for more efficient
11 utilization of the sewer line running
12 through the property.

13 - These reasons for adjustment are
14 sufficiently compelling to outweigh the
15 adverse impacts of any incompatibility with
16 adjacent agricultural uses.

17 ...THE MINOR ADDITION MUST INCLUDE ALL SIMILARLY SITUATED
18 CONTIGUOUS LAND WHICH COULD ALSO BE APPROPRIATELY INCLUDED WITHIN
19 THE UGB AS AN ADDITION, BASED ON THE FACTORS IN SUBSECTION (a).

20 - The adjustment is requested to remedy an alleged
21 "error" at the time the UGB was first adopted and
22 includes all property between the floodplain (the UGB
23 intended) and city limits (the UGB adopted), with the
24 exception of the two islanded Tax Lots (Nos. 1600 and
25 1700) totaling .83 acres.

26 - These two lots cannot be included in the UGB now

1 because they are not within Metro's jurisdiction.

2 - Their inclusion following annexation to Hillsboro, as
3 recommended, would bring the total addition to the
4 UGB in this area to 50.59 acres.

5 - Although this is slightly above the 50-acre limit for
6 additions, the amount of buildable land would be just
7 under 38 acres, as the remainder is located in the
8 floodplain and cannot be developed for urban use.

9 D (3): Not applicable

10 D (4): IF AN ADDITION IS REQUESTED IN ORDER TO REMEDY
11 AN ALLEGED MISTAKE MADE AT THE TIME THE UGB FOR THE AREA AFFECTED
12 WAS ADOPTED, THE ADDITION MAY BE APPROVED IF ALL OF THE FOLLOWING
13 CONDITIONS ARE MET.

14 A. There is clear evidence in the record of
15 specific legislative intent to place the UGB in the particular
16 location requested.

17 - All drafts of the UGB circulated for review
18 and comment, including the map proposed for
19 adoption in September, 1976, showed the UGB
20 in this area as a "Type II" boundary
21 following the 100-year floodplain. Type II
22 boundaries were generalized boundaries
23 requiring further definition to become site
24 specific. The Land Use Framework Element
25 specified that Type II boundaries "will be
26 specified by local jurisdiction plans as

1 those plans are determined to be in
2 compliance with Statewide Goals and the
3 regional plan."

4 - The September 1976 draft map of the UGB was
5 reviewed and amended at two special
6 meetings of the CRAG Board, December 16
7 and 22, 1976. The agenda for these
8 meetings did not identify this area as
9 under review for amendment. Staff has
10 listened to the tapes of both these
11 meetings and determined that no change to
12 the UGB in this area was moved or discussed.

13 - The map showing the UGB adopted on
14 December 22, 1976, showed the UGB in this
15 area as a Type I boundary following
16 Hillsboro city limits.

17 - A summary map of changes from the September
18 draft to the UGB as adopted, published in
19 "The Planning and Adoption Process of the
20 Land Use Framework Element," does not show
21 any change in this area.

22 - The record indicates a clear legislative
23 intent to use the floodplain in this area
24 as the UGB, consistent with local plans.

25 - The City's Findings mention that this area
26 was included as urban in the Interim

1 Immediate Growth Boundary (IIGB) approved
2 by LCDC in 1978. However, Metro's map of
3 the IIGB, and the Findings explaining its
4 basis, show that the IIGB in this area
5 followed the UGB.

6 B. The petition for an addition to remedy an
7 alleged mistake is filed by July 1, 1982 or within two years from
8 the time the UGB for the area affected was adopted, whichever is
9 later.

10 - The petition has been filed prior to
11 July 1, 1982.

12 C. The addition is superior to the existing UGB,
13 based on consideration of the factors in subsection (a) of this
14 section and does not add more than 50 acres of land.

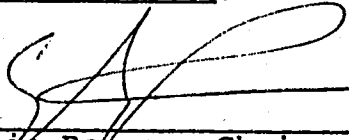
15 - As discussed under D(2) above, the proposed
16 UGB is superior to the existing UGB because
17 it includes land through which a sewer
18 already runs and brings the UGB to a
19 natural boundary for development.
20 - The petition does not add more than 50
21 acres of land.
22

23 CONCLUSIONS AND RECOMMENDATION

24 The Regional Development Committee finds that this
25 petition for locational adjustment is justified and satisfies each
26 of the applicable standards as set out above. The Committee

1 recommends that the petition be approved and that an ordinance be
2 adopted to amend the UGB as requested in the petition.

3 Dated this 5th day of October, 1981.

4
5 
6 _____
Ernie Bonner, Chairman
Regional Development Committee

7 EB/JH/MAH/gl
8 4300B/259A
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Appendix

STATUS OF PETITIONS RECEIVED FOR LOCATIONAL ADJUSTMENT OF THE UGB

<u>Petition</u>	<u>Net Change Acres</u>	<u>Local Recommendation</u>	<u>Metro Hearing</u>	<u>Regional Development Committee Review</u>	<u>Council Action on Proposed Order</u>	<u>Status of Metro Recommendation</u>
81-3 Hillsboro	50	City is opposed; County supports	10/5	10/5	10/22	Staff recommends approval
81-4 Seely	2	City & County support	9/1	10/5	10/22	Hearings Officer recommends approval
81-5 WGK	<u>30</u>	City & County support	9/1	10/5	10/22	Hearings Officer recommends approval
Subtotal	82					
81-6 Portland	5 (trade)	City is sponsor; County has no comment	10/8	11/9	11/26	Staff recommendation not completed
81-7 Foster	12	County has not acted	Not scheduled	Not scheduled		
81-8 Cerighino	11	City & County support	10/8	11/9	11/26	Staff finds insufficient evidence that standards are met
81-9 Corner Terrace	38	County opposes	10/8	11/9	11/26	Staff finds insufficient evidence that standards are met
81-10 Sharp	<u>30</u>	County has no comment	10/8	11/9	11/26	Staff finds insufficient evidence that standards are met
TOTAL	178					

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Executive Officer
SUBJECT: Petitions for Locational Adjustment of the Urban Growth Boundary (UGB) by Doug Seely (Contested Case No. 81-4) and WGK Corporation (Contested Case No. 81-5).

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Adoption of the attached Hearings Officer's Findings of Fact, Conclusions and Proposed Orders in the matters of petitions for locational adjustment of the UGB by Doug Seely (Contested Case No. 81-4) and WGK Corporation (Contested Case No. 81-5); and of the attached ordinances amending the UGB as ordered.
- B. POLICY IMPACT: These petitions for locational adjustment of the UGB have been submitted pursuant to Metro Ordinance No. 81-105, which establishes procedures and standards for review of some amounts to the UGB. Approval of the petitions is consistent with the standards in this Ordinance.

Approval of these two petitions would add 32 acres to the urban area. Section 16 of Ordinance No. 81-105 provides that over the next three years, the average annual net addition of land should not exceed 100 acres. A summary of all petitions received and the total acreage requested for addition is attached.

- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: The Hearings Officer heard both cases on September 1, 1981, and adopted the staff recommendations in each case. The Regional Development Committee, at their October 5, 1981 meeting, recommended adoption of the Hearings Officer's findings. In contested cases, only parties present at the hearing may submit exceptions to the Hearings Officer's Findings, and the Committee and the Council should limit public testimony to argument by the parties on written exceptions filed. No other parties besides the petitioners appeared at either hearing and no written exceptions have been filed.

A summary of each case is presented at the beginning of the attached reports, followed by findings addressing each of the applicable standards.

- B. ALTERNATIVES CONSIDERED: Staff concurs with the Hearings Officer's recommendation and finds no basis for the alternative of denial.
- C. CONCLUSION: Adoption of the attached Findings, Conclusions, Orders and Ordinances will approve adjustments of the UGB that increase its effectiveness and efficiency, consistent with the standards in Ordinance No. 81-105.

JH/srb
4177B/252
10/09/81

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING THE	)	ORDINANCE NO. 81-118
METRO URBAN GROWTH BOUNDARY)	
IN WASHINGTON COUNTY FOR	)	Introduced by the Regional
CONTESTED CASE NO. 81-4	)	Development Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The District Urban Growth Boundary (UGB), as adopted by Ordinance No. 79-77, is hereby amended as indicated in Attachment A of this ordinance which is incorporated by this reference.

Section 2. In support of the amendment in Section 1 of this ordinance, the Council hereby adopts findings of fact, conclusions and proposed order in Attachment B of this ordinance which is incorporated by this reference.

Section 3. In support of the findings of fact, conclusions and proposed order adopted in Section 2 of this Ordinance, the Council hereby designates as the record herein those documents and records submitted before or at the hearing in this matter on September 1, 1981.

Section 4. This Ordinance is the final order in Contested Case No. 81-4 for purposes of Metro Code Section 5.02.045.

Section 5. Parties to Contested Contested Case No. 81-4 may appeal this Ordinance under 1979 Or. Laws Chapter 772.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1981.

Presiding Officer

ATTEST:

Clerk of the Council

JH/srb/4191B/252

RURAL

CURRENT UGB

PROPOSED UGB ADDITION

URBAN

101-3

CURRENT UGB

WILSONVILLE

BONNEVILLE

POWER

CLACKAMAS

CLATSOP

SN0467 0476 25494

WEST LINE JFA NTR 011 40 CH
136125 N 0167A
C. S. 12 077

374
801
34 944c

501
4.00Ac

696.96

250
14.9

1500
39.24Ac

1400
36.14Ac

1300
24.24Ac

1401
102Ac

1200
19.60Ac

1100
58.18Ac

1601
6.45Ac

1600
6.85Ac

ELLIGSEN
10 CH

20 CH

30 CH

ELLIGSEN RD

(C.S. No 11843)

21475

Attachment A

ADMINISTRATION

METROPOLITAN SERVICE DISTRICT

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IN THE MATTER OF A PETITION)	CONTESTED CASE NO. 81-4
FOR LOCATIONAL ADJUSTMENT BY)	
DOUG SEELY	)	FINDINGS OF FACT, CONCLUSIONS
	)	AND PROPOSED ORDER

This petition for a locational adjustment to the Urban Growth Boundary (UGB) was presented at a hearing before the undersigned Hearings Officer on September 1, 1981.

The petitioner requests a locational adjustment pursuant to Metro Ordinance No. 81-105 to add 2.2 acres to the UGB along the northeast edge of the Wilsonville UGB. The UGB in this area was established to follow the city limits of Wilsonville and includes all but the subject property south of Elligsen Road. The subject property is surrounded by the City on three sides and Elligsen Road on the fourth. Amendment would make the UGB in this area a straight line and would place the entire right of way for Elligsen Road within City jurisdiction.

The city of Wilsonville and Washington County both support this adjustment, as do other service providers.

The undersigned Hearings Officer has determined that the standards which must be met for approval of this petition are contained in Section 8, paragraph d of Metro Ordinance No. 81-105. Therefore, the undersigned, being fully advised of the issues and facts in this case, makes the following findings of fact under each of the applicable standards for approval.

/////

FINDINGS OF FACT

D(1): Not applicable.

D(2): THE PROPOSED UGB MUST BE SUPERIOR TO THE UGB AS PRESENTLY LOCATED, BASED ON A CONSIDERATION OF THE FACTORS IN SUBSECTION (a)....

A(1): Orderly and Economic Provision of Public Facilities and Services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to water, sewerage, storm drainage, transportation, fire protection and schools in the adjoining area within the UGB; any area to be added must be capable of being served in an orderly and economical fashion.

- All major public facilities and services can be provided to the site in an orderly and economical fashion. The proposed locational adjustment will result in an improvement in the efficiency of water service for the adjoining area, since an existing 14-inch water main runs along the far (non-urban) side of the property. Inclusion of the site within the UGB will allow maximum utilization of this line and will allow adjoining properties to the south to connect to this main in the most efficient manner.

- The proposed locational adjustment

1 will result in an improvement in the
2 efficiency of transportation service
3 to the adjoining area, since it will
4 bring the entire right-of-way along
5 Elligsen Road within city limits and
6 allow for more efficient road
7 maintenance and improvement than
8 possible when the road runs through
9 two jurisdictions.

10
11 A(2): Maximum Efficiency of Land Uses.
12 Consideration shall include existing
13 development densities on the area included
14 within the amendment, and whether the
15 amendment would facilitate needed
16 development on adjacent existing urban land.

17 - The locational adjustment would
18 enhance the effectiveness of the
19 boundary by making it co-terminus with
20 Elligsen Road, a straighter and
21 stronger boundary than the current
22 one.

23 - The property is surrounded by the city
24 of Wilsonville on three sides;
25 inclusion within the UGB now will
26 allow the City to coordinate
development and service extension with
the adjacent proposed development of

1 Parkway Center.

- 2 - Development of the property is
3 proposed for multi-family housing;
4 inclusion within the UGB would promote
5 provision of a needed housing type.

6 A(3): Environmental, Energy, Economic, and Social
7 Consequences. Any impact on regional
8 transit corridor development must be
9 positive, and any limitations imposed by
10 the presence of hazards or resource lands
11 must be addressed.

- 12 - The property does not include any
13 hazards or resource lands and has no
14 significant impact on regional transit
15 corridor development.
16 - The property can be served by transit
17 (existing Tri-Met Line No. 38).

18 A(4): Retention of Agricultural Lands. When a
19 petition includes land with Class I through
20 IV Soils that is not irrevocably committed
21 to nonfarm use, the petition shall not be
22 approved unless the existing location of
23 the UGB is found to have severe negative
24 impacts on service or land use efficiency
25 in the adjacent urban area, and it is found
26 to be impractical to ameliorate those
negative impacts except by means of the
particular adjustment requested.

- The property is irrevocably committed
to nonfarm use by virtue of its small
size (2.2 acres), and separation by
Elligsen Road from other nonurban
lands, and by virtue of the fact that

1 it is surrounded by a city on three
2 sides.

3 A(5): Compatability of Proposed Urban Uses with
4 Nearby Agricultural Activities. When a
5 proposed adjustment would allow an urban
6 use in proximity to existing agricultural
7 activities, the justification in terms of
8 factors (1) through (4) of this subsection
9 must clearly outweigh the adverse impact of
10 any incompatibility.

11 - No nearby agricultural activities are
12 present.

13 ...THE MINOR ADDITION MUST INCLUDE ALL SIMILARLY SITUATED
14 CONTIGUOUS LAND WHICH COULD ALSO BE APPROPRIATELY INCLUDED WITHIN
15 THE UGB AS AN ADDITION, BASED ON THE FACTORS IN SUBSECTION (a).

16 - The property is proposed for inclusion
17 because it is surrounded by a city on
18 three sides and a road on the fourth.
19 This is the only property in the area
20 so situated.

21 D(3): ADDITIONS SHALL NOT ADD MORE THAN 50 ACRES OF
22 LAND TO THE UGB AND GENERALLY SHOULD NOT ADD
23 MORE THAN TEN ACRES OF VACANT LAND TO THE
24 UGB.... THE LARGER THE PROPOSED ADDITION, THE
25 GREATER THE DIFFERENCE SHALL BE BETWEEN THE
26 SUITABILITY OF THE PROPOSED UGB AND THE
SUITABILITY OF THE EXISTING UGB, BASED ON
CONSIDERATION OF THE FACTORS IN SUBSECTION (a)
OF THIS SECTION.

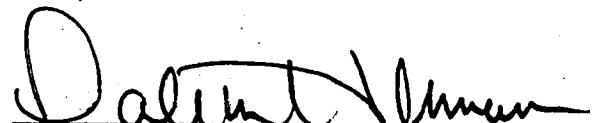
1 - The proposed adjustment adds only 2.2
2 acres. Because the size is small, the
3 degree of difference may be relatively
4 minor. The proposed UGB is clearly
5 more suitable than the existing UGB,
6 because it is a straight line,
7 co-terminus with the road.

8 D(4): Not applicable.

9
10 CONCLUSIONS AND RECOMMENDATION

11 The undersigned Hearings Officer finds that this petition
12 for locational adjustment is justified and satisfies each of the
13 applicable standards as set out above. The undersigned recommends
14 that the petition be approved and that an ordinance be adopted to
15 amend the UGB as requested in the petition.

16 Dated this 28 day of Sept, 1981.

17
18 
19 Dale M. Hermann
Hearings Officer

20 DMH/MAH/gl
21 4130B/259
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BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING THE)	ORDINANCE NO. 81-119
METRO URBAN GROWTH BOUNDARY)	
IN WASHINGTON COUNTY FOR	)	Introduced by the Regional
CONTESTED CASE NO. 81-5	)	Development Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The District Urban Growth Boundary (UGB), as adopted by Ordinance No. 79-77, is hereby amended as indicated in Attachment A of this ordinance which is incorporated by this reference.

Section 2. In support of the amendment in Section 1 of this ordinance, the Council hereby adopts findings of fact, conclusions and proposed order in Attachment B of this ordinance which is incorporated by this reference.

Section 3. In support of the findings of fact, conclusions and proposed order adopted in Section 2 of this Ordinance, the Council hereby designates as the record herein those documents and records submitted before or at the hearing in this matter on September 1, 1981.

Section 4. This Ordinance is the final order in Contested Case No. 81-5 for purposes of Metro Code Section 5.02.045.

Section 5. Parties to Contested Contested Case No. 81-5 may appeal this Ordinance under 1979 Or. Laws Chapter 772.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1981.

Presiding Officer

ATTEST:

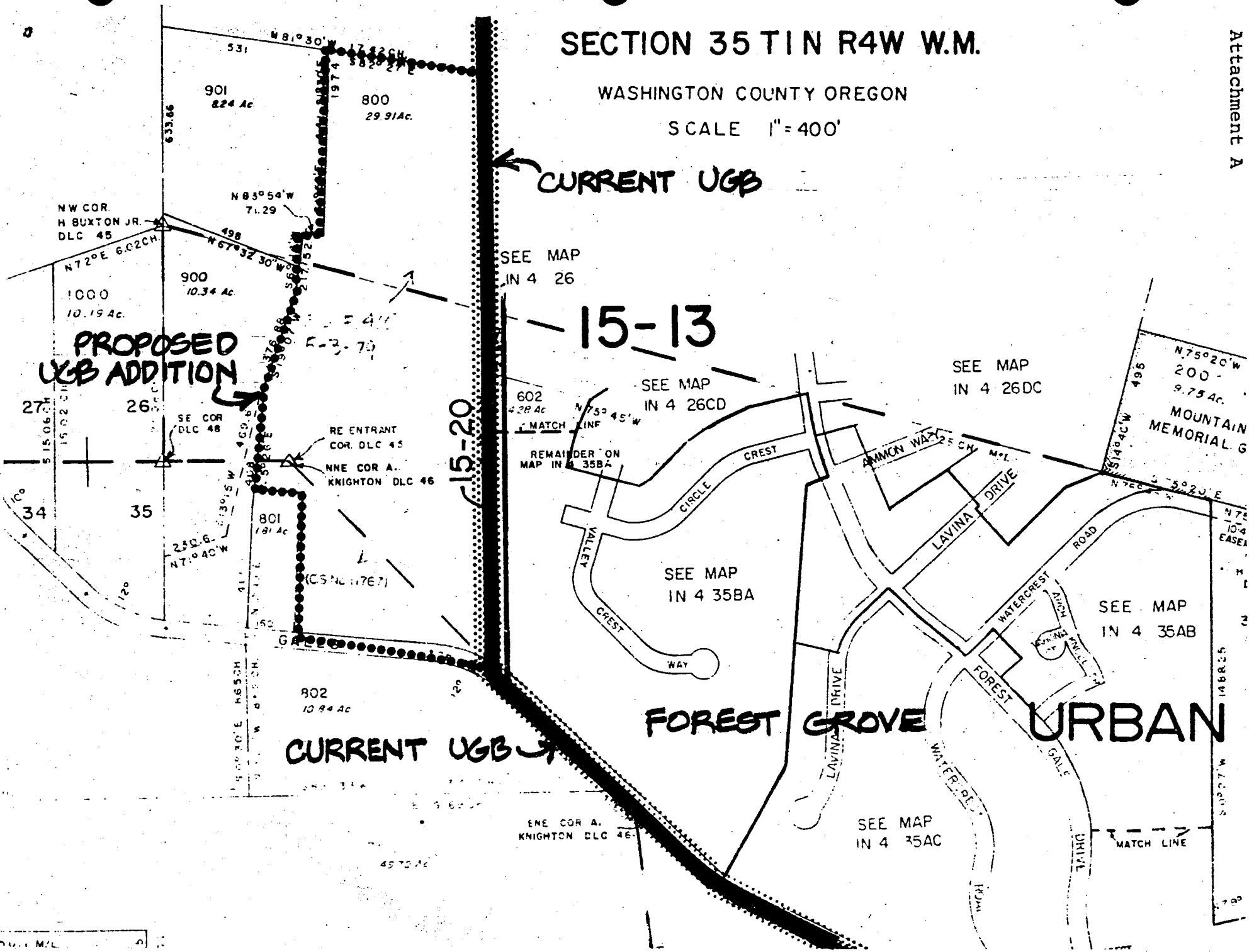
Clerk of the Council

JH/srb/4190B/252

SECTION 35 T1N R4W W.M.

WASHINGTON COUNTY OREGON

SCALE 1"=400'



CURRENT UGB

PROPOSED UGB ADDITION

15-13

15-20

FOREST GROVE URBAN

CURRENT UGB

SEE MAP IN 4 26

SEE MAP IN 4 26CD

SEE MAP IN 4 26DC

SEE MAP IN 4 35BA

SEE MAP IN 4 35AB

SEE MAP IN 4 35AC

MOUNTAIN MEMORIAL G

NW COR. H BUXTON JR. DLC 45

SE COR. DLC 48

RE ENTRANT COR. DLC 45

NNE COR. A. KNIGHTON DLC 46

MATCH LINE

REMAINDER ON MAP IN 4 35BA

ENE COR. A. KNIGHTON DLC 46

MATCH LINE

1 METROPOLITAN SERVICE DISTRICT

2

3 IN THE MATTER OF A PETITION) CONTESTED CASE NO. 81-5
 4 FOR AN URBAN GROWTH BOUNDARY)
 5 LOCATIONAL ADJUSTMENT BY WGK) FINDINGS OF FACT, CONCLUSIONS
 6 DEVELOPMENT CORPORATION) AND PROPOSED ORDER

7 This petition for an Urban Growth Boundary (UGB)
 8 locational adjustment was presented at a hearing before the
 9 undersigned Hearings Officer on September 1, 1981. The petitioner
 10 requests a locational adjustment pursuant to Metro Ordinance
 11 No. 81-105 to include land at the western edge of Forest Grove
 12 within the UGB. The subject property has been considered for
 13 annexation by the city of Forest Grove for several years, but the
 14 inconsistencies between the City's position and the location of the
 15 UGB as identified by Washington County and Metro have precluded
 16 annexation to date. The proposed development would be adjacent to a
 17 large phased subdivision within the city of Forest Grove, and if the
 18 amendment were approved, would serve as the location for the sewer
 19 lines to serve these existing urban properties.

20 The city of Forest Grove and Washington County both
 21 recommend approval of this adjustment which is also supported by the
 22 service providers.

23 The undersigned Hearings Officer has determined that the
 24 standards which must be met for approval of this petition are
 25 contained in Section 8, paragraph D of Metro Ordinance No. 81-105.
 26 Therefore, the undersigned, being fully advised of the issues and
 facts in this case, makes the following findings of fact under each

1 of the applicable standards for approval.

2
3 FINDINGS OF FACT

4 D(1): Not applicable.

5 D(2): THE PROPOSED UGB MUST BE SUPERIOR TO THE UGB AS
6 PRESENTLY LOCATED, BASED ON A CONSIDERATION OF
7 THE FACTORS IN SUBSECTION (a)...

8 A(1): Orderly and economic provision of public
9 facilities and services. A locational
10 adjustment shall result in a net
11 improvement in the efficiency of public
12 facilities and services, including but not
13 limited to, water, sewerage, storm
14 drainage, transportation, fire protection
15 and schools in the adjoining areas within
16 the UGB; and any area to be added must be
17 capable of being served in an orderly and
18 economical fashion.

- 14 - The area can be provided with services
15 in an orderly and economical fashion.
16 - The proposed adjustment would improve
17 the efficiency of storm drainage and
18 sewerage service provision for adjacent
19 lands within the UGB.
20 - No negative effects on the efficiency
21 of public facilities and services has
22 been identified; the net effect of the
23 adjustment would, therefore, be
24 positive.

25 A(2): Maximum efficiency of land uses.
26 Considerations shall include existing
development densities in the area included

1 within the amendment, and whether the
2 amendment would facilitate needed
3 development on adjacent existing urban land.

- 4 - A steep ravine runs through the
5 property, making it about two-thirds
6 undevelopable.
- 7 - Physical barriers to development make
8 an effective demarcation between urban
9 and nonurban land.
- 10 - Where, as commonly, property lines do
11 not follow physical barriers such as
12 ravines precisely, policy alternatives
13 are:

14 (i) to use the property line on
15 the near side of the ravine
16 as the urban growth
17 boundary, i.e., excluding
18 developable lands between
19 the property line and the
20 ravine;

21 (ii) to use the property line on
22 the far side of the ravine
23 as the urban growth
24 boundary, i.e., including
25 both developable and
26 undevelopable lands; or

1 (iii) place the UGB along the
2 ravine dividing the property
3 to include the developable
4 portion and exclude the
5 undevelopable portion.

6 - The third alternative serves no useful
7 purpose. A boundary which does not
8 follow property lines is difficult to
9 map and describe with precision, and
10 the inclusion of the unbuildable
11 portion of a lot allows the entire
12 site to be designed as a cluster
13 development which uses the area most
14 efficiently.

15 - Inclusion of the entire property, both
16 buildable and unbuildable, should be
17 preferred where, by so doing, all
18 adjacent buildable land is included
19 within the UGB, since exclusion would
20 leave a pocket between the urban and
21 nonurban area that is effectively
22 isolated from both and cannot be
23 efficiently utilized for either
24 purpose.

25 - Where, however, this is not the case,
26 the presence of a physical barrier

1 should be considered neutral: neither
2 inclusion nor exclusion of the
3 property in question would make the
4 UGB co-terminus with a physical
5 barrier at all points and the benefits
6 of bringing the UGB to its physical
7 limits at one point are
8 counterbalanced by the fact that all
9 similarly situated contiguous property
10 is not so treated.

- 11 - In the subject case, the ravine runs
12 out from the UGB to the north, and so
13 inclusion of the subject site includes
14 all developable land to the west of
15 the City. Approval of the proposed
16 adjustment would, therefore, promote a
17 more effective UGB and improve the
18 efficiency of land use in the area.

19 A(3): Environmental, Energy, Economic and Social
20 Consequences. Any impact on regional
21 transit corridor development must be
22 positive, and any limitations imposed by
23 the presence of hazards or resource lands
24 must be addressed.

- 25 - There are no resources protected by
26 Goal No. 5 in the area affected.
- The steep slopes are a hazard that
preclude development of a portion of

1 the land. Since development can be
2 clustered on the buildable portion of
3 this site, the presence of this hazard
4 does not have any negative
5 environmental consequences.

- 6 - No other environmental, energy,
7 economic or social consequences,
8 positive or negative, have been
9 identified.

10 A(4):

Retention of Agricultural Land: When a
petition includes lands with Class I
through IV Soils that is not irrevocably
committed to nonfarm use, the petition
shall not be approved unless the existing
location of the UGB is found to have severe
negative impacts on service or land use
efficiencies in the adjacent urban area and
it is found to be impracticable to
ameliorate these negative impacts except by
means of the particular adjustment
requested.

- 17 - The applicant has not argued that the
18 site is entirely irrevocably committed
19 to nonfarm use--in fact, 15 percent of
20 the site is currently being farmed.

21 This standard does, therefore, apply.

- 22 - The existing UGB does, however, create
23 severe negative impacts on the
24 efficient provision of sewer and storm
25 drainage facilities that it would be
26 impractical to ameliorate except by

1 UGB.... THE LARGER THE PROPOSED ADDITION, THE
2 GREATER THE DIFFERENCE SHALL BE BETWEEN THE
3 SUITABILITY OF THE PROPOSED UGB AND THE
4 SUITABILITY OF THE EXISTING UGB, BASED ON
5 CONSIDERATION OF THE FACTORS IN SUBSECTION (a)
6 OF THIS SECTION.

7 - Although the addition adds more than
8 ten acres of vacant lands, only
9 approximately ten acres of the site
10 are buildable.

11 - The land use efficiencies of including
12 within the UGB all buildable lands
13 west of the City to the ravine that
14 runs through the subject site make the
15 UGB proposed more suitable than the
16 existing UGB.

17 - The service efficiencies alleged also
18 make a compelling case for the greater
19 suitability of the proposed UGB than
20 the existing UGB, but this allegation
21 requires more detailed documentation.

22 D(4): Not applicable.

23
24 CONCLUSIONS AND RECOMMENDATION

25 The undersigned Hearings Officer finds that this petition
26 for locational adjustment has been justified and satisfies each of

1 means of the adjustment requested.

2 A(5): Compatibility of proposed urban uses with
3 nearby agricultural activities. When a
4 proposed adjustment would allow an urban
5 use in proximity to existing agricultural
6 activities, the justification in terms of
7 factors (1) through (4) of this subsection
8 must clearly outweigh the adverse impact of
9 any incompatibility.

10 Because of the ravine running through the
11 property, the site is effectively separated
12 from adjoining agricultural uses, and urban
13 development would not be incompatible with
14 them.

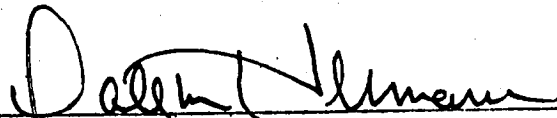
15 ...THE MINOR ADDITION MUST INCLUDE ALL SIMILARLY SITUATED
16 CONTIGUOUS LANDS WHICH COULD ALSO BE APPROPRIATELY INCLUDED WITHIN
17 THE UGB AS AN ADDITION, BASED ON THE FACTORS IN SUBSECTION (a).

18 - The adjustment is requested in order
19 to provide more efficient sewer and
20 storm drainage facilities for adjacent
21 urban land and to include within the
22 UGB all buildable lands east of the
23 ravine that runs through the
24 property. There are no similarly
25 situated contiguous lands to which
26 these factors apply.

27 D(3): ADDITIONS SHALL NOT ADD MORE THAN 50 ACRES OF
28 LAND TO THE UGB AND GENERALLY SHOULD NOT ADD
29 MORE THAN TEN ACRES OF VACANT LAND TO THE

1 the applicable standards as set out above. The undersigned
2 recommends that the petition be approved and that an ordinance be
3 adopted to amend the UGB as requested in the petition.

4 Dated this 28 day of Sept, 1981.

5 
6 Dale M. Hermann
7 Hearings Officer

8 DMH/MAH/gl
9 4132B/259

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A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Executive Officer *RLG.*
SUBJECT: Exempting Recycling Support Fund Program From Competitive Bidding

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Approve and authorize Ordinance exempting Recycling Support Fund from competitive bidding.
- B. POLICY IMPACT: Approval of this Ordinance will allow Metro to implement part of the first phase of the Waste Reduction Plan as approved by the Council in adopting Resolution No. 81-212 on January 8, 1981.
- C. BUDGET IMPACT: No specific economic impacts; however, adoption of the Ordinance will allow Metro to evaluate proposals received under the Recycling Support Fund in an efficient and cost-effective manner.

II. ANALYSIS:

- A. BACKGROUND: Metro has issued a Request for Proposals under the \$75,000 Recycling Support Fund. The guidelines do not specify particular work tasks to be performed but instead are general in nature. This will allow a wide variety of proposals to be received and will give staff flexibility in evaluating the proposals.

Since we are not requesting proposals on a designated work scope but instead have broad funding areas (e.g., education/promotion, site improvements, equipment, curbside collection, market improvement), normal competitive bidding procedures are inappropriate. Furthermore, since we are dealing with a sum of money (\$75,000) that is to be distributed throughout the aforementioned categories, competitive bidding would consume an inordinate amount of staff time to administer. The small number of proposals that could conceivably be subject to competitive bidding do not justify this expenditure of staff time. The evaluation criteria for processing proposals that have been adopted by the Council, as well as the various levels of review established (Evaluation Committee - Executive Officer - Regional Services Committee - Council), will ensure that an objective, impartial perspective that is applied to each proposal.

B. ALTERNATIVES CONSIDERED: The alternative considered was to use standard competitive bidding processes for the Recycling Support Fund. This alternative was rejected because it is inappropriate for the terms of the fund and would prove to be administratively cumbersome.

C. CONCLUSION: Approve Ordinance No.81-120.

RH/le
4104B/252
10/23/81

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE FOR THE PURPOSE	)	ORDINANCE NO. 81-120
OF EXEMPTING RECYCLING SUPPORT)	
FUND PROGRAM FROM COMPETITIVE	)	Introduced by the Regional
BIDDING	)	Services Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1: The Council wishes to improve recycling in the region by offering funds to support new or existing recycling projects. The Council has appropriated \$75,000 to be used for site improvements, capital purchases, and public awareness/education activities including supplies, equipment and construction and contractual services.

The need for supporting various and unidentified components of recycling prevents effective use of competitive bidding procedures.

Section 2: The Council finds that for reasons stated in Exhibit 1, which is attached and hereby made a part of this Ordinance, a subjective solicitation and contract award procedure may be substituted for competitive bidding and contract award procedures without encouraging favoritism or substantially diminishing competition for contracts.

Section 3: For the reasons stated in Exhibit 1, the Council finds that the subjective solicitation and contract award procedures will result in substantial cost savings to the District.

Section 4: The Metro Council, in its capacity as the Metro Contract Review Board, hereby exempts all of the contracts related to the Metro Recycling Support Fund Program from competitive bidding requirements and directs that any such contracts be let in

accordance with the procedures contained in Exhibit 1 of this Ordinance.

ADOPTED by the Metropolitan Service District Council
this _____ day of _____, 1981.

Presiding Officer

ATTEST:

Clerk of the Council

AJ/WC/srb
4104B/252

EXHIBIT 1

Exemption of Contracts for Metro Recycling Support Fund Program

The Metropolitan Service District (Metro) staff has requested an exemption from the public bidding requirements for helping to develop, encourage and expand residential and/or commercial recycling in the Metro region. This request is based on ORS 279.015.

Program Description

The purpose of the Metro Recycling Support Fund program is to help develop, encourage and expand residential and/or commercial recycling in the Metro region of Washington, Multnomah and Clackamas Counties. Metro intends to provide partial or full funding for new or existing projects which recycle diverse waste materials.

The minimum allocation of funds will be approximately \$500 while the maximum will be approximately \$25,000. The total amount available in the Recycling Support Fund is \$75,000. The money is intended to be used for site improvements, capital purchases, and public awareness/education activities. It can be used to cover the costs of supplies, equipment and construction as well as for contractual services in these categories. It is not intended to be used for wages, taxes, loan repayments or general operating costs.

Those eligible to receive money from the Recycling Support Fund include governmental agencies, municipalities, private organizations/businesses of a profit or nonprofit status and community groups.

Advantages of Subjective Solicitation and Contract Award Process

A subjective solicitation and contract award process will result in greater ease of implementation and cost savings for the following reasons:

1. The program goal is to provide funds for supporting various facets of recycling. Due to the diverse nature of the industry in terms of materials recovered and recycling operations, the proposals submitted will not be sufficiently similar to permit across-the-board comparison. Costs, type of recycling operation and materials recycled are three important factors that will vary for each proposal.
2. To improve as many different recycling operations as possible, Metro needs the flexibility to consider different proposals which may not lend themselves to across-the-board comparisons. For example, some proposals will request assistance for equipment while others may request assistance in terms of promotion and education.

3. To reduce the risk of non-performance, Metro requires reliable and financially strong organizations which can best be determined through this type of solicitation and contract award process.
4. To obtain the most beneficial funding support arrangements, Metro needs the flexibility to consider different proposals which may not lend themselves to across-the-board comparisons. For example, some proposals will include larger in-kind funding of projects while others may not; some may take advantage of State tax credits for the purchase of capital equipment, while others may not.

Selection Process

To ensure a fair selection of organizations a non-partial Evaluation Committee will review the proposals and make recommendations to the Executive Officer who will seek concurrence from the Council.

Proposals will be evaluated according to the following criteria:

- a. Expected immediate and long-term reduction/recycling of waste materials;
- b. Efficient use of money;
- c. Ability to increase public involvement and support of waste reduction/recycling;
- d. Contribution of matching funds or personal services, volunteer services or real/personal property to the project;
- e. Adaptability and usefulness of project methods or technology to other communities or locations in the Metro region and the State;
- f. Originality of approach;
- g. Potential to establish or strengthen markets for recovered materials in the region;
- h. Potential to establish a self-supporting operation; and
- i. The extent to which the proposed program/project involves or promotes cooperation among different groups, organizations and agencies.

Contract Award Process

Notices of award will be sent by mail.

Expenditures incurred before the effective date of the award* may

not be charged against the award. Expenditures after the scheduled expiration date of the funding award may be charged only to honor commitments made prior to the expiration date. Funding will occur after January 1, 1982 and prior to June 30, 1982.

Before Metro will disburse money under the Recycling Support Fund, a funded organization must submit to Metro a written acceptance of the funding award signed by the authorized agent of the organization or municipality.

*Effective date of award: The date the funding agreement is signed by the Metropolitan Service District and the party awarded the recycling support funds.

AJ/WC/srb
4104B/252

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Executive Officer *WJG*
SUBJECT: Condemnation of Railroad Property

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Adopt the attached Resolution to authorize the Executive Officer to purchase 1.88 acres of land belonging to the Southern Pacific Railroad and to condemn the land if an agreement cannot be reached. The land (see map) is adjacent to Metro's current resource recovery site making the total site 11.72 acres.

The filling of this property was part of the original Site Development contract with Eucon Corporation. This action is urgent to allow the filling of this property to occur during this construction season with our current contract.

- B. POLICY IMPACT: The site development is important to provide an adequate foundation for the Resource Recovery Facility and the Clackamas Transfer & Recycling Center by raising the elevation above the 100-year floodplain level. The site development is part of the five-year plan.
- C. BUDGET IMPACT: Site development and purchase of the property are being funded by the Department of Environmental Quality (DEQ) using State Pollution Control Bonds. Cost to purchase the property is estimate at \$60,000. However, an offer will be made based on appraisal at fair market value.

II. ANALYSIS:

- A. BACKGROUND: Metro purchased 10.17 acres of property in 1977 for the Resource Recovery Facility. In order to prepare the site for any type of structure, it was necessary to fill the land, raising the site above the 100-year flood elevation. These plans included filling approximately 40 feet onto the railroad right-of-way to provide adequate drainage for the Metro site and the railroad property. An initial request for an easement or lease agreement was made in October 1980. Metro provided Southern Pacific Transportation Company with all plans and technical information to evaluate the impacts. Bids for the construction were taken and a contract was awarded to Eucon Corporation for \$2.99 million to fill the site and the right-of-way. The contract was issued to assure the project's completion in the current construction season.

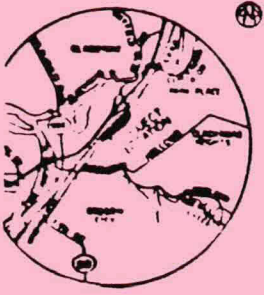
In July 1981, Metro received a response from Southern Pacific denying our easement request. This action would reduce Metro's buildable space by about 30 feet or require constructing a large retaining wall on the property line. Metro prepared additional information and submitted a request for reconsideration in August 1981. On October 29, 1981, as a result of that request, the railroad recommended conveyance of the property through a bargain and sale deed under threat of condemnation. The request requires Metro to appraise the property and propose a purchase agreement.

It is important to submit a proposal as soon as possible to assure that the project is completed under the current contract. Upon receiving Metro's proposal, the railroad intends to issue a right of entry allowing work to be performed under our present contract with Eucon. If an agreement cannot be reached, then Metro will condemn the property.

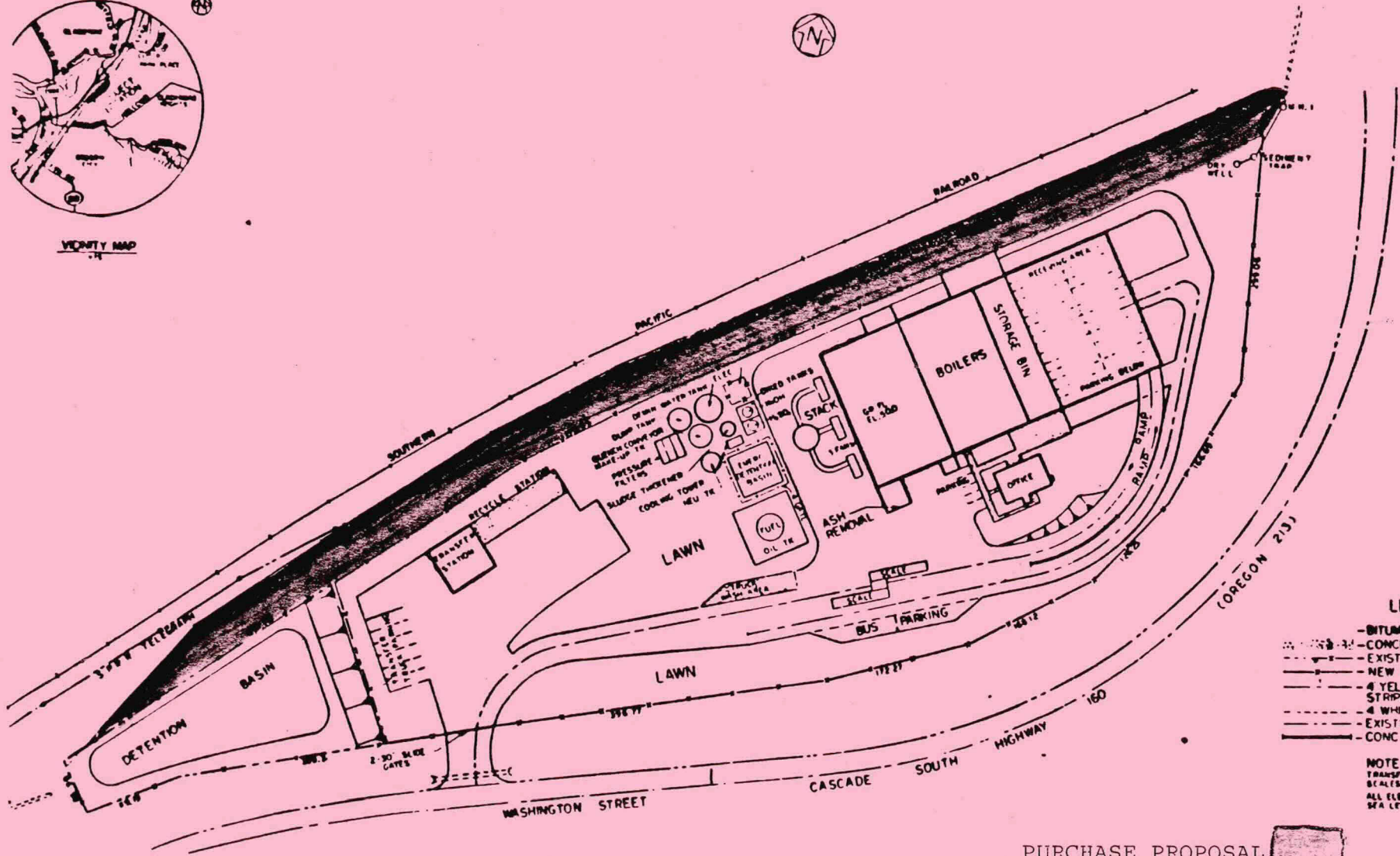
- B. ALTERNATIVES CONSIDERED: To maximize the amount of building space, Metro has considered construction of a retaining wall at approximately \$300,000 if the railroad denied our request. If a lease agreement were approved by the railroad it would require Metro to pay an annual sum to the railroad and maintain drainage facilities.
- C. CONCLUSION: The site development is 90 percent complete. Eucon Corporation remains under contract with Metro until January 1982. If the railroad does not transfer the deed prior to January, Metro will be required to re-bid or extend the contract. Any delays will result in a higher cost to place the fill. This action will allow Metro to submit the appraisal and obtain a right of entry. This right of entry will permit work to be completed by January under our current contract.

DD/gl
4472B/283
10/29/81

A B C D E F G H I J K L M



VICINITY MAP



- LEGEND**
- BITUMINOUS ASPHALT PAVING
 - CONCRETE PAVING & WALKS
 - EXISTING FENCE
 - NEW FENCE
 - 4 YELLOW REFLECTIVE PAINT STRIPE (ON PROPERTY)
 - 4 WHITE PARKING STRIPE
 - EXISTING IMPROVEMENTS
 - CONC RETAINING WALL

NOTE:
TRANSFER STATION, RECYCLE STATION & SCALE TO BE BUILT BY OTHERS
ALL ELEVATIONS REFER TO MEAN SEA LEVEL (MSL)

PURCHASE PROPOSAL
1.88 acres

<p>RESOURCE RECOVERY PROJECT SITE PLAN METRO-PORTLAND OREGON</p>		<p>The Best Engineering Company P702-80</p>
<p>WHEELABRATOR ENERGY SYS INC.</p>		<p>P702-32-1</p>

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF DECLARING A	)	RESOLUTION NO. 81-286
PUBLIC NECESSITY TO ACQUIRE REAL)	
PROPERTY IN OREGON CITY ADJACENT	)	Introduced by the
TO THE CLACKAMAS TRANSFER &	)	Executive Officer
RECYCLING CENTER AND THE RESOURCE)	
RECOVERY FACILITY)	

WHEREAS, Under the laws of the state of Oregon, the Metropolitan Service District is duly authorized and empowered to locate, acquire, construct, operate and maintain such solid waste facilities as in the judgment of the Council are necessary and proper for the District; and

WHEREAS, Under the laws of the state of Oregon, the Metropolitan Service District may acquire by purchase, gift, devise condemnation proceedings or otherwise such real and personal property as in the judgment of the Council are necessary or proper to exercise its powers; and

WHEREAS, For the purpose of providing a transfer and recycling center and a resource recovery facility to serve the solid waste disposal needs of the District, and for the health, safety, benefit and general welfare of the public, the Metropolitan Service District plans to locate, construct, operate and maintain a transfer and recycling center and a resource recovery facility in Oregon City, Oregon; now, therefore,

BE IT RESOLVED,

1. That the Metropolitan Service District does hereby find and declare that there is needed and required for the location, construction, operation and maintenance of the Clackamas Transfer &

Recycling Center and the Resource Recovery Facility the real property and interest therein, more particularly set forth and described in Exhibit "A" attached hereto and by this reference incorporated herein.

2. That the construction, operation and maintenance of the Clackamas Transfer & Recycling and Resource Recovery Facility, for which the real property and interest therein described in Exhibit "A" is being acquired, is necessary and in the public interest and that the transfer station and resource recovery facility have been planned, designed, located and will be constructed in a manner which will be most compatible with the greatest public benefit and the least private injury or damage.

3. That the Executive Officer is authorized to attempt to agree with the owner and other persons with interests in the real property described in Exhibit "A" as to the compensation to be paid for the appropriation of the property and for an immediate right of entry to the property. If such an agreement can be negotiated, the Executive Officer shall present the contract for purchase of the property to the Council Coordinating Committee and the Council at their next regular meetings.

4. That, in the event no satisfactory agreement can be reached, the Executive Officer is authorized to commence and prosecute to final determination such proceedings as may be necessary to acquire the real property and interest therein and that upon the filing of such proceedings, possession of the real property and the interest therein may be taken immediately.

5. That upon the trial of any suit or action instituted to acquire the real property or any interest therein the Executive Officer acting for and on behalf of the Metropolitan Service District is authorized to make such stipulations and agreements to secure the property as in his judgment may be in the best interests of the Metropolitan Service District.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1981.

Presiding Officer

MAH/gl
4456B/283

See pg 9

DATE November 5, 1981

Council Meeting

TIME: 7:00 pm Informal
7:30 pm Formal

MEETING - Call Sheet for Councilors - Reminder

		<u>YES</u>	<u>NO</u>	<u>5-7 pm at RG</u>
<u>Bob Oleson</u>	224-4280	<u>X</u>	—	X
<u>Charlie Williamson</u>	227-6784	<u>X</u>	—	can't make it because of another mtg. at 5:30 but supports RG's plans.
<u>Craig Berkman</u>	228-0700	<u>X</u>	—	will be about 6:00 pm
Corky Kirkpatrick	244-6111	—	<u>X</u>	going out of town tonight
<u>Jack Deines</u>	654-1449	<u>X</u>	—	no
<u>Jane Rhodes</u>	771-6461	<u>X</u>	—	X
<u>Betty Schedeen</u>	667-7153	<u>X</u>	—	X
<u>Ernie Bonner</u>	²³¹⁻ 224-8437	<u>X</u>	—	X
<u>Cindy Banzer</u>	253-2915	<u>X</u>	—	X
<u>Bruce Etlinger</u>	249-0916	<u>X</u>	—	X
Marge Kafoury	248-3565	—	maybe	X
Mike Burton	636-8141	<u>X</u>	—	X

10 Andy Jordan
11 Richard Sertberg
12 Rick Gustafson
13 Diane Simon
14 Doug Brenner
15 Norm Weitting
16 Mel Shue
17 Merle Luine
18 Warren Cliff
19 Jill Kinckley
20 Mike Holstan
21 Philip Zell
22 Maria Grande

John Green



