

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: March 28, 2002
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. MPAC COMMUNICATIONS

4. CONSENT AGENDA

4.1 Consideration of Minutes for the March 21, 2002 Metro Council Regular Meeting.

5. ORDINANCES - SECOND READING

5.1 **Ordinance No. 02-939A**, For the Purpose of Amending Metro Code Chapter 7.01 to Amend the Metro Excise Tax to Provide Revenues for Metro's Regional Parks and Greenspaces Programs. Atherton

6. RESOLUTIONS

6.1 **Resolution No. 02-3160**, For the Purpose of Confirming Michael S. McFarland as a Citizen Member Alternate to the Metro Policy Advisory Committee (MPAC). Atherton

6.2 **Resolution No. 02-3167**, For the Purpose of Approving the FY 2003 Unified Work Program. Burkholder

6.3 **Resolution No. 02-3168**, For the Purpose of Certifying that the Portland Metropolitan Area is in Compliance with Federal Transportation Planning Requirements. Burkholder

Agenda Item Number 4.1

Consideration of the March 21, 2002 Regular Metro Council Meeting minutes.

**Metro Council Meeting
Thursday, March 28, 2002
Metro Council Chamber**

Ordinance No. 02-939A, For the Purpose of Amending Metro Code Chapter 7.01 to Amend the Metro Excise Tax to Provide Revenues for Metro's Regional Parks and Greenspaces Programs.

Second Reading

**Metro Council Meeting
Thursday, March 28, 2002
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO) ORDINANCE NO. 02-939A
CODE CHAPTER 7.01 TO AMEND THE)
METRO EXCISE TAX TO PROVIDE) Introduced by:
REVENUES FOR METRO'S REGIONAL) Mike Burton, Executive Officer
PARKS AND GREENSPACES PROGRAMS)

WHEREAS, In July 1992, the Metro Council adopted the Metropolitan Greenspaces Master Plan (Resolution No. 92-1637) that identifies a desired regional system of parks, natural areas, trails and greenways for fish, wildlife and people; and,

WHEREAS, The Metropolitan Greenspaces Master Plan states Metro will seek a regional funding mechanism to assemble and develop a regional greenspaces system and assume operations and management responsibility for components of the system in cooperation with local governments; and,

WHEREAS, In December 1997, the Metro Council adopted the Regional Framework Plan (Resolution No. 97-715B) that set regional policy to inventory, protect and manage a regional system of parks, natural areas, trails and greenways for fish, wildlife and people; and,

WHEREAS, The Regional Framework Plan states (3.3.10) Metro, in cooperation with local governments, shall pursue the identification and implementation of a long term, stable funding source to support the planning, acquisition, development, management and maintenance of the regional greenspaces system; and,

WHEREAS, Metro has acquired over 7,100 acres of metropolitan greenspaces with funds from the Open Spaces, Parks and Streams bond measure of 1995; and,

WHEREAS, The cost of managing these acquired lands exceeds current resources; and,

WHEREAS, The Regional Parks and Greenspaces Department currently has about \$3 million in unfunded deferred maintenance projects at existing park facilities; and,

WHEREAS, The Regional Parks and Greenspaces Department cannot sustain current levels of service or growing responsibilities without additional funding sources; and,

WHEREAS, an interim financial solution is necessary until a voter-approved long-term solution is realized and support of the Regional Parks and Greenspaces Department is an allowable use of excise tax under the Metro Charter; and,

WHEREAS, this ordinance was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 7.01.020 is amended to read:

7.01.020 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by the district, each user except users of solid waste system facilities shall pay a tax of 7.5 percent of the payment charged by the operator or the district for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate

of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by the district. If the council so establishes a lower rate of tax, the executive officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the council as provided for herein.

(c) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by the district, each user of solid waste system facilities and each solid waste facility licensed or franchised under chapter 5.01 of this Code to deliver putrescible waste directly to the district's contractor for disposal of putrescible waste shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. In addition, each user of solid waste system facilities and each solid waste facility licensed or franchised under chapter 5.01 of this Code to deliver putrescible waste directly to the district's contractor for disposal of putrescible waste shall also pay the additional tax in the amount set forth under Section 3 of this Ordinance for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(d) ~~For the Metro fiscal year beginning July 1, 2000_2002, and for each fiscal year thereafter subject to this section, the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue of \$5,700,000-\$6,050,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter. For each Metro fiscal year thereafter the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue equal to the net excise tax revenue authorization in the previous fiscal year as adjusted in accordance with Section 7.01.022.~~

(e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) compostable organic waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in sub-section (d) by the amount of solid

waste tonnage which the Executive Officer reports to the Council under sub-section (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be the district's excise tax rate on solid waste during the subsequent Metro fiscal year.

- (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By December 1, 2000 and by March 1st of each year thereafter, the Executive Officer shall provide a written report to the Metro Council stating the following:

- (1) For the twelve-month period ending the previous December 31; the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to section 7.01.050(a) of this chapter, and
- (2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if the Regional Recovery Rates corresponding to each calendar year set forth on the following schedule had been achieved:

Year	Regional Recovery Rate
1999	43%
2000	46%
2001	48%
2002	50%
2003	52%
2004	54%
2005	56%

The result of such calculation by the Executive Officer shall be used to determine the excise tax rate under sub-section (e)(1).

(g) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(e)(1) for disposal of Processing Residuals from such facility. The Facility Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. Such credit shall be dependent upon the Facility Recovery Rate achieved by such facility and shall be equal to the amount resulting from reducing the Excise Tax due by the percentage reduction corresponding with the Facility Recovery Rates provided on the following table:

Excise Tax Credit Schedule

Facility Recovery Rate		Excise Tax Credit
From Above	Up To & Including	
0%	25%	0%
25%	30%	4%
30%	35%	10%
35%	40%	20%
40%	45%	33%
45%	100%	45%

SECTION 2. Section 3 of this Ordinance is added to and made a part of Metro Code chapter 7.01

SECTION 3. Amount of Additional Excise Tax; Budgeting of Additional Revenue for Regional Parks and Greenspaces Programs.

Commencing with the Metro fiscal year beginning July 1, 2002, the additional excise tax authorized in Section 7.01.020(c) shall be \$1 per ton. Such additional excise tax shall be dedicated to funding Metro's Regional Parks and Greenspaces programs. For each fiscal year thereafter, the additional excise tax dedicated to Metro's Regional Parks and Greenspaces programs shall be not less than the amount of the additional excise tax in the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland-Salem (All Urban Consumers) reported for the first six months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the Executive Officer deems appropriate.

SECTION 4. Section 5 of this Ordinance is added to and made a part of Metro Code chapter 7.01

SECTION 5. Repeal of Provisions Setting Amount of Additional Excise Tax and Budgeting of Revenue for Regional Parks and Greenspaces Programs

~~Section 3 of this Ordinance is repealed- effective June 30, 2004. -at the end of any Metro fiscal year during which any initiative or referendum is adopted by a majority of electors that specifically provides for (a) revenue funding for operations of the Metro Regional Parks and Greenspaces programs in an amount not less than that raised under in Section 3 of this Ordinance; and (b) the repeal of Section 3 of this Ordinance.~~

SECTION 6. Metro Code Section 7.01.022 is amended to read:

7.01.022 Consumer Price Index Adjustment

Commencing with the Metro fiscal year beginning July 1, ~~2001~~2003, and each year thereafter, the amount of revenue to be generated by the taxes imposed by Section 7.01.020(c) shall be the amount of tax revenue authorized in Section 7.01.020(d) for the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for ~~Portland-Vancouver~~ Salem (All Urban Consumers) reported for the first six months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the Executive Officer deems appropriate.

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

Carl Hosticka, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 02-939 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 7.01 TO AMEND THE METRO EXCISE TAX TO PROVIDE REVENUES FOR METRO'S REGIONAL PARKS AND GREENSPACES PROGRAMS.

Date: February 6, 2002

Prepared by: Charles Ciecko
Terry Petersen

BACKGROUND

Over the past several years, the Regional Parks and Greenspaces Department has assumed responsibility for an ever-growing portfolio of properties as a result of the continued successful implementation of the 1995 Open Spaces, Parks and Streams Bond Measure. In the last six years, the number of acres that the department manages has grown from 4,092 to over 10,800, an increase of over 170%.

When the bond measure was approved by Council for the ballot, it was clearly stated that the measure did not provide financial support for the maintenance of the lands that were to be acquired under this program. Council increased excise tax allocations to help offset some of these costs, but these contributions have not kept pace with the department's growing responsibilities.

This unprecedented expansion, combined with other factors such as the continued growth of fixed costs, declining interest earnings rates, inflation and the eminent exhaustion of open spaces bond funds are now converging to pose a real threat to the department's core mission and programs.

Beginning in Fiscal Year 1998-99, the adopted budget for the Regional Parks and Greenspaces Department anticipated the use of reserves (fund balance) to pay for current operating expenditures. Concurrently, the department has endeavored to reduce the draw on these reserves by:

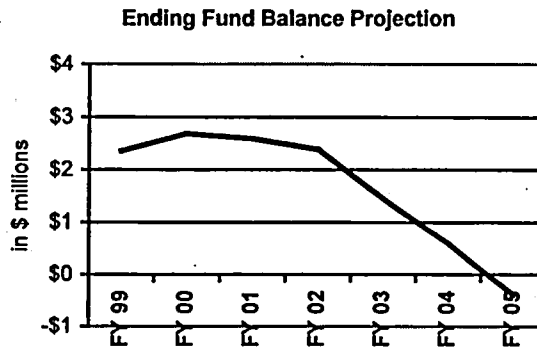
- Not increasing the number of full time positions in the department, even as acres and responsibilities have increased;
- Holding the total materials and services budget flat, at FY 98-99 levels;
- Deferring capital maintenance, with the FY 01-02 budget reduced to 25% of FY 98-99 levels;
- Eliminating the Blue Lake Concert Series, and delaying master planning for the Tualatin River Access Points;
- Delaying the filling of vacant staff positions to create salary savings;
- Reducing fleet costs; and
- Eliminating all non-essential out-of-state travel and conferences and significantly reducing in-state travel and conferences.

In addition to budget and expenditure reductions, actions have been taken to increase the revenues of the department:

- Dwellings on newly-acquired open space lands were leased, rather than demolished, resulting in an estimated income of \$260,000 annually;
- Staff has sought additional grant funding, resulting in grant revenues more than doubling since FY 98-99 (about \$1 million in FY 01-02, compared to \$430,000 in FY 98-99), that are used to supplement on-going program expenditures and capital projects; and

- Fee increases were implemented in several program areas, including Glendoveer Golf Course, cemeteries, picnic reservations and camping fees.

While these measures have delayed and, more recently, reduced the need to tap reserves, they cannot be viewed as permanent solutions to the need for long-term, stable funding to support basic parks programs and stewardship responsibilities. Even with these measures, the available reserves in the Regional Parks Fund are projected to be depleted in FY 04-05 as shown below:



Moreover, reducing dependence on financial reserves to support current programs is but one of a variety of needs that have been previously documented. Other examples include:

- Additional staff and financial resources for the Natural Resource Stewardship and Property Management Program (formerly called “Landbanking”),
- Additional support to reduce the backlog of deferred maintenance projects,
- Making permanent the Regional Trails Planner position,
- Removing Open Spaces Bond support for key administrative and Natural Resource Stewardship positions, and
- Master planning.

The proposed action would address some, but not all, of these needs on an interim basis.

IMPLICATIONS OF NO ACTION

Unless additional funding is provided in the interim, the Council may have to make serious programmatic reductions in the Regional Parks and Greenspaces Department. Based on an analysis conducted in Spring 2001, the following could be required if funding is not secured to replace the use of reserves and cover the projected costs of inflation:

- All remaining special events, including the Salmon Festival at Oxbow Park and “Especially for Kids” at Blue Lake Park, could be eliminated;
- Most of the department’s environmental education programs could be eliminated, severely impacting the Volunteer Naturalist Program and the more than 7,000 people who annually attend these programs – many of whom are local area school children;
- Habitat restoration projects and noxious weed control programs could be all but eliminated at our parks and new open space acquisitions;
- Deferred maintenance, already under-funded at all our facilities, will continue to be funded at 25% of FY 98-99 levels, causing the backlog of projects to grow and the ultimate long-term cost of repair to increase.

RECOMMENDED ACTION

To avoid these program reductions and decrease the use of reserves in the Regional Parks Fund to pay for current programs and service levels, the Executive Officer is proposing that the excise tax collected on solid waste be increased to provide an additional \$1.23 million in FY 2002-03, dedicated for use by the Regional Parks and Greenspaces Department for operational and maintenance activities as determined through the annual budgeting process. This increase would raise the per-ton excise tax on solid waste by one dollar (\$1) per ton. This revenue will increase annually at the rate of CPI.

The Executive Officer will recommend a budget to Council for the Regional Parks and Greenspaces Department that incorporates this additional revenue. The revenue is proposed to be expended for the following purposes:

- **1.0 FTE Natural Resources Stewardship Park Ranger**

**** \$105,093 in FY03, continuing in future ****

Currently, only one Park Ranger is responsible for on-site daily land management activities on approximately 6,800 acres of open space acquisitions distributed widely across the region. Typical activities include:

- Securing access to Metro properties (i.e. construction and/or maintenance of fences, gates, roads);
- Response to emergency calls (i.e. thefts, criminal trespass, illegal hunting, vandalism);
- Correcting health and safety concerns (i.e. hazard trees, loose livestock, infrastructure failure/malfunction, wildfire prevention);
- Control of invasive vegetation and pest animals; and
- Supervision of volunteer work parties.

The addition of one more Park Ranger will reduce the accumulating backlog of land management needs that currently exist and help meet on-going demands in a more timely manner. Budget for this position includes salary and benefits (\$57,302), materials & services (\$6,000 vehicle costs, \$37,749 for building, grounds and equipment supplies and services, and contracted professional services) and contingency (\$4,042).

- **Transfer support for Department Director, Department Finance Manager and Contract Administrator from the Open Spaces Bond to the Regional Parks Fund**

**** \$51,703 in FY03, continuing in future ****

The Open Spaces, Parks and Streams Bond Measure included funds for administration of the implementation effort. During the implementation phase, the relevant portion of certain administrative positions have been billed to the Open Spaces Bond Fund. As the acquisition program winds down and the focus shifts from acquisition to land management, it is necessary to reallocate the costs of administrative functions accordingly.

Affected positions and the associated portions of salary and benefits are as follows:

	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>
10% of Department Director	15,255	16,019	16,820
25% of Department Finance Manager	21,125	22,181	23,290
25% of Department Contracts Administrator	15,323	16,089	16,893
Total Administration Staff	51,703	54,289	57,003

NOTE: This proposal does not affect any staff in the Open Spaces Acquisition Division. As indicated in the Council-adopted Open Spaces Implementation Work Plan, staff positions within the Open Spaces Acquisition Division are “limited duration” and will be eliminated when bond measure implementation is complete. Limited duration positions include: Division Manager, Senior Real Estate Negotiator, 2 Real Estate Negotiators, Secretary, Program Assistant II, and related positions in the Office of General Counsel.

- **Reallocate Open Spaces Bond Fund support for Natural Resources Stewardship and Property Management staff in FY05**

**** \$73,131 in FY05, continuing in future ****

The Open Space, Parks and Streams Bond Measure included funds for a variety of short-term activities or projects required “to stabilize” properties following acquisition. Staff costs associated with “stabilization” projects have also been paid from bond funds.

“Stabilization” projects are carried out by certain members of the Natural Resources Stewardship and Property Management Program who are also responsible for the on-going day-to-day management of sites acquired with bond funds (landbanking). During the implementation phase, staff costs associated with “stabilization” have been billed to the Open Spaces Bond Fund. As “stabilization” activities wind down and staff focus shifts to on-going, day-to-day management, it is necessary to reallocate costs accordingly. Please note that the current level of bond funding is expected to continue through FY 2004-05. Affected positions and the associated portion of salary and benefits are as follows:

	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>
50% of Natural Resources Program Manager	0	0	52,416
25% of Property Manager	0	0	20,715
Total Stabilization/Natural Resources Staff	0	0	73,131

NOTE: This proposal does not affect any staff in the Open Spaces Acquisition Division. As indicated in the Council-adopted Open Spaces Implementation Work Plan, staff positions within the Open Spaces Acquisition Division are “limited duration” and will be eliminated when bond measure implementation is complete as noted above.

- **Transfer the Regional Trails Planner position to Planning & Education Division**

**** \$46,100 in FY03 (50%), \$96,810 in FY04 (100%), continuing in future ****

For the past 6 years, Metro has focused its trail planning efforts primarily on those trail projects identified as target areas in the Open Spaces Bond Measure. This work has been funded with bond proceeds. To continue implementation of the Regional Trails Plan (part of the Regional Transportation Plan and Greenspaces Master Plan), it will be necessary for more comprehensive regional trail planning to take place since most regional trails are multi-jurisdictional and many jurisdictions do not have the capacity to provide the necessary planning functions. Therefore, the Metro Regional Trail Planner position would:

- Complete planning for and promotion of the Regional Trails Plan, a component of the Regional Framework Plan (Chapter 3) and of the Regional Transportation Plan;
- Perform planning functions for the Springwater Corridor project (Sellwood Bridge to McLoughlin Blvd. gap);
- Perform planning and coordination functions for the Fanno Creek Trail, Beaverton Powerline Trail, Tualatin River Trail, Willamette Greenway Trail, PTC Trail (Milwaukie to Gladstone) and other components of the Regional Trails and Greenways Map;
- Coordinate regional efforts to secure state and federal transportation funding and other outside resources for trail projects; and

- Participate in the design and implementation of Best Management Practices for regional trail design and construction to be consistent with Metro's Title 3 and Goal 5 efforts.

This proposal would formalize the Regional Trails Planner position in the Planning and Education Division, 50% in FY 2002-03 and 100% in subsequent years.

- **Create Volunteer Recognition and Recruitment Program**

**** \$5,000 annually ****

The Department has effectively used volunteers for a variety of environmental education, maintenance, restoration and other projects using limited department resources. In 2001, 900 volunteers donated 10,000 hours inside the office and at various parks and greenspaces sites throughout the region. This contribution is valued at approximately \$154,000. To maintain this type of program into the future, it is imperative that the Department establish a recognition program for these volunteers. Recognition expenses could include uniforms, plaques, framed certificates, gifts to celebrate years of service and/or hour milestones, birthday cards, volunteer newsletter, and events. Event costs would include food, decoration, facility rental, and invitations. Recruitment of new volunteers will always be necessary. Recruitment expenses could include newspaper and magazine ads, tabletop exhibit, brochures targeting specific positions and/or divisions, Metro website enhancement, and website banner ads. This program will be administered by existing staff in the Planning and Education Division.

- **Restore the 0.33 FTE Seasonal Employee at Smith & Bybee Lakes Wildlife Area**

**** \$6,572 in FY03 only ****

One seasonal position is typically filled from May through October, when maintenance and field work needs are greatest. Because of the significant decrease in interest earnings expected in the Smith & Bybee Lakes Fund, the fund is unable to cover these costs. Subsequently, the Department's proposed budget eliminated this position. This employee performs baseline maintenance at the wildlife area such as garbage pickup, tree and shrub pruning, trail maintenance and security patrols of the public use areas of the wildlife area. In addition, this employee assists the Wildlife Area Manager with wildlife and plant surveys that are used to monitor the success of restoration projects. This employee creates a Metro presence at the wildlife area three to four days per week, answering visitors' questions and increasing general security.

- **Deferred Maintenance**

**** \$175,000 in FY03, \$125,000 in FY04 and thereafter ****

An update to the Department's Unfunded Deferred Maintenance assessment was completed in March 2001 listing several dozen deferred capital maintenance projects at a variety of facilities totaling over \$2.9 million. The size of projects on this list varies, with major projects such as the automation of the irrigation system at Blue Lake Park to reduce labor intensive manual watering and conserve water, and the replacement of deteriorated picnic shelters at Oxbow Park. While the requested increase will not be enough to complete these major projects, there are smaller, but no less important, projects that could be completed with the proposed increase. Examples of projects include:

- New playground equipment at Blue Lake Park to eliminate current hazardous and non-ADA (Americans with Disabilities Act) compliant metal and concrete play structures.
- Replace 100 picnic tables at Oxbow Park and Blue Lake Park with metal frame and wood tops/benches. This will reduce the risk exposure from old wood tables, reduces maintenance costs and improves overall park appearance.
- Replace non-functional entry/exit gate at Chinook Landing. Closing the facility at night will deter after hour use and reduce the risk of vandalism and other illegal and/or inappropriate activities.

- **Natural Resource Stewardship – Restoration Projects**

**** \$75,000 Annually ****

The current stewardship activities for Metro-owned natural areas are very limited, equating to the basics of nuisance control and weed abatement required by state law and by our responsibility to be good neighbors to surrounding property owners. Much more needs to be done to ensure that these properties are not degraded and that restoration activities are initiated.

Funds will be used for habitat restoration activities. It is assumed that these funds will be used as matching funds for Federal and State grant applications to “grow the pot” of restoration money available. The additional support will be used for the following:

- Reduce the spread of invasive species by re-establishing diverse native plant communities and restoring historic hydrologic conditions to benefit a variety of native fish and wildlife including sensitive, rare and threatened species;
- Maintain the significant investment in reforestation projects which have already been completed;
- Provide opportunities for continued community involvement in natural resource stewardship; and
- Attract outside funding and partners for natural resource protection projects.

- **Continued funding for National Fish & Wildlife Foundation Partnership**

**** \$100,000 in FY04, continuing thereafter ** (tentative)**

Beginning in FY2002-03, the Department anticipates a new partnership with the National Fish & Wildlife Foundation to create a regional program focused on restoration projects in parks and open spaces designated as components of the Regional System as articulated in Chapter 3 of the Regional Framework Plan. This partnership will leverage Metro’s contribution 2-to-1, effectively tripling the amount of restoration activities that Metro can effectuate. Goals of the partnership include:

- To fund habitat protection and restoration projects conducted by Metro and other local partners that provide substantial benefit to wildlife habitats located in Multnomah, Washington, and Clackamas Counties;
- To engage citizens, businesses, and community groups in our region in environmental stewardship and education projects that attempt to correct the decline of wildlife habitat;
- To stimulate creativity and leadership among community groups to address conservation needs and encourage active community stewardship of protected lands; and
- To target groups that can be particularly helpful in conserving rare habitat types, including farmers, homeowners, government officials, nonprofit organizations, and business owners.

The Department’s Proposed Budget includes funding for this program in FY2002-03. This proposal continues funding for this program into years FY 2003-04 and FY 2004-05.

- **Renewal and Replacement Funding**

**** \$85,000 Annually ****

New capital policies adopted by the Metro Council require the department to plan for the renewal and replacement of its facilities and other depreciable assets. The Department, up to this point, has not reserved any resources for the purpose of renewal and replacement. The allocation proposed here will not fully fund the Renewal and Replacement needs of the department, but will be a step in the right direction for the future maintenance and replacement needs of fixed assets.

- **Reduce Use of Financial Reserves from the Regional Parks Fund**

**** \$533,860 in FY03, continuing in future ****

For FY 2002-03, the department Proposed Budget (adjusted for final central service allocated cost calculations) uses \$1,114,085 of fund balance to maintain current service levels (including contingency and project carry-forward). This proposal will decrease, but not eliminate, the draw on this financial reserve.

- **Reduce Use of Financial Reserves from the Smith & Bybee Lakes Fund**

**** \$100,672 in FY03 only ****

As a matter of sound financial practice, the Department attempts to use only interest earnings from this fund to pay for operational expenses at Smith & Bybee Lakes Wildlife Area. However, the projected interest earnings rate for next year (estimated at just 1.5%) results in a decrease of roughly 75% of normal operational revenues. Despite significant reductions in expenditures, the use of \$100,000 of fund balance is necessary just to provide basic maintenance services and support the existing 1.5 FTE in this program. This proposal eliminates draw on fund balance and preserves the principal in the fund. Financial support for this fund is only necessary for FY 2002-03. It is anticipated that interest rates will increase in subsequent years and the support will not be necessary on an ongoing basis.

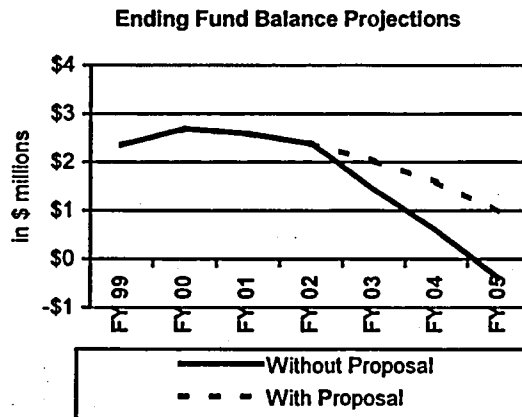
Summary

Program Expenditures	<u>FY 02-03</u>	<u>FY 03-04</u>	<u>FY 04-05</u>
Natural Resources - Park Ranger	105,093	110,348	115,865
Admin Staff to Regional Parks Fund	51,703	54,289	57,003
Trail Planner to Regional Parks Fund	46,100	96,810	101,650
Stabilization staff to Regional Parks Fund	0	0	53,576
Volunteer Recognition and Recruitment	5,000	5,000	5,000
0.33 FTE Seasonal at Smith & Bybee Lakes	6,572	0	0
Deferred Maintenance	175,000	125,000	125,000
Restoration Projects	75,000	75,000	75,000
National Fish & Wildlife Foundation	0	100,000	100,000
Renewal & Replacement	85,000	85,000	85,000
Total Expenditures	549,468	651,447	718,094
Reduce use of Fund Balance – Regional Parks Fund	533,860	568,053	538,006
Reduce use of Fund Balance – Smith & Bybee Fund	100,672	0	0
Total	1,184,000	1,219,500	1,256,100

NOT A LONG TERM REMEDY

This proposal is intended to be an interim step. It is designed to stabilize Regional Parks funding for current programs while addressing some immediate programmatic needs that have been deferred for some time. This proposal does not provide for all of the programmatic needs. Specifically, it does not provide support for Master Planning, nor does it provide support to develop, operate or maintain new sites or trails for public use as recommended by the Green Ribbon Committee. The proposal does not address any of the recommendations of the MPAC Parks Report (dated April 4, 2001). It does not fully fund renewal and replacement or provide for education and incentives for private land owners in critical natural resources areas.

The use of reserves (fund balance) to pay for current operating expenditures will continue under this proposal, but at a slower rate than the current projection. By the end of FY 2004-05, it is expected that the Regional Parks Fund will have undesignated reserves of approximately \$1 million. A justification for this level of reserve can be found in "Attachment A" of this report:



This proposal is a modest interim measure designed to stabilize funding for current programs until a new proposal addressing long term needs can be developed and implemented.

ANALYSIS/INFORMATION

1. Known Opposition

No known opposition.

2. Legal Antecedents

Metro Code Chapter 7.01 sets forth the provisions of the Metro Excise Tax.

3. Anticipated Effects

Based on the projected solid waste revenue base in FY 2002-03, the proposed excise tax of one dollar (\$1) per ton would provide \$1,184,000 of new revenue. As of this writing, the excise tax rate on solid waste is expected to increase from the current \$5.04 per ton to \$5.39 per ton during FY 2002-03. (This rate will be reviewed and finalized in March 2002.) If this ordinance were approved, that rate would rise to \$6.39 per ton.

- Effect on Metro Tip Fee.** When calculating the Metro tip fee, the excise tax is added on to the solid waste rate base. That rate will be \$59.84 in FY 2002-03 (per Ordinance No. 01-918A, approved October 25, 2001). With a \$5.39 excise tax, the total tip fee will be \$65.23. If this ordinance is approved, the tip fee would be a dollar higher, at \$66.23.
- Effect on non-Metro Tip Fees.** The excise tax at disposal sites that are not owned by Metro (e.g., Forest Grove Transfer Station and Lakeside Reclamation Landfill) would likewise increase by \$1 per ton. Although many non-Metro facilities set their own rates and are free to absorb as much or as little of the excise tax as they wish, historically all of the tax has been passed on to the rate payers. Accordingly, the tip fees at non-Metro facilities can be expected to rise by \$1 per ton due to approval

of this ordinance. Currently, non-Metro tip fees range from about \$22 per ton to \$66 per ton including excise tax.

- **Effect on Material Recovery Facilities.** Because the excise tax is levied on waste that is landfilled, the excise tax is a cost to material recovery facilities (MRFs). However, to ease the tax burden and support recycling goals, the Council discounts the excise tax on MRFs up to 45%, based on the facility's recovery rate. At present, the average excise tax discount over all MRFs is 30%. If there is no change in recovery performance, the \$1 increase will be discounted at the same 30% rate, meaning that the effect of this ordinance will be to raise the average cost of disposal by 70¢ per outgoing ton at material recovery facilities.

4. Budget Impacts

The approval of this ordinance will provide an additional \$1,184,00 to the Regional Parks Fund, increasing annually at the rate of CPI. The revenue will be available for expenditure upon Council adoption of a budget for the affected funds. This action in and of itself does not authorize the expenditure of this new revenue.

RECOMMENDED ACTION

The Executive Officer recommends passage of Ordinance No. 02-939, For The Purpose of Amending Metro Code Chapter 7.01 to Amend the Metro Excise Tax to Provide Revenues for Metro's Regional Parks and Greenspaces Programs.

**Regional Parks Fund
Fund Balance Reserve Requirements**

What is the minimum Fund Balance reserve that the Regional Parks Fund should have to maintain fiscal prudence?

There are several ways to answer this question. Presented here are two different ways to determine what the minimum amount of reserve is.

Option 1 – Cash Flow Needs

The enterprise revenues in the Regional Parks Fund tend to be cyclical, with higher revenues in the summer months and lower revenues in the winter. Expenditures are also cyclical, but do not vary as much as revenues. This disparity creates a situation where in the summer months, there are more revenues than expenditures. In the winter months, there are more expenditures than revenues.

A cash flow analysis answers the question, “How much cash does the fund need to have on hand to ensure that there is adequate cash, on a daily basis, to meet the expenditure needs, especially when expenditures are exceeding revenues?”

In Fiscal Year 2000-01, the Regional Parks Fund needed to have just over \$961,000 in cash reserves to ensure that there was adequate cash in December and January to meet operational expenditure needs.

Option 2 – A Three-Month Operating Reserve

Metro currently does not have a specific financial policy stating guidelines for determining the appropriate fund balance level for its general and special revenue funds. However, one such policy may be to maintain a fund balance reserve adequate to meet unanticipated service needs. This policy can be operationalized by saying that the fund should have a reserve adequate to pay for three months of operating expenditures. For the Regional Parks Fund in FY 2000-01, a three-month operating reserve equates to a range of between \$944,000 and \$1,400,000.

Based on review of these two different options, the department management believes that a fund balance reserve of \$1 million would be a minimally fiscally prudent amount.

Agenda Item Number 6.1

Resolution No. 02-3160, For the Purpose of Confirming Michael S. McFarland as a Citizen Member Alternate to the Metro Policy Advisory Committee (MPAC).

**Metro Council Meeting
Thursday, March 28, 2002
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING) RESOLUTION NO. 02-3160
MICHAEL S. MCFARLAND AS A CITIZEN)
MEMBER ALTERNATE TO THE METRO) Introduced by Mike Burton, Executive Officer
POLICY ADVISORY COMMITTEE (MPAC))

WHEREAS, the Metro Charter, and Metro Code Section 6.01.303, provide that three citizen members of the Metro Policy Advisory Committee (MPAC) shall be appointed by the Executive Officer and confirmed by the Metro Council, and;

WHEREAS, the MPAC By-laws, Section 2(e), provide that members and alternates representing citizens will be appointed by the Executive Officer and confirmed by the Metro Council, and;

WHEREAS, the citizen members representing Metro serve indefinite terms of not less than two years until such time as they may be replaced by subsequent appointment or appointments of the Executive Officer and confirmed by the Metro Council; now therefore

BE IT RESOLVED that the Metro Council shall confirm Michael S. McFarland as a citizen alternate of the Metro Policy Advisory Committee (MPAC).

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

Carl Hosticka, Presiding Officer

APPROVED AS TO FORM:

Daniel B. Cooper, General Counsel

Michael S. McFarland
2571 Bronco Ct
West Linn, OR 97068-2203

January 15, 2002

Clackamas County Commission
906 Main St
Oregon City, OR 97045

Dear Commissioner:

I've recently learned that Clackamas County has a vacancy on the Metro Policy Advisory Committee (MPAC). I would like the Commission to consider selecting me to fill that vacancy.

I am very interested in the future of our community whether speaking of West Linn, Clackamas County or the metropolitan area as a whole. I have for several years been very active in West Linn where I live. I have served on numerous committees and boards both within West Linn and Clackamas County. From 1998 through 2000 I was a member of the West Linn City Council.

I offer the enclosed resume as a summary of my personal background and professional experience. I believe my resume provides more than adequate evidence of my commitment to the community and my experience working with policy matters both professionally and in my civic activities. If an interview would be of help or if you have questions regarding any part of the resume don't hesitate to contact me at any of the telephone numbers shown on the resume. Thanks for giving me consideration in your selection process. I look forward to hearing from you soon and attending my first MPAC meeting representing the County.

Sincerely,



Michael S. McFarland

Michael S. McFarland
2571 Bronco Court
West Linn, OR 97068-2203
Home: 503-655-7275 Cell: 503-780-6752
Business: 360-418-8688 Pager: 503-604-8611

Resume for
Clackamas County Representative
Metro Policy Advisory Committee

Personal History:

Born: Birmingham, Alabama

High School: Graduated 1968, Tarrant High School, Tarrant Alabama

Present Employer: Bonneville Power Administration (BPA)

Current Position: Public Utilities Specialist (Retail Wheeling), Transmission
Contracts, Business Strategy & Assessment, Transmission
Business Line

Education:

University of California Santa Barbara, CA – BA Degree 06/78 (double major, Political
Science & Environmental Studies)

Santa Barbara City College, CA – AA Degree 06/76 (Political Science)

Professional Experience:

I have been employed at the BPA since 1980. During that time I have worked in many
different positions almost all of which have been unique activities in one way or another.

The projects I've worked on have been either first time efforts for BPA or they have been
activities that have had long-term regional implications for the agency and it's customers.

1980 to '82 - Project Lead converting all BPA's Power and Transmission Contract files
from paper to microfilm (predates current computer databases). This project entailed

development of a record management system that would meet the BPA's needs, select a contractor who would be able to implement the planned system as well as administering the contract until completed. Also during this period I began development of the first computer record storage system used for contracts at the BPA, called the Contract Management and Information System.

1982 to '85 – I served as a member of a team that developed new Customer Service Policy replacing policy that had not been revised since the 1960s. This activity was one of the first public involvement efforts undertaken by the BPA, involving a region-wide public outreach effort. My responsibility was multifaceted, but focused primarily on environmental review procedures for customer facilities. I was also responsible for environmental review of contract actions in the Division of Customer Service and compliance with all environmental regulations.

1985 to '94 – I worked on a team that developed Intertie Access Policy for the Southern Intertie (Intertie). The Intertie is the group of high voltage electrical transmission lines connecting California and the Northwest. In addition, I prepared studies that considered the feasibility of selling shares in a planned 3rd AC transmission line to California. Subsequently I was Team Lead and Lead Negotiator for the team that negotiated Capacity Ownership Agreements with several northwest utilities for life of facilities ownership rights in that same transmission line. The cost of the facilities was 156 million dollars plus on going operations and maintenance costs for the life of the facilities, at least thirty-five years. During the same period I was also Chair of the Northern Intertie Transmission Team, a cross agency team that was charged with the responsibility for reviewing all issues related to the Northern Intertie, resolving those issues if possible or passing on recommendations to management. The Northern Intertie connects Canada to the northwest and California.

1995 to 96 – I was selected to represent transmission on a team that was working with the New York Mercantile Exchange to develop an electricity commodities market. This was nation wide project that created the first commodities market for electricity. I also at that time began working on issues related to utility restructuring. Also during this period I work on BPA's first Open Access Transmission Tariff and the 1996 Wholesale Transmission Rates.

1996 to 2000 – I worked on the team that developed the Transmission Business Line's (TBL) policy with respect to open access and retail wheeling. After the policy was developed I continued to serve as the TBL's expert in matters related to restructuring the electric utility industry. Working with Account Executives to address open access issues that developed with their customers. I led a team that spent a considerable amount of time working with various groups in Montana as they began to develop their own open access legislation and to try to figure out how to implement it. I created a team of BPA experts that educated customers, regulators and legislators of the state Montana about how high voltage electric transmission occurs. In addition to Montana I worked with both Oregon and Washington regulatory and legislative bodies who were at that time considering legislation to create competitive markets within their states.

2000 – From March to November of 2000 I was detailed from Transmission to Regional Relations and served as Constituent Account Executive for the state of Oregon. As Oregon Liaison I worked directly with the Governor's Office, the Oregon Public Utility Commission, the state legislature, other state agencies and public utility associations. As Oregon Liaison I represented BPA in all discussions regarding Federal Energy Regulatory Commission (FERC) Orders addressing open access and the development of competitive markets.

November, 2000 to the present – Since returning to the TBL I resumed responsibility for retail wheeling issues. I've also work on development of the FERC mandated Regional; Transmission Organization (RTO). My main focus has been as a member of the team developing rules for monitoring the transmission markets in the northwest with the intent of avoiding problems as experienced in California. I also am responsible for coordination and development of external business practices and policy related to implementation of transmission rates and tariffs.

Awards and Recognition

Sustained Superior Performance: 1/86, 3/88, 11/89, 11/90, 12/91, 12/92, 9/94
Special Act & On The Spot Awards: 4/88, 3/89, 4/89, 1/90, 5/90, 11/90, 1/91, 6/91,
11/91, 2/92, 4/92, 11/92, 12/92, 9/94
Employee of the Quarter, Division of Contracts and Rates: 5/88
Special Group Awards: 6/90, 2/92, 10/96, 4/00,
Award for Excellence: 6/96
Numerous Letters of Commendation and Team Awards

Professional References

Jane Selby, 360-418-8281, Manager of the Transmission Contracts and Business Strategy and Assessment Groups, BPA Transmission Business Line (TBL)

David Mills, 503-230-7588, Trading Floor Supervisor BPA, Power Business Line (PBL))

Bob King, 360-418-2033, Customer Account Executive BPA, TBL

Allen Burns, 503-230-7640, Vice President for Requirements Marketing (PBL)

Community Activities

I have been very active in my home community of West Linn, Oregon.

1996 - Utility Advisory Board. The UAB addressed water rates and adequacy of supply issues.

1996 to 1998 – Planning Commission. During this period the Commission revised the Community Development Code, as well as numerous development applications.

1998 to 2000 – West Linn Budget Committee. As a member of this committee I participated in three budget cycles in the city.

1998 to 2000 – South Fork Water Board.

1998 to 2000 – City Councilor. Among numerous accomplishments the Council completed a new the Water Master Plan, and Transportation Master Plan.

1998 to Present – Tri-City Water Treatment Plant Expansion Task Force.

2001 to Present – Clackamas County, Complete Communities Project, Environmental Quality Implementation Work Group

2001 to Present – Representing Clackamas County on the Port of Portland, Part 150 Noise Abatement Study.

Civic References

Jill Thorn, 503-635-9307, former Mayor of West Linn.

Dee Burch, 503-650-8207, former member of West Linn City Councilor.

Ted Kyle, 503-353-4562, former West Linn City Councilor, and Clackamas County Water Environment Services, Capital Program Manager.

Interests and Activities

My personal interests run in many directions. I am a regular traveler, going to Mexico at least once a year and other times during the year will travel to other countries and have traveled within the United States extensively. I've also traveled extensively in Asia and have recently begun travels to Europe with, most recently, an extended visit to Italy.

I am an avid golfer, who reads fiction, non fiction and technical books voraciously. I'm an astronomy buff (but still learning). I also like to garden (although my wife's thumb is greener than mine), and I've been known to do a little bird watching in my travels. I enjoy movies and music of all types and especially love live theatre. My wife and I also collect original art.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 02-3160, FOR THE PURPOSE OF CONFIRMING MICHAEL S. MCFARLAND AS A CITIZEN MEMBER ALTERNATE TO THE METRO POLICY ADVISORY COMMITTEE (MPAC)

Date: January 24, 2002

Prepared by: Suzanne Myers Harold
MPAC Staff

BACKGROUND

MPAC has not had a citizen alternate representative for Clackamas County since May 2000. Recently Clackamas County Public Affairs publicized the vacancy, and received a letter of interest and resume from Michael S. McFarland.

Mr. McFarland is an active member of his community in West Linn. Currently, he serves on the Tri-City Water Treatment Plant Expansion Task Force, the Clackamas County Complete Communities Project, Environmental Quality Implementation Work Group, and the Port of Portland, Part 150 Noise Abatement Study. From 1998 to 2000, he served on the West Linn City Council.

At its Study Session on January 22, 2002, the Clackamas County Commission formally discussed and approved Mr. McFarland's nomination to MPAC.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

The Metro Charter, Metro Code Section 6.01.030 and MPAC By-laws Section 2(e), provide that members and alternates representing citizens will be appointed by the Executive Officer and confirmed by the Metro Council. Citizens members representing Metro serve indefinite terms of not less than two years until such time as they may be replaced by the subsequent appointment or appointments by the Executive Officer and confirmed by the Metro Council.

3. Anticipated Effects

Mr. McFarland's confirmation as Clackamas County citizen alternate to MPAC will fill a long-standing vacancy on the committee. Should Ed Gronke, citizen representative to MPAC, vacate his position, Mr. McFarland will automatically become the member, thereby ensuring continuity.

4. Budget Impacts

None.

RECOMMENDED ACTION

The Executive Officer recommends approval of Resolution No. 02-3160.

Agenda Item Number 6.2

Resolution No. 02-3167, For the Purpose of Approving the FY 2003 Unified Work Program.

**Metro Council Meeting
Thursday, March 28, 2002
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE)
FY 2003 UNIFIED WORK PROGRAM)
)

RESOLUTION NO. 02-3167

Introduced by Councilor Rod Monroe,
JPACT Chair

WHEREAS, the Unified Work Program as shown in exhibit A, describes all federally-funded transportation planning activities for the Portland-Vancouver metropolitan area to be conducted in FY 2003; and

WHEREAS, the FY 2003 Unified Work Program indicates federal funding sources for transportation planning activities carried out by Metro, Regional Transportation Council, Oregon Department of Transportation, Tri-Met and the local jurisdictions; and

WHEREAS, approval of the FY 2003 Unified Work Program is required to receive federal transportation planning funds; and

WHEREAS, the FY 2003 Unified Work Program is consistent with the proposed Metro budget submitted to the Metro Council; now, therefore,

BE IT RESOLVED, that the Metro Council hereby declares:

1. That the FY 2003 Unified Work Program is approved.
2. That the FY 2003 Unified Work Program is consistent with the continuing, cooperative and comprehensive planning process and is given positive Intergovernmental Project Review action.
3. That Metro's Executive Officer is authorized to apply for, accept and execute grants and agreements specified in the Unified Work Program.
4. That the Memorandum of Understanding between Metro and the Southwest Washington Regional Transportation Council (RTC) is renewed for FY 2003.

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

Carl Hosticka, Presiding Officer

Approved as to form:

Daniel B. Cooper, General Council

Attachment: Exhibit A – Unified Work Program

FY 2002-03 Unified Work Program

Transportation Planning in the Portland/Vancouver Metropolitan Area

Metro

Southwest Washington Regional Transportation Council

Oregon Department of Transportation

City of Portland

Clackamas County

Washington County

Tri-Met

DRAFT

2/22/02

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 02-3167 FOR THE PURPOSE OF APPROVING THE FY 2003 UNIFIED WORK PROGRAM.

Date: February 15, 2002

Presented by: Andrew C. Cotugno

PROPOSED ACTION

This resolution would: 1) approve the Unified Work Program continuing the transportation planning work program for FY 2003; 2) authorize submittal of grant applications to the appropriate funding agencies; and 3) extend the Memorandum of Understanding with the Regional Transportation Council (RTC).

EXISTING LAW

Federal transportation agencies (Federal Transit Administration [FTA] and Federal Highway Administration [FHWA]) require an adopted Unified Planning Work Program as a prerequisite for receiving federal funds.

FACTUAL BACKGROUND AND ANALYSIS

The FY 2003 Unified Work Program (UWP) describes the transportation planning activities to be carried out in the Portland-Vancouver metropolitan region during the fiscal year beginning July 1, 2002. Included in the document are federally funded studies to be conducted by Metro, Regional Transportation Council (RTC), the Oregon Department of Transportation (ODOT), Tri-Met and local jurisdictions. Continuing commitments include implementing the adopted Regional Transportation Plan (RTP), identifying solutions to improve goods flow in the I-5 Corridor; completing the South Corridor preliminary engineering (PE) and Final Environmental Impact Statement (FEIS), and increasing the communication of transportation system performance, needs and proposed plans. In addition, it includes a greater emphasis on freight planning and further advancements in travel modeling in cooperation with Los Alamos National Laboratories. Environmental Justice also will be an emphasis area.

BUDGET IMPACT

The UWP matches the projects and studies reflected in the proposed Metro budget submitted by the Metro Executive Officer to the Metro Council and is subject to revision in the final Metro budget.

Approval will mean that grants can be submitted and contracts executed so work can commence on July 1, 2002, in accordance established Metro priorities.

KT:rc:rmb

Agenda Item Number 6.3

**Resolution No. 02-3168, For the Purpose of Certifying that the Portland Metropolitan Area is in Compliance with
Federal Transportation Planning Requirements.**

**Metro Council Meeting
Thursday, March 28, 2002
Metro Council Chamber**

JOINT RESOLUTION OF THE
METRO COUNCIL
AND OREGON STATE HIGHWAY ENGINEER

FOR THE PURPOSE OF CERTIFYING THAT)
THE PORTLAND METROPOLITAN AREA IS IN)
COMPLIANCE WITH FEDERAL)
TRANSPORTATION PLANNING)
REQUIREMENTS)

RESOLUTION NO. 02-3168

Introduced by Councilor Rod Monroe,
JPACT Chair

WHEREAS, substantial federal funding from the Federal Transit Administration and Federal Highway Administration is available to the Portland metropolitan area; and

WHEREAS, the Federal Transit Administration and Federal Highway Administration require that the planning process for the use of these funds complies with certain requirements as a prerequisite for receipt of such funds; and

WHEREAS, satisfaction of the various requirements is documented in Exhibit A; now, therefore,

BE IT RESOLVED, that the transportation planning process for the Portland metropolitan area (Oregon portion) is in compliance with federal requirements as defined in Title 23 Code of Federal Regulations, Part 450, and Title 49 Code of Federal Regulations, Part 613.

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

Approved as to form:

Carl Hosticka, Presiding Officer

Daniel B. Cooper, General Council

APPROVED by the Oregon Department of Transportation State Highway Engineer this _____
day of _____, 2002.

State Highway Engineer

Attachment: Exhibit A – Metro Self-Certification

KT:rc

Metro Self-Certification

1. Metropolitan Planning Organization (MPO) Designation

Metro is the MPO designated by the Governor for the urbanized areas of Clackamas, Multnomah, and Washington Counties.

Metro is a regional government with seven directly elected Councilors and an elected Executive Officer. Local elected officials are directly involved in the transportation planning/decision process through the Joint Policy Advisory Committee on Transportation (JPACT) (see membership roster, Attachment 1). JPACT provides the “forum for cooperative decision-making by principal elected officials of general purpose governments” as required by USDOT and takes action on the Regional Transportation Plan (RTP), the Metropolitan Transportation Improvement Program (MTIP) and the Unified Work Program (UWP). The Metro Policy Advisory Committee deals with non-transportation-related matters with the exception of adoption and amendment to the Regional Transportation Plan (RTP). Specific roles and responsibilities of the committees are described on page 2.

2. Geographic Scope

Transportation planning in the Metro region includes the entire area within the Federal-Aid Urban boundary.

3. Agreements

- a. A basic memorandum of agreement between Metro and the Regional Transportation Council (Southwest Washington RTC) delineates areas of responsibility and coordination. Executed December 1997 and renewed yearly as part of the Unified Work Program adoption.
- b. An agreement between Tri-Met and Metro implementing the Intermodal Surface Transportation Efficiency Act of 1991. Executed May 2001.
- c. An agreement between ODOT and Metro implementing the Intermodal Surface Transportation Efficiency Act of 1991. Executed May 2001.
- d. Yearly agreements are executed between Metro and ODOT defining the terms and use of FHWA planning funds.
- e. Bi-State Resolution – Metro and RTC jointly adopted a resolution establishing a Bi-State Policy Advisory Committee.
- f. An agreement between Metro and the Department of Environmental Quality (DEQ) describing each agency’s responsibilities and roles for air quality planning. Executed May 2001.

4. Responsibilities, Cooperation and Coordination

Metro uses a decision-making structure, which provides state, regional and local governments the opportunity to participate in the transportation and land use decisions of the organization. The two key committees are the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Policy Advisory Committee (MPAC). These committees receive recommendations from the

Transportation Policy Alternatives Committee (TPAC) and the Metro Technical Advisory Committee (MTAC).

JPACT

This committee is comprised of three Metro Councilors; nine local elected officials including two from Clark County, Washington, and appointed officials from the Oregon Department of Transportation (ODOT), Tri-Met, the Port of Portland and the Department of Environmental Quality (DEQ). All transportation-related actions (including federal MPO actions) are recommended by JPACT to the Metro Council. The Metro Council can approve the recommendations or refer them back to JPACT with a specific concern for reconsideration. Final approval of each item, therefore, requires the concurrence of both bodies.

Bi-State Transportation Committee

The Bi-State Transportation Committee was created by joint resolution of the RTC Board and Metro in May 1999. The Committee is charged with reviewing all issues of bi-state significance for transportation and presenting any recommended action to RTC and JPACT. The intergovernmental agreement between RTC and Metro states that JPACT and the RTC Board "shall take no action on an issue of bi-state significance without first referring the issue to the Bi-State Transportation Committee for their consideration and recommendation."

MPAC

This committee was established by the Metro Charter to provide a vehicle for local government involvement in Metro's planning activities. It includes eleven local elected officials, three appointed officials representing special districts, Tri-Met, a representative of school districts, three citizens, two non-voting Metro Councilors, two Clark County, Washington representatives and a non-voting appointed official from the State of Oregon. Under the Metro Charter, this committee has responsibility for recommending to the Metro Council adoption of or amendment to any element of the Charter-required Regional Transportation Plan.

The Regional Framework Plan was adopted on December 11, 1997, and addresses the following topics:

- Transportation
- Land use (including the Metro Urban Growth Boundary and urban reserves)
- Open space and parks
- Water supply and watershed management
- Natural hazards
- Coordination with Clark County, Washington
- Management and implementation

In accordance with this requirement, the transportation plan developed to meet TEA-21 Rule 12 and Charter requirements will require a recommendation from both MPAC and JPACT. This will ensure proper integration of transportation with land use and environmental concerns.

5. Metropolitan Transportation Planning Products

a. Unified Work Program (UWP)

The Unified Work Program is adopted annually by JPACT, the Metro Council and the Southwest Washington Regional Transportation Council. It fully describes work projects planned for the Transportation Department during the fiscal year and is the basis for grant and funding applications. The UWP also includes federally funded major projects being planned by member jurisdictions.

b. Regional Transportation Plan (RTP)

The 2000 Regional Transportation Plan was adopted in August 2000, culminating a two-phase, five-year effort to reorient the plan to Metro's 2040 Growth Concept. The updated plan contains a new emphasis on implementing key aspects of the 2040 land use plan with strategic transportation infrastructure improvements and programs. The plan is fully organized around these land use goals, with modal systems for motor vehicles, transit, freight, bicycles and pedestrians geared to serve the long-term needs called for in the 2040 plan.

The 2000 RTP also includes a new level of detail, prescribing a number of new performance measures and system design standards for the 24 cities and three counties in the Metro region to enact. These include: new requirements for local street connectivity; modal orientation in street design; 2040-based level-of-service policy for sizing roads; targets for combined alternative modes of travel; and, parking ratios for new developments. The plan contains nearly 900 individual projects totaling \$7.2 billion in system improvements, and a corresponding series of financing scenarios for funding these projects. It also calls for more than a dozen corridor studies to define specific projects for many of the major corridors where more analysis is needed to determine which improvements best respond to expected demand. The next periodic update to the RTP is scheduled for 2004.

c. Metropolitan Transportation Improvement Program (MTIP)

The Metropolitan Transportation Improvement Program will be updated in Spring 2002 and incorporated into Oregon Department of Transportation's (ODOT) 2002-2005 State Transportation Improvement Program (STIP). The 2002 update includes projects or project phases with prior funding commitments and allocated \$50 million of State Transportation Program (STP) and Congestion Mitigation Air Quality Program (CMAQ). The adopted MTIP features a three-year approved program of projects and a fourth "out-year." The first year of projects are considered the priority year projects. Should any of these be delayed for any reason, projects of equivalent dollar value may be advanced from the second and third years of the program without processing formal Transportation Improvement Program (TIP) amendments. This flexibility was adopted in response to Intermodal Surface Transportation Efficiency Act (ISTEA) (now Transportation Efficiency Act of the 21st Century {TEA-21}) planning requirements. The flexibility reduces the need for multiple amendments throughout the year. The FY 2000-2003 MTIP was completed in FY 2000.

FY 2002-2003 will see development of the FY 2004-2007 joint MTIP/ STIP and implementation of priority FY 2002 projects. The TIP air quality conformity determination is undergoing joint United States Department of Transportation (USDOT) and Environmental Protection Agency (EPA) review. Approval of both the 2002 MTIP and its air quality conformity determination is expected by mid March 2002.

6. Planning Factors

Metro's planning process addresses the seven TEA-21 planning factors in all projects and policies. The table below describes this relationship. The TEA-21 planning factors are:

- Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity and efficiency;
- Increase the safety and security of the transportation system for motorized and non-motorized users;
- Increase the accessibility and mobility options available to people and for freight;
- Protect and enhance the environment, promote energy conservation and improve quality of life;
- Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;
- Promote efficient management and operations; and
- Emphasize the preservation of the existing transportation system.

Factor	System Planning (RTP)	Funding Strategy (MTIP)	High Capacity Transit (HCT)
1. Support Economic Vitality	<ul style="list-style-type: none"> • RTP Policies linked to land use strategies that promote economic development. • Industrial areas and intermodal facilities identified in policies as “primary” areas of focus for planned improvements. • Comprehensive, multimodal freight improvements that link intermodal facilities to industry are detailed for 20-year plan period. • Highway LOS policy tailored to protect key freight corridors. • RTP recognizes need for freight linkages to destinations beyond the region by all modes. 	<ul style="list-style-type: none"> • All projects subject to consistency with RTP policies on economic development and promotion of “primary” land use element of 2040 development such as industrial areas and intermodal facilities. • Special category for freight improvements calls out the unique importance for these projects. • All freight projects subject to funding criteria that promote industrial jobs and businesses in the “traded sector”. 	<ul style="list-style-type: none"> • HCT plans designed to support continued development of regional centers and central city by increasing transit accessibility to these locations. • HCT improvements in major commute corridors lessen need for major capacity improvements in these locations, allowing for freight improvements in other corridors.

Factor	System Planning (RTP)	Funding Strategy (MTIP)	High Capacity Transit (HCT)
2. Increase Safety	<ul style="list-style-type: none"> The RTP policies call out safety as a primary focus for improvements to the system. Safety is identified as one of three implementation priorities for all modal systems (along with preservation of the system and implementation of the region's 2040-growth management strategy). 	<ul style="list-style-type: none"> All projects ranked according to specific safety criteria. Road modernization and reconstruction projects are scored according to relative accident incidence. All projects must be consistent with regional street design guidelines that provide safe designs for all modes of travel. 	<ul style="list-style-type: none"> Station area planning for proposed HCT improvements is primarily driven by pedestrian access and safety considerations.
3. Increase Accessibility	<ul style="list-style-type: none"> The RTP policies are organized on the principle of providing accessibility to centers and employment areas with a balanced, multi-modal transportation system. The policies also identify the need for freight mobility in key freight corridors and to provide freight access to industrial areas and intermodal facilities. 	<ul style="list-style-type: none"> Measurable increases in accessibility to priority land use elements of the 2040-growth concept is a criterion for all projects. The MTIP program places a heavy emphasis on non-auto modes in an effort to improve multi-modal accessibility in the region. 	<ul style="list-style-type: none"> The planned HCT improvements in the region will provide increased accessibility to the most congested corridors and centers. Planned HCT improvements provide mobility options to persons traditionally underserved by the transportation system.
4. Protect Environment and Quality of Life (continued)	<ul style="list-style-type: none"> The RTP is constructed as a transportation strategy for implementing the region's 2040-growth concept. The growth concept is a long-term vision for retaining the region's livability through managed growth. 	<ul style="list-style-type: none"> The MTIP conforms to the Clean Air Act. The MTIP focuses on allocating funds for clean air (CMAQ), livability (Transportation Enhancement) and multi- and alternative – modes (STIP). 	<ul style="list-style-type: none"> Light rail improvements provide emission-free transportation alternatives to the automobile in some of the region's most congested corridors and centers.

Factor	System Planning (RTP)	Funding Strategy (MTIP)	High Capacity Transit (HCT)
<p>4. Protect Environment and Quality of Life <i>(continued)</i></p>	<ul style="list-style-type: none"> • The RTP system has been “sized” to minimize the impact on the built and natural environment. • The region has developed an environmental street design guidebook to facilitate environmentally sound transportation improvements in sensitive areas, and to coordinate transportation project development with regional strategies to protect endangered species. • The RTP conforms to the Clean Air Act. • Many new transit, bicycle, pedestrian and TDM projects have been added to the plan in recent updates to provide a more balanced multi-modal system that maintains livability. • RTP transit, bicycle, pedestrian and TDM projects planned for the next 20 years will complement the compact urban form envisioned in the 2040 growth concept by promoting an energy-efficient transportation system. 	<ul style="list-style-type: none"> • Bridge projects in lieu of culverts have been funded through the MTIP. 	<ul style="list-style-type: none"> • HCT transportation alternatives enhance quality of life for residents by providing an alternative to auto travel in congested corridors and centers.

Factor	System Planning (RTP)	Funding Strategy (MTIP)	High Capacity Transit (HCT)
<p>4. Protect Environment and Quality of Life <i>(continued)</i></p>	<ul style="list-style-type: none"> Metro coordinates its system level planning with resource agencies to identify and resolve key issues. 		
<p>5. System Integration / Connectivity</p>	<ul style="list-style-type: none"> The RTP includes a functional classification system for all modes that establishes an integrated modal hierarchy. The RTP policies and UGMFP* include a street design element that integrates transportation modes in relation to land use for all regional facilities. The RTP policies and UGMFP include connectivity provisions that will increase local and major street connectivity. The RTP freight policies and projects address the intermodal connectivity needs at major freight terminals in the region. The intermodal management system identifies key intermodal links in the region. 	<ul style="list-style-type: none"> Projects funded through the MTIP must be consistent with regional street design guidelines. Freight improvements are evaluated according to potential conflicts with other modes. 	<ul style="list-style-type: none"> Planned HCT improvements are closely integrated with other modes, including pedestrian and bicycle access plans for station areas and park-and-ride and passenger drop-off facilities at major stations.

Factor	System Planning (RTP)	Funding Strategy (MTIP)	High Capacity Transit (HCT)
<p>6. Efficient Management & Operations</p>	<ul style="list-style-type: none"> • The RTP policy chapter includes specific system management policies aimed at promoting efficient system management and operation. • Proposed RTP projects include many system management improvements along regional corridors. • The RTP financial analysis includes a comprehensive summary of current and anticipated operations and maintenance costs. 	<ul style="list-style-type: none"> • Projects are scored according to relative cost effectiveness (measured as a factor of total project cost compared to measurable project benefits). • TDM projects are solicited in a special category to promote improvements or programs that reduce SOV pressure on congested corridors. • TSM/TTS projects are funded through the MTIP. 	<ul style="list-style-type: none"> • Proposed HCT improvements include redesigned feeder bus systems that take advantage of new HCT capacity and reduce the number of redundant transit lines.
<p>7. System Preservation</p>	<ul style="list-style-type: none"> • Proposed RTP projects include major roadway preservation projects. • The RTP financial analysis includes a comprehensive summary of current and anticipated operations and maintenance costs. 	<ul style="list-style-type: none"> • Reconstruction projects that provide long-term maintenance are identified as a funding priority. 	<ul style="list-style-type: none"> • The RTP financial plan includes the 20-year costs of HCT maintenance and operation for planned HCT systems.

* UGMFP is the acronym for the Urban Growth Management Functional Plan, an adopted regulation that requires local governments in Metro's jurisdiction to complete certain planning tasks.

7. Public Involvement

Metro maintains a proactive public involvement process that provides complete information, timely public notice, full public access to key decisions and supports early and continuing involvement of the public in developing its policies, plans and programs. Public Involvement Plans are designed to both support the technical scope and objectives of Metro studies and programs while simultaneously providing for innovative, effective and inclusive opportunities for engagement. Every effort is made to employ broad and diverse methods, tools and activities to reach potentially impacted communities and other neighborhoods and to encourage the participation of low-income and minority citizens and organizations.

All Metro UWP studies and projects that have a public involvement component require a Public Involvement Plan (PIP) that meets or exceeds adopted public involvement procedures. Included in individualized PIPs are strategies and methods to best involve a diverse citizenry. Some of these may include special public opinion survey mechanisms, custom citizen working committees or advisory committee structures, special task forces, web instruments and a broad array of public information materials. For example, given the geographically and philosophically diverse make-up of the South Corridor Study, it was determined that the traditional single citizens advisory committee would not prove effective. Hence, the study incorporated area specific working committees, local advisory committees and assemblies as well as corridor-wide all-assemblies. Hearings, workshops, open houses, charrettes and other activities are also held as needed.

The MTIP relies on early program kick-off notification, inviting input on the development of criteria, project solicitation, project ranking and the recommended program. Workshops, informal and formal opportunities for input as well as a 45-day + comment period are repetitive aspects of the MTIP process.

Finally, the Transportation Policy Alternatives Committee (TPAC) includes six citizen positions. TPAC makes recommendations to JPACT and the Metro Council.

8. Title VI – The current formal submittal to the Federal Transit Administration (FTA) was approved through September 2002. In addition, the Federal Highway Administration (FHWA) and FTA recently completed and certified Metro's Public Involvement, Title VI and Environmental Justice processes as part of the October 2001 Metropolitan Transportation Planning and Programming USDOT Certification Review.

9. Disadvantaged Business Enterprise (DBE)

A revised DBE program was adopted by the Metro Council in June 1997 (Ordinance 97-692A); 49CFR 26 allows recipients to use the DBE goal of another recipient in the same market. Metro's Executive Officer approved an overall DBE annual goal for in accordance with the Oregon Department of Transportation. This goal was established utilizing ODOT's methodology to determine DBE availability of "ready, willing and able" firms for federally funded professional and construction projects. The current goal is 12.4%.

Metro's DBE program was reviewed and determined to be in compliance by FTA after conducting a Triennial Review in August 1999.

10. Americans with Disabilities Act (ADA)

The Americans with Disabilities Act Joint Complementary Paratransit Plan was adopted by the Tri-Met Board in December 1991 and was certified as compatible with the RTP by Metro Council in January 1992. The plan was phased in over five years and Tri-Met has been in compliance since January 1997. Metro approved the 1997 plan as in conformance with the Regional Transportation Plan. FTA audited and approved the plan in summer 1999.

KT:rc

JPACT Members and Alternates

FIRST_NAME	LAST_NAME	ORGANIZATION	REPRESENTING	CITY	STA' ZIPCODE	SALUTATION	PHONE	FAX
1. Rod	Monroe	Metro	Chair	Portland	OR 97232-27	Councilor Monroe	503-797-1588	503-797-1793
2. Rex	Burkholder	Metro	Metro	Portland	OR 97232-27	Councilor Burkholder	503-797-1546	503-797-1793
3. Rod	Park	Metro	Mero	Portland	OR 97232-27	Councilor Park	503-797-1547	503-797-1793
Carl	Hostlicka	Metro	Metro	Portland	OR 97232-27	Councilor Hostlicka	503-797-1549	503-797-1793
4. Bill	Kenemer	Clackamas County	Clackamas County	Oregon City	OR 97045-18	Commissioner Kenemer	503-655-8581	503-650-8944
Michael	Jordan	Clackamas County	Clackamas County	Oregon City	OR 97045-16	Commissioner Jordan	503-655-8581	503-650-8944
5. Marla	Rojo de Steffey	County	Multnomah County	Portland	OR 97214	Commissioner Rojo de Steffey	503-988-5220	503-988-5440
Lonnie	Roberts	Multnomah County	Multnomah County	Portland	OR 97214-35	Commissioner Roberts	503-988-5213	503-988-5262
6. Roy	Rogers	Washington County	Washington County	Portland	OR 97223-83	Commissioner Rogers	503-620-2632	503-693-4545
Tom	Brian	Washington County	Washington County	Hillsboro	OR 97124-30	Commissioner Brian	503-846-8681	503-693-4545
7. Charlie	Hales	City of Portland	City of Portland	Portland	OR 97204-19	Commissioner Hales	503-823-4682	503-823-4040
Vera	Katz	City of Portland	City of Portland	Portland	OR 97204-19	Mayor Katz	503-823-4120	503-823-3588
8. Karl	Rohde	City of Lake Oswego	County	Lake Oswego	OR 97034-03	Councilor Rohde	503-636-2452	503-636-2532
Brian	Newman	City of Milwaukie	County	Milwaukie	OR 97222	Councilor Newman	503-652-5298	503-654-2233
9. Larry	Haverkamp	City of Gresham	County	Gresham	OR 97030-38	Councilor Haverkamp	503-618-2584	503-665-7692
James	Kight	City of Troutdale	County	Troutdale	OR 97060-21	Councilor Kight	503-667-0937	503-667-8871
10. Robert	Drake	City of Beaverton	County	Beaverton	OR 97076-47	Mayor Drake	503-526-2481	503-526-2479
Lou	Ogden	City of Tualatin	County	Tualatin	OR 97062-93	Mayor Ogden	503-692-0163	503-692-0163
11. Fred	Hansen	Tri-Met	Tri-Met	Portland	OR 97202	Mr. Hansen	503-962-4831	503-962-6451
Neil	McFarlane	Tri-Met	Tri-Met	Portland	OR 97232	Mr. McFarlane	503-962-2103	503-962-2288
12. Kay	Van Sickle	ODOT	ODOT	Portland	OR 97209-40	Ms. Van Sickle	503-731-8256	503-731-8259
Bruce	Warner	ODOT	ODOT	Salem	OR 97301-36	Mr. Warner	503-986-3435	503-986-3432
13. Stephanie	Hallock	DEQ	Oregon DEQ	Portland	OR 97204	Ms. Hallock	503-229-5300	503-229-5850
Andy	Ginsburg	DEQ	Oregon DEQ	Portland	OR 97204	Mr. Ginsburg	503-229-5397	503-229-5675
Annette	Liebe	DEQ	Oregon DEQ	Portland	OR 97204-13	Ms. Liebe	503-229-6919	503-229-5675
14. Don	Wagner	WSDOT	Washington State DOT	Vancouver	WA 98668	Mr. Wagner	360-905-2001	360-905-2222
Mary	Legry	WSDOT	Washington State DOT	Vancouver	WA 98668	Ms. Legry	360-905-2014	360-905-2222
15. Bill	Wyatt	Port of Portland	Port of Portland	Portland	OR 97208	Mr. Wyatt	503-944-7011	503-944-7042
David	Lohman	Port of Portland	Port of Portland	Portland	OR 97208	Mr. Lohman	503-944-7048	503-944-7222
16. Royce	Pollard	City of Vancouver	City of Vancouver	Vancouver	WA 98668	Mayor Pollard	360-696-8484	360-696-8049
Dean	Lookingbill	SW Washington RTC	SW Washington RTC	Vancouver	WA 98661	Mr. Lookingbill	360-397-6067	360-696-1847
17. Craig	Pridemore	Clark County	Clark County	Vancouver	WA 98666-50	Commissioner Pridemore	360-397-2232	360-397-6058
Peter	Capell	Clark County	Clark County	Vancouver	WA 98666-95	Mr. Capell	360-397-6118	360-397-6051

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 02-3168 FOR THE PURPOSE OF CERTIFYING THAT THE PORTLAND METROPOLITAN AREA IS IN COMPLIANCE WITH FEDERAL TRANSPORTATION PLANNING REQUIREMENTS.

Date: February 15, 2002

Presented by: Andrew C. Cotugno

PROPOSED ACTION

This resolution certifies that the Portland metropolitan area is in compliance with federal transportation planning requirements as defined in Title 2.3, Code of Federal Regulations, Part 450 and Title 49, Code of Federal Regulations, Part 613.

EXISTING LAW

Federal transportation agencies (Federal Transit Administration [FTA] and Federal Highway Administration [FHWA]) require a self-certification that our planning process is in compliance with certain federal requirements as a prerequisite to receiving federal funds. The self-certification documents that we have met those requirements and is considered yearly at the time of Unified Work Program approval.

FACTUAL BACKGROUND AND ANALYSIS

Required self certification areas include:

- Metropolitan Planning Organization (MPO) designation
- Geographic scope
- Agreements
- Responsibilities, cooperation and coordination
- Metropolitan Transportation Planning products
- Planning factors
- Public Involvement
- Title VI
- Disadvantaged Business Enterprise (DBE)
- Americans with Disabilities Act (ADA)

Each of these areas is discussed in Exhibit A to Resolution 02-3168.

BUDGET IMPACT

Approval of this resolution is a companion to the Unified Work Program. It is a prerequisite to receipt of federal planning funds and is, therefore, critical to the Metro budget. The UWP matches the projects and studies reflected in the proposed Metro budget submitted by the Metro Executive Officer to the Metro Council and is subject to revision in the final adopted Metro budget.

Approval will mean that grants can be submitted and contracts executed so work can commence on July 1, 2002, in accordance established Metro priorities.

KT:rc

Agenda Item Number 6.4

Resolution No. 02-3179, For the Purpose of Directing the Executive Officer to submit a Petition to Adopt a Rule to the Land Conservation and Development Commission under ORS 183.390 on the Application of Goals 14 and 2 and ORS 197.298 to the Expansion of the Urban Growth Boundary.

**Metro Council Meeting
Thursday, March 28, 2002
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DIRECTING THE)	Resolution No. 02-3179
EXECUTIVE OFFICER TO SUBMIT A)	
PETITION TO ADOPT A RULE TO THE LAND)	Introduced by Community
CONSERVATION AND DEVELOPMENT)	Planning Committee
COMMISSION UNDER ORS 183.390 ON THE)	
APPLICATION OF GOALS 14 AND 2 AND ORS)	
197.298 TO THE EXPANSION OF THE URBAN)	
GROWTH BOUNDARY)	

WHEREAS, Metro is responsible for the establishment and management of the urban growth boundary (UGB) for the Portland metropolitan region; and

WHEREAS, ORS 197.296 requires Metro to conduct an analysis of the capacity of the UGB for housing and to ensure that the boundary contains capacity for a 20-year supply of land for housing; and

WHEREAS, ORS 197.299(1) requires Metro to conduct an analysis of the capacity of the UGB for housing every five years; and

WHEREAS, it is likely Metro will have to expand the UGB to add capacity for housing to accommodate housing for the forecast population to year 2022; and

WHEREAS, Metro may find it necessary to allocate housing need to subareas of the region in order to accomplish the objectives of the Regional Framework Plan and the need and locational factors of Goal 14; and

WHEREAS, neither the applicable statewide planning goals nor ORS 197.298, which establishes the priority of land to be added to UGBs, expressly state that the goals or statute may be applied to subregions of the Metro region; and

WHEREAS, the analysis Metro would undertake to determine whether allocation of housing and employment need to subregions accomplishes Regional Framework Plan policies and statewide planning goal objectives is costly and time-consuming; and

WHEREAS, on March 8, 2002, Metro submitted a petition for a declaratory ruling to the Land Conservation and Development Commission (LCDC) pursuant to ORS 183.410 seeking

guidance on the application of state law to allocation of housing and employment to subregions;
and

WHEREAS, on March 14, 2002, LCDC declined to provide a declaratory ruling and invited Metro to propose a rule to it pursuant to ORS 183.390 as a more appropriate mechanism to provide the guidance Metro seeks; now, therefore,

BE IT RESOLVED:

1. That the Executive Officer shall prepare and submit to the Land Conservation and Development Commission, no later than April 2, 2002, a "Petition to Adopt a Rule" as allowed by ORS 183.390 seeking a rule from the commission to guide an allocation of regional need for housing and employment to subregions in compliance with the statewide planning goals and ORS 197.298.

2. That the petition shall include the proposed rule set forth in Exhibit A, attached and incorporated into this resolution.

ADOPTED by the Metro Council this 28th day of March 2002.

Carl Hosticka, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

Attachment: Exhibit A

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EXHIBIT A
Resolution No. 02-3179

BEFORE THE LAND CONSERVATION & DEVELOPMENT COMMISSION

IN THE MATTER OF THE ADOPTION)	PETITION TO ADOPT A RULE
OF A RULE ON THE APPLICATION OF)	
GOALS 14 AND 2 AND ORS 197.298 TO)	
THE EXPANSION OF THE METRO)	
URBAN GROWTH BOUNDARY)	

1. Petitioner: Petitioner's name, address and telephone are:

Mike Burton, Executive Officer
Metro
600 N.E. Grand Avenue
Portland, OR 97232-2736
(503) 797-1502

2. Facts: Metro is responsible for establishment and management of the urban growth boundary (UGB) for the Portland metropolitan region. ORS 197.296 requires Metro to ensure that the UGB contains a 20-year supply of land for housing each time Metro undertakes an analysis of UGB capacity. ORS 197.299(1) requires Metro to conduct such an analysis every five years. Metro is in the midst of its required analysis through the state's periodic review process.

It is likely that the analysis will lead Metro to conclude that it must expand its UGB in order to provide a 20-year supply of land. Metro must apply the factors of Goal 14, Goal 2, the priorities in ORS 197.298(1), and its own Regional Framework Plan (RFP) to determine how much land, and which land, to take into the boundary.

Goal 14 requires a selection of land that provides for "an orderly and efficient transition from rural to urban land use." Goal 14 requires Metro, as it selects land, to weigh long-term population growth; the need for housing, employment opportunities and livability; orderly and efficient provision for public facilities and services; maximum efficiency of land uses within and on the fringe of the existing urban area; environmental, energy, economic and social consequences; retention of agricultural land; and compatibility between urban and agricultural activities.

Goal 2 requires Metro to consider alternatives to expansion of the boundary.

ORS 197.298(1) establishes priorities for land that may be included within a UGB. The subsection requires a local government to determine that higher priority land “is inadequate to accommodate the amount of land needed” before it may include lower priority land.

Metro’s RFP contains the 2040 Growth Concept, the strategy for management of growth in the metropolitan area. The Growth Concept designates “centers” – the Central City, Regional Centers and Town Centers – as highly-accessible, mixed-use areas of higher density employment and housing serviced by a multi-modal transportation system. RPF policies that guide Metro’s selection of land for inclusion in the UGB – set forth at pages 4 and 5 of “Metro Periodic Review of the Urban Growth Boundary Subregional Assessment Paper” (attached as Exhibit B) – seek to ensure that regional management of growth contributes to the success of these centers. The Growth Concept and these policies, taken together, seek appropriate ratios between housing and employment in various parts of the region in order to accomplish state objectives: to reduce the number and length of auto trips; to better match wage levels with housing costs; to achieve a higher level of multi-modal transportation; and to achieve a more equitable distribution of employment opportunities, investment and tax capacity.

Metro’s UGB contains nearly half the state’s population, 24 cities and the urban portions of three counties. It is 37 miles east-to-west, 25 miles north-to-south, and includes two “islands” separated from the main UGB (Wilsonville and Forest Grove/Cornelius). Because the region is so large, it may prove impossible to achieve the objectives of the RFP and of Goal 14 without allocating housing and employment to subregions. The Oregon Court of Appeals noted the uniqueness of the metropolitan situation in ruling that subregional analysis could provide a basis for expanding the UGB:

“We recognize that, in reality, housing, job opportunities and other exigencies calling for urban support can arise in areas of a local planning jurisdiction that were not part of, or are far removed from, the territory that was included in the locality’s UGB when it was first established. That fact is particularly germane in connection with a governmental entity like Metro, the planning authority of which extends to numerous cities and counties covering an enormous amount of land that ranges in kind and distance from the urban center in Portland to the prime agricultural areas of Washington and Clackamas Counties.”*

Metro understands that any allocation that affects the selection of land to come into the UGB must comply with state law.

Neither Goals 2 and 14 nor ORS 197.298 states expressly how the goals or statute apply to allocation of housing and employment to subregions and consequent expansion of the UGB adjacent to the subregion. The uncertainty whether state law allows allocation and UGB expansion by subregion, the commitment of Metro to comply with state law, and the high cost of subregional analysis causes Metro to propose this rule to LCDC.

3. Propositions of Law from the Cases:

Metro's proposed rule is based upon rulings and dicta from the few cases that have addressed subregional need. Here is a short summary of the cases from the Oregon Court of Appeals and LUBA.

Subregional need is not a "specific type of identified land need" under ORS 197.298(3)(a).** It is a need identified by considering the "need factors" of Goal 14:

"The relevant inquiry becomes whether any suitable higher priority land can reasonably accommodate, i.e., are sufficient in quantity to satisfy, that identified need. That inquiry is addressed under the priority scheme at ORS 197.298(1), not the exception to that scheme at ORS 197.298(3)(a)."

Subregional need can provide a basis for expansion of an urban growth boundary in the vicinity of the subregion.*** Subregional need must be part of regional need.*** In determining subregional need, Metro may consider imbalances between housing and employment.**** Metro may allocate land to a subregion in order to address such imbalances.**** Metro must explain the basis for its determination that an area serves as a subregion.***** It must also explain why the needs of the subregion should be viewed in isolation from the rest of the region.*****

4. **Proposed Rule:** Petitioner proposes the following rule to guide the allocation of housing and employment to subregions of the region:

PROPOSED OAR 660, DIVISION 024

URBAN GROWTH BOUNDARIES

DRAFT 2 (March 18, 2002)

660-024-0000

Purpose

This rule describes how Goals 2 and 14 and ORS 197.298 apply to a change of a regional urban growth boundary.

660-024-0010

Definitions

For the purposes of this division, "regional UGB" means an urban growth boundary adopted by a regional government described in ORS Chapter 268.

660-024-0020

Consideration of Factors in Change of Regional Urban Growth Boundary

(1) A local government responsible for a regional UGB may determine its need for housing, employment opportunities and livability under Goal 14 Factors 1 and 2 on a subregional basis if it demonstrates that:

(a) the combined needs of all subregions do not exceed the need to accommodate long-range urban population growth in the region as a whole, as determined pursuant to Goal 14, Factor 1;

(b) a determination of need on a subregional basis is necessary to achieve a more orderly and efficient transition from non-urban to urban use in the region as a whole and to achieve policies in a regional framework plan described in ORS 197.015(16);

(c) areas designated as subregions must be differentiated from other areas of the region in order to achieve the objectives and policies described in paragraph (b) of this subsection;

(d) the allocation of need for housing and employment to each designated subregion will achieve the objectives for that subregion, as set forth in the regional framework plan; and

(e) the allocation of need for housing and employment to the designated subregions will better achieve the objectives and policies described in paragraph (b) of this subsection than allocation made without regard to subregions.

(2) If a local government allocates need for housing and employment to subregions in compliance with subsection (1) of this section and determines that it must expand the regional UGB near a subregion, it may limit its consideration of Goal 14 Factors 3 through 7 and Goal 2 to only those lands that can accommodate the needs of the designated subregion. The local government shall demonstrate that the land brought into the regional UGB will achieve the objectives for the subregion described in subsection (1)(d) of this section.

(3) If a local government allocates need for housing and employment to subregions in compliance with subsection (1) of this section and determines that it must expand the regional UGB near a subregion, it may apply the priorities set forth at ORS 197.298(1) to only those lands that can accommodate the needs of the designated subregion.

5. Interested Persons: A list of persons known to be interested is attached as Exhibit A.

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WHEREFORE, Petitioner requests the Land Conservation & Development Commission to adopt the proposed rules.

DATED: March _____, 2002

PETITIONER:
Metro

By: _____
Mike Burton, Executive Officer

* Residents of Rosemont v. Metro, 173 Or. App. 321, 328 (2001)

**1000 Friends of Oregon v. Metro/Ryland Homes, 38 Or LUBA 565, 608-09 (2000)

***Residents of Rosemont v. Metro, 173 Or. App. 321, 326 (2001)

****1000 Friends of Oregon v. Metro/Ryland Homes, 38 Or LUBA 565, 573, note 5 (2000)

***** Residents of Rosemont v. Metro, 173 Or. App. 321, 331 (2001)

Attachment A

[Mailing List To Be Inserted At A Later Date]

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 02-3179, FOR THE PURPOSE OF DIRECTING THE EXECUTIVE OFFICER TO SUBMIT A PETITION TO ADOPT A RULE TO THE LAND CONSERVATION AND DEVELOPMENT COMMISSION UNDER ORS 183.390 ON THE APPLICATION OF GOALS 14 AND 2 AND ORS 197.298 TO THE EXPANSION OF THE URBAN GROWTH BOUNDARY.

Date: March 20, 2002

Prepared by: Michael Morrissey

Proposed Action: Resolution 02-3179 requests that LCDC adopt a rule that will assist Metro with regard to conducting a subregional analysis, and possible allocation of regional need for housing and employment to subregions, as part of its periodic review work program.

Factual Background and Analysis: The Metro periodic Review work program Task 2, subtask 8 requires the assessment of subregions. The work program explicitly allows Metro to request clarification from LCDC with respect to the implementation of these tasks. Developing and identifying a policy basis for examining subregional issues is essential prior to considering land additions to the UGB.

Metro Planning Department staff have developed a proposed methodology for a subregional approach that has been discussed with the Community Planning Committee, MTAC and MPAC. The methodology is outlined in a February 20, 2002 memo and package from Andy Cotugno to Rod Park, chair of the Community Planning Committee (Exhibit B). The Subregional Assessment Paper describes the use of MetroScope to "test a strategy to improve the efficiency of subregions by seeking an optimal balance of jobs and housing thereby supporting complete communities." Subregions would be based on the areas defined by 2040 designated city and regional centers, supported by town centers.

In March of this year Metro requested a declaratory ruling from LCDC relative to this same issue, via resolution 02-3171. On March 14, 2001 LCDC declined to issue a declaratory ruling, and invited Metro to propose a rule as a more appropriate mechanism.

Richard Benner, senior assistant counsel spelled out certain aspects of the proposed rule for the Community Planning Committee on March 19, 2001. For example, the rule is narrow in scope and applies only to Metro. The rule does not exclusively concern itself with possible expansion of the urban growth boundary, but also focuses on application of the 2040 Growth Concept, and policies related to the development of centers. The proposed rule takes into account recent case law, and has as its policy basis Goal 14 and the regional Framework Plan.

Mr. Benner also indicated that the proposed rule states that the allocation of need for housing and employment to subregions must do a better job of achieving the objectives of goal 14 than allocations made without regard to subregions.

Known Opposition: City of Portland and 1000 Friends of Oregon.

Budget Impact: The cost of conducting subregional analysis is time consuming, and therefore expensive. The rationale for this request to LCDC is to avoid costs for work products that could be overturned upon challenge.

Existing Law: ORS chapter 197.296 requires Metro to conduct an analysis of the capacity of our urban growth boundary, approximately every five years. Metro is currently conducting such an analysis in a periodic review framework.

MINUTES OF THE METRO COUNCIL MEETING

March 21, 2002

Metro Council Chamber

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

Councilors Absent: Susan McLain, (excused) Rod Monroe (excused)

Presiding Officer Hosticka convened the Regular Council Meeting at 2:05 p.m.

1. INTRODUCTIONS

Councilor Bragdon introduced Professor Ethan Seltzer, Director of the Institute of Portland Metropolitan Studies, who gave an overview of the Institute's mission, current offerings, project list, goals and objectives (a copy of which may be found in the meeting record).

Councilor Bragdon mentioned the Benchmark Project and noted how academia and real world experience were brought together.

Councilor Atherton discussed the concept of community. He added that he had recently been asked to speak at Portland State University (PSU) regarding carrying capacity. He asked Mr. Seltzer about community and the carrying capacity connection.

Mr. Seltzer replied that PSU was involved in Metro's Future Vision. He spoke to the vision, performance scenarios and carrying capacity. He said the notion of carrying capacity being a useful way of describing a metropolitan area was a big leap. He felt there was an important concept with carrying capacity about living within your means.

Councilor Atherton appreciated Mr. Seltzer's perspective of carrying capacity. He saw the system as an organic system; he further explained the importance of utilizing the concept of carrying capacity.

Mr. Seltzer said it came down to clarity of goals. He felt the rest would fall into place.

Councilor Park asked about other cities that had something comparable to our data information system.

Mr. Seltzer said there weren't a lot of metropolitan areas that had data at the parcel base that our region had. He said the results of models and forecasts were not destiny. There were other ways of testing assumptions. Ultimately the Council would need to make a series of decisions. The models merely informed them but did not necessarily provide all of the answers. He reiterated that it was a tool not a decision.

Councilor Park followed-up explaining that the fact that we had the ability to measure told them if they were on the right track whether they thought what was happening in the market place was actually happening.

Mr. Seltzer said it gave them the opportunity to test their assumptions and to test them in a way that couldn't be done in many metropolitan areas in America. He noted the challenges that went along with those assumptions. He felt that Metro's use of models was the way to go.

Councilor Burkholder spoke to a challenge in creating a shared understanding of the metropolitan area. He said people don't understand how the region became a great place. There were challenges in informing people of the region about the choices that had been made and were continuing to be made. How was the Institute working on this issue and how could Metro participate in helping broaden that education effort?

Mr. Seltzer responded that Metroscape magazine had been a way for the Institute to show people the region in different kinds of frames. He felt it had been an effective tool for the region. They were trying to create a language about the region that everyone could relate to. He said events on the web page had also been good tool, it was part of the community-building task creating a place where these issues could be aired. The Institute was not an implementer as a University based group, this enabled them to bring issues to the table that others couldn't or wouldn't bring to the table. He felt that there was a continual community building task at our regional scale. He spoke to the possible partnership between the Institute and Metro as people become engaged in community activities.

Presiding Officer Hosticka thanked Mr. Seltzer.

Councilor Atherton asked why Association of Bay Area Governments (ABAG) in the San Francisco Bay area had become a stagnant group?

Mr. Seltzer said ABAG was a voluntary association of governments. One of the things that distinguished Metro was that it was a directly elected council. He felt there was a need to develop formal approaches to being accountable for regional outcomes, he felt ABAG was an example of one of the organizations that had not developed those outcomes. He acknowledged Mayor Judie Hammerstad and her contribution to the Institute.

2. CITIZEN COMMUNICATIONS

There were none.

3. METRO TRANSITION ADVISORY TASK FORCE REPORT AND RECOMMENDATIONS

Presiding Officer Hosticka announced that a full discussion of this report would be held at the next Council/Executive Officer Informal to be held Tuesday, March 26, 2002 at 2:00 p.m.

Jeff Condit, Attorney, Miller Nash LLP and Chair of the Transition Advisory Task Force overviewed the Transition Advisory Task Force recommendations (a copy of which may be found in the meeting packet). He thanked the committee members and provided a brief highlight of the information. Two other members of the committee were introduced, Mayor Judie Hammerstad and Larry Hilderbrand.

Mayor Hammerstad added that the committee had expressed concern about how an individual councilor's who had a different point of view from the majority got their point of view supported. They had suggested budgeting for outside staff. She said the council had an opportunity to set the course for Metro into the future to become a mature and professional organization that could be

respected throughout the region. The Task Force was very thoughtful and concerned about giving the Council the tools to make that happen. She thanked the Council for providing the opportunity to serve.

Mr. Condit especially thanked Ms. Coats, Ms. Billington, Mr. Cooper and Mr. Sandrock for their complete, expeditious support.

Councilor Park asked about the relationship and linkage between the Council, Metropolitan Exposition Recreation Commission (MERC) and its Commission?

Mr. Condit said their recommendation was that all council policy committees continue to report directly to the Council. He noted MERC's uniqueness.

Dan Cooper, General Counsel, clarified the legal position of the MERC Commission, the relationship would continue as it is currently.

Councilor Park said the reason he brought it up was the political sensitivities of whether those on MERC would prefer to report to the Council versus to the Chief Operating Officer (COO).

Mr. Cooper explained further indicating that the charter said the Commission reported to the Council and not to the COO. Unless the Council wanted to change that structure they did not have to act. The Council President would take on the appointing authority presently possessed by the Executive Officer subject to Council confirmation. This was the present structure.

Councilor Park asked about what they felt the difference was between administrative and policy. He asked how they saw staffing of the council who was trying to create policy decision, did they see them as administrative or policy?

Mr. Condit said the boundary line between policy and administration was a frontier rather than a firm line. It was important to recognize, unlike the current structure, the person who will be the chief operating officer was going to be working for the Council. The Council will be able to hire and fire that person and the Council can take away any portion of that person's power at any time they wish by amending the ordinance. What the Task Force hoped would happen was that the Council would be at the head, the COO will be there to serve the Council as their staff and to provide needed information. That will be a council directed agency and that Council would get far better staff support through that structure than perhaps has happened in the past under the existing structure. That was the Task Force's goal.

Councilor Park thanked the Task Force for their hard work.

Mr. Condit said he appreciated the opportunity to serve on the committee. They were very thoughtful, very focused on their product and policy oriented.

Councilor Atherton added his thanks and asked about the discussion of the council reducing from seven districts to six. He asked about the ability to adequately respond to constituent concerns within these huge districts.

Mr. Condit said it had been discussed. They stayed away from specific staff level recommendations for that reason. The Task Force recommended that each councilor be given adequate support to handle those issues. They didn't think Council staff should go away, in many ways, there may need more staffing. Hopefully that new structure will help that staffing situation

be fluid so that when the councilor needed more support they could get it immediately. The Task Force was balancing the need to have a centrally organized administration that wouldn't waste a lot of the tax payers money if an idea didn't have the support of most of the council versus giving enough money and support to councilors to develop their individual agendas to make sure that councilors who had different opinions had the opportunity to raise those in an intelligent way. The Committee had suggested a separate fund such as the current district fund to allow for these special projects. The Task Force wanted to make sure that that support was available to each councilor. If they weren't getting that after a year under this structure then the Council needed to revisit the structure.

Councilor Atherton responded that it might come to pass if they go to the elimination of committees that enough staff time and energy could be better focused on issues to make up the difference.

Mr. Condit explained it was the thought of the committee that they couldn't say, yes you can cut five staff positions because they didn't think that was possible. They felt that with the new structure Metro would become a more efficient organization, make decisions faster, save money, and free up staff time in that manner. They recommended revisiting this from time to time to make sure it was working correctly.

Councilor Atherton said this Council and Executive was not a house divided.

Mr. Condit assured Councilor Atherton that he was not saying that they were, everyone who had been a Metro watcher had been very pleased over the last four or five years with how the council had gotten together with the Executive Officer. They thought that the move to the new organization with the policy and executive function being combined would further that growth in the ability to give a united perspective message.

Councilor Bragdon thanked the Committee for their service, articulation and skill. He said it was now up to the Council to live up to its promise region-wide, a chance to make Metro a highly functional place through the organizational steps with the national reputation that it deserved.

Presiding Officer Hosticka reminded council they would be meeting next Tuesday to discuss these issues in detail.

4. AUDITOR COMMUNICATIONS

Alexis Dow, Metro Auditor, presented Solid Waste Hauling Contract: Metro's Consideration of Risks and Rewards of Change Order 24 (a copy of which may be found in the meeting packet). She explained the review of Change Order 24, issued in 1999. She said the decision was a good one and resulted in substantial savings for Metro.

Councilor Atherton thanked the Auditor, the outcome was excellent because of the strong leadership from Executive Officer Burton as well as a collaborative review with the Council.

Ms. Dow commented on the balance needed to weigh the risks against the rewards.

Presiding Officer Hosticka thanked the Auditor.

5. CONSENT AGENDA

5.1 Consideration of minutes of the March 14, 2002 Regular Council Meeting.

Motion: Councilor Bragdon moved to adopt the meeting minutes of the March 14, 2002, Regular Council meeting.

Vote: The vote was 5 aye/ 0 nay/ 0 abstain. The minutes were accepted without revision.

6. **ORDINANCES – SECOND READING**

6.1 **Ordinance No 02-939A, For the Purpose of Amending Metro Code Chapter 7.01 to Amend the Metro Excise Tax to Provide Revenues for Metro's Regional Parks and Greenspaces Programs.**

This ordinance will be considered at the March 28, 2002 Council meeting due to ordinance amendments.

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

Time Began: 3:22 p.m.

Members Present: Jim Desmond, members of the media, Dan Cooper, Nancy Chase, council staff

Time Ended: 4:02

7.1 **Resolution No. 02-3174, For the Purpose of Authorizing the Executive Officer to Contribute towards the Purchase of the Jarvis Property in the Tryon Creek Linkages Target Area.**

Motion: Councilor Atherton moved to adopt Resolution No. 02-3174.

Seconded: Councilor Bragdon seconded the motion.

Councilor Atherton spoke to Resolution No. 02-3174 giving details of the property, the linkages with other parcels. He urges purchase of the parcel.

Presiding Officer Hosticka opened a public hearing on Resolution No. 02-3174.

Judy Hammerstad, Mayor of Lake Oswego, testified that this was an important piece of property for the region and it was also important piece for fish. It was at the mouth of Tryon Creek. She gave a history of the parcel, it was now coming to culmination. She urged passage. She also requested in addition to the \$250,000 which had been the commitment of Metro for a long time to increase that contribution another \$100,000 in order to be able to make this purchase actually be accomplished. She noted that Lake Oswego had put in a significant amount of money and continued to increase their contribution as the amount of property had increased. They would like to accomplish this in the near future before they lose the opportunity to purchase it.

Debbie Craig, 850 Cedar St. Lake Oswego, OR 97034, with Three Rivers Conservancy, echoed the Mayor's comments. It was most unique that they would have a piece of property that would provide an intersection of such important linkages. She noted attributes of the property and the support of the community for this purchase.

Presiding Officer Hosticka closed the public hearing.

Councilor Atherton commented on Ms. Craig's contributions to the area. The property was needed to do construction on an archway bridge and create an opening for a trail way.

Motion to Amend: **Councilor Atherton** moved to amend the resolution by striking \$250,000 and inserting \$350,000.

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

Vote to Amend: The vote was 5 aye/ 0 nay/ 0 abstain. The amendment passed.

Councilor Atherton urged adoption of the resolution as amended.

Councilor Bragdon commented on Resolution No. 02-3174A. This was a great opportunity. It had been a missing link that had been worked on for a long time. It was a piece that had a lot of different ecosystems, trail systems, parks systems, and aspirations of the community. He felt this was very timely. He expressed support. He asked whether it was an essential property in terms of the resolution passed last fall by the Council?

Jim Desmond, Regional Parks and Greenspaces, explained that this property met three of the criteria instead of just the one required. It would complete the acquisition of existing public ownership in a trail or greenway identified in the bond measure. It was a significant purchase.

Councilor Bragdon said this purchase was exactly what this Openspaces program was for.

Mr. Desmond said for the record this property had been on the boards for about seven years.

Councilor Park asked for clarification of the number of building sites.

Mr. Desmond said there were six building sites on the property. There were two current homes on the property which were intended to be demolished.

Councilor Park spoke to densities. Purchases such as these would not be allowed if the ballot measure passed.

Presiding Officer Hosticka expressed his support. It supported the stewardship goals.

Councilor Burkholder clarified Councilor Park's reference to the ballot measure that would prevent Metro from this purchase was Ballot Measure 26-11. He said Ballot Measure 26-29 would not prevent Metro from doing actions such as this purchase.

Vote on the Main Motion: The vote was 5 aye/ 0 nay/ 0 abstain, and the resolution passed as amended.

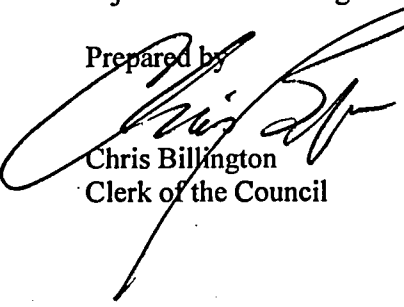
8. COUNCILOR COMMUNICATION

Councilor Park spoke about the success of the Let's Talk Conference. He thanked the Planning staff for their hard work as well as the rest of the agency staff that helped with the conference. He felt that Metro was doing a good job of dealing with the issues.

9. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Hosticka adjourned the meeting at 4:25 p.m.

Prepared by



Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF MARCH 21,
2002**

TOPIC	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NUMBER
INSTITUTE OF PORTLAND METROPOLITAN STUDIES	NONE LISTED	OVERVIEW OF THE INSTITUTE PRESENTATION MADE TO METRO COUNCIL BY ETHAN SELTZER, DIRECTOR	032102C-01
MINUTES	3/14/02	MINUTES OF THE METRO COUNCIL MEETING OF MARCH 14, 2002	031402C-02

PROPOSED OAR 660, DIVISION 024

URBAN GROWTH BOUNDARIES

DRAFT 3 (March 26, 2002)

660-024-0000

Purpose

This rule describes how Goals 2 and 14 and ORS 197.298 apply to a change of a regional urban growth boundary.

660-024-0010

Definitions

For the purposes of this division, "regional UGB" means an urban growth boundary adopted by a regional government described in ORS Chapter 268.

660-024-0020

Consideration of Factors in Change of Regional Urban Growth Boundary

(1) A local government responsible for a regional UGB may determine its need for housing, employment opportunities and livability under Goal 14 Factors 1 and 2 on a subregional basis if it demonstrates that:

(a) the combined needs of all subregions do not exceed the need to accommodate long-range urban population growth in the region as a whole, as determined pursuant to Goal 14, Factor 1;

(b) a determination of need on a subregional basis is necessary to achieve a more orderly and efficient transition from non-urban to urban use in the region as a whole and to achieve policies in a regional framework plan described in ORS 197.015(16);

(c) areas designated as subregions must be differentiated from other areas of the region in order to achieve the objectives and policies described in paragraph (b) of this subsection;

(d) the allocation of need for housing and employment to each designated subregion will achieve the objectives for that subregion, as set forth in the regional framework plan; and

(e) the allocation of need for housing and employment to the designated subregions will better achieve the objectives and policies described in paragraph (b) of this subsection than allocation made without regard to subregions.

(2) If a local government responsible for a regional UGB allocates need for housing and employment to subregions in compliance with subsection (1) of this section and determines that need in a subregion exceeds the capacity of the subregion, it must:

(a) take measures to increase the capacity of the subregion;

(b) add to the capacity of the subregion by expanding the UGB near the subregion; or

(c) adopt a combination the actions described in paragraphs (a) and (b) of this subsection.

([2]3) If a local government responsible for a regional UGB allocates need for housing and employment to subregions in compliance with subsection (1) of this section and determines that it must expand the regional UGB near a subregion, it may limit its consideration of Goal 14 Factors 3 through 7 and Goal 2 to only those lands that can accommodate the needs of the designated subregion. The local government shall demonstrate that the land brought into the regional UGB will achieve the objectives for the subregion described in subsection (1)(d) of this section.

([3]4) If a local government responsible for a regional UGB allocates need for housing and employment to subregions in compliance with subsection (1) of this section and determines that it must expand the regional UGB near a subregion, it may apply the priorities set forth at ORS 197.298(1) to only those lands that can accommodate the needs of the designated subregion.

039802c-03



March 28, 2002

Carl Hosticka
Metro Council Presiding Officer
Metro
600 N.E. Grand Avenue
Portland, Oregon 97232

Re: Resolution 02-3179, Petition to LCDC Pertaining to Subregional Review

Dear Councilor Hosticka,

Staff of the City of Forest Grove wants to express the City's support of Resolution 02-3179 to allow for the consideration of subregional review as part of the Urban Growth Boundary periodic review process. While we have not completed our review of the proposed revisions to the Oregon Administrative Code, there is the need for subregional consideration.

Forest Grove is a community in western Washington County that is virtually surrounded by resource lands. In establishing the original growth boundary, the community was conservative in locating the boundary to minimize intrusions into agricultural and forestry lands. It was also understood at that time that when the need arose, there would be opportunity to modify the boundary.

Based on current state law, failure to consider subregional need will virtually preclude any opportunity to expand our community's boundary in the foreseeable future. As we have stated in previous letters to the Metro Council, it is essential for Forest Grove to expand at the appropriate time to sustain its fiscal solvency due to the current tax structure in the state. Until the taxing system in this state changes to assure that the community can adequately expand future revenues to meet future needs without relying on growth and new development, the ability to grow remains a critical issue to Forest Grove.

However, there are other local issues beyond the fiscal consideration. Currently, a portion of the City's UGB planned for industrial and low and medium density residential development should not be developed due to the lack of urban services to the area and the presence of Title 3 and agricultural resource lands. Without subregional review, the almost 50 acres within this area could not be traded for other lands in the area to make a more logical growth pattern and preclude the extension of urban services into resource lands. Further, as Metro and the Tualatin Basin proceeds with Goal 5, there is potentially a substantial amount of industrial and residential lands lost for development within the City's UGB which cannot be replaced locally. Rather, the lands lost in Forest Grove will be balanced in the eastern portion of the region.

Aside from the local perspective, there is a need at the regional level to consider subregional factors. Jobs/housing imbalances within various subregions of Metro may intensify since some areas would be virtually ignored because of the land priority requirements and all major residential and nonresidential growth requiring additional lands would be focused into other areas already facing an imbalance and lack of services. As a result, accommodating growth by only considering the region as a whole would be primarily predicated on soil considerations rather than logical urban expansion.

Further, 2040 Concept and the support for town and regional centers throughout the region is called into question when only considering growth at the regional level. The concept of Regional and Town Centers are supported by the sub-regional approach. The success of these centers is largely dependant on the appropriate mix of land uses. It may be necessary to strategically add land to the UGB to support balanced Regional and Town Center development.

In addition, there is a policy obligation for Metro Council to consider. Particular policies within the Regional Framework Plan support the subregional approach:

Land Use Policy 1.2 - Built Environment

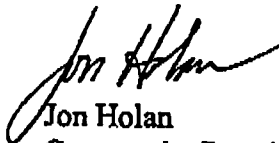
"Development in the region should occur in a coordinated and balanced fashion as evidenced by: the continued growth of regional economic opportunity, balanced so as to provide an equitable distribution of jobs, income, investment and tax capacity throughout the region and to support other regional goals and objectives."

Transportation Policy 2.7 - Jobs/Housing Balance

"Support a balance of jobs and housing in each sub-area of the region to reduce the need for additional transportation facilities. Provide housing that is easily accessible to jobs and that is affordable to all members of the workforce."

Overall, Forest Grove supports the petition for rule adoption to LCDC to consider subregional land needs as part of the UGB process.

Sincerely,



Jon Holan
Community Development Director

PRESENTATION POINTS TO METRO COUNCIL
RESOLUTION 02-3179
March 28, 2002

- Chair Hosticka, members of the Council, my name is Kirstin Greene, Senior Associate with Cogan Owens Cogan, 813 S.W. Alder Street, Suite 320, Portland, 97205.
- As you know, we represent Bob Baker with Baker Affordable Homes. Our client is intimately familiar with the constrained housing problem in western Washington County. Bob, Matthew Udziela of our firm, and I participated in the Regional Growth Conference on March 15 and 16.
- We support your strategy to seek assurance from LCDC on the UGB expansion process regarding subregional analysis. We agree that the UGB expansion needs to happen this year, and urge Metro to pursue an approach that makes good planning sense for the region.
- To that end, we are concerned about the process of rulemaking and the potentially large amount of time that could be consumed. We appreciate Metro's desire for assurance from LCDC, but are aware that rulemaking has the potential for dragging out over time. If the hearings process extends beyond a hearing in June, the entire expansion process could be disrupted, with an ultimate result that does not achieve livable, balanced communities or good planning, the latter of which is all of our intent.
- Rulemaking is one way of obtaining LCDC guidance on subregional analysis. In order to avoid the loss of any precious time, we recommend Metro take these steps simultaneously:
 - Metro's legal counsel and DLCD's legal counsel should continue to discuss which issues (as outlined in the 11 questions in the earlier Petition for Declaratory Ruling) do not require rulemaking. We believe many of the critical issues, including subregional need, are already allowed under current law and need not entirely hold up a good expansion process.
 - On those issues for which additional guidance is still needed, the Council should request a formal opinion from the Attorney General's Office because of this matter's importance to Metro's deliberations. We understand that Metro has already had conversations with the Attorney General's Office.
- We urge you to advance this process at every level concurrently: legal, technical, political, and public. In particular, we urge you to allow staff and MPAC to continue to consider subregional analysis now. Even if LCDC adopts a rule in June,

this will not allow enough time for staff to complete its work in time for the Executive Officer's recommendation in August.

- As you are probably aware, the subregional option was not in any of the written materials associated with the Growth Conference. We believe this was unfortunate, as the subregional approach makes good planning sense, but had little opportunity to surface in the public discussion.
- In conclusion, we support Resolution 02-3179, with the caveats that Metro should also 1) request your legal counsel to continue to consult with DLCD's legal counsel and determine which issues do not need a ruling; 2) request a formal legal opinion from the Attorney General's Office; and 3) direct staff and other committees to continue a discussion of the merits of subregional analysis now.
- As always, we are available to assist as needed. Thank you for the opportunity to comment.

0208\TalkPoints28mar02short

March 28, 2002

Randy Franke, Chair
Land Conservation & Development Commission
635 Capitol Street, N.E., Suite 150
Salem, OR 97301-2540

Subject: Petition for Rulemaking on Subregional Allocation of Housing and
Employment

Dear Chair Franke:

On March 8, 2000, following the direction of the Metro Council, I submitted to the Commission a Petition for Declaratory Ruling under ORS 183.410. In the petition, Metro asked LCDC to rule on a set of issues concerning the application of state law (goals and ORS 197.298) to possible allocation by Metro of long-term housing and employment need to subregions of the Metro region.

At your March 14, 2002, meeting, the Commission declined to issue a ruling on the issues Metro submitted. The Commission concluded that LCDC could more appropriately provide the guidance Metro seeks on the possible subregional allocation through rulemaking. The Commission invited Metro to propose a rule pursuant to ORS 183.390 (Petition for Rulemaking).

Enclosed with this letter, then, is a petition for rulemaking, with a draft rule. Mindful of your agency's limited resources, we have deliberately proposed a rule narrow in scope. We will provide all the assistance in that rulemaking we can to relieve the burden on the agency.

The Metro Council and I express our thanks to the Commission for addressing the Petition for Declaratory Ruling very quickly. You have made clear that the Commission shares Metro's commitment to a successful and timely conclusion to our periodic review. We ask that the Commission decide as soon as it can whether it will undertake rulemaking in response to Metro's petition.

If there is anything else Metro can provide to the agency, please let us know.

Sincerely,

Mike Burton
Metro Executive Officer

Encl.

PROGRAM PROFILE

NWF Targets Habitat-Destroying Sprawl

THROUGH A SERIES of conferences around the country, NWF and several of its state affiliates are rallying citizens to take action against—and promote alternatives to—the sprawl that threatens wildlife habitat and quality of life for people.

A California symposium focused on how unchecked growth could lead to the extinction of many of the state's threatened and endangered species, while a New England workshop explored how the proliferation of roads, parking lots and buildings contributes to polluted storm-water runoff. A third conference, scheduled for October 5-6 in Seattle, will look at the impact of unfettered development on salmon and other wildlife in the Pacific Northwest.

These events are part of NWF's Smart Growth and Wildlife campaign, which is working to promote the revitalization of older neighborhoods and the development

of transit-oriented areas that preserve open spaces and watersheds, and which require less dependence on automobiles.

NWF also is working for passage of smart-growth legislation now before Congress, including a bill that would give first priority to downtown business areas when federal agencies seek to relocate.

In addition, NWF is supporting a bill that would provide federal grants to aid states in reforming outdated planning statutes, and is gearing up to press

for smart-growth provisions in a major, new federal transportation bill.

To learn more about the Smart Growth and Wildlife campaign, see www.nwf.org/smartgrowth or call Caron Whitaker at 202-797-6608. For details about the upcoming Seattle conference, call Barbara Wilson at 206-285-8707.



SPRAWL POLL

Americans Want Smart Growth

AMERICANS overwhelmingly want an end to sprawl, according to a poll by Smart Growth America, a coalition of citizens groups of which NWF is a leading member. Among those responding, the results show:

- 83 percent support establishing green spaces that are off-limits to development
- 81 percent favor priority funding to maintain services in existing areas rather than encourage new development
- 81 percent support tax credits and low-interest loans to revitalize faltering cities and communities
- 77 percent want to see tax dollars used to buy land for parks and open space and to protect wildlife
- 77 percent favor using transportation funds for pedestrian-friendly neighborhoods rather than new highways; 60 percent favor improved public transit over new roads.

NWF Assails Decision To Shelve Grizzly Recovery

In her first major wildlife decision since assuming office, Interior Secretary Gale Norton announced she is abandoning efforts to reintroduce grizzly bears to the Selway-Bitterroot wilderness area of Idaho and Montana. The planned reintroduction of five bears a year would have been the first wildlife recovery effort under the direction of a local citizens committee.

The Citizens Management Plan, negotiated by NWF, Defenders of Wildlife and representatives of the region's timber workers and timber industry, was considered one of the most innovative wildlife recovery efforts ever devised. It was approved last year by the U.S. Fish and Wildlife Service after years of study and public comment.

"The administration has rejected a golden opportunity to deliver on its promise to engage residents in making species recovery efforts work for wildlife and people," says Jamie Rappaport Clark, NWF's senior vice president for conservation and former director of the U.S. Fish and Wildlife Service. "The decision sets a dangerous precedent by vetoing a major conservation initiative in a way that undermines the purpose of the Endangered Species Act."

NWF has played a key role in generating a deluge of public comments opposing the decision and has

HOW NWF IS MAKING A DIFFERENCE

pledged to continue advocating this approach to grizzly reintroduction.

Grass-roots Effort Ends in Victory For Texas Water

Responding to a groundswell of public opinion, the U.S. Environmental Protection Agency (EPA) has overturned a decision by Texas regulators that would have lowered water-quality standards for the state's largest reservoir.

The change in standards would have allowed a paper mill to continue discharging high levels of pollutants into Lake Sam Rayburn, one of the best bass fishing lakes in the nation and site of a future drinking-water supply.

NWF and one of its state affiliates, the Texas Committee on Natural Resources, helped mobilize conservationists, anglers and business owners. "This powerful coalition sent EPA more than 2,500 letters and postcards opposing the downgrade," reports Dave Moldal, NWF regional organizer.

Alaska First State To Regulate Cruise Ship Pollution

Alaska has enacted the first state law in the country to regulate cruise ship pollution—a move strongly advocated by NWF.

The law, which supplements federal regulations, requires cruise ships to register with the state, maintain pollution records and sample their discharges at least

CONSERVATION HEROES

Activist Sparks Community Habitat Project

TUKWILA, WASHINGTON, a town of 15,000 located about ten minutes from downtown Seattle, is known mainly for its shopping malls and its location at the crossroads of two major interstate highways. But thanks to a determined newcomer, it is about to become the first NWF-certified *Community Wildlife Habitat*™ site in the Pacific Northwest.

"One of the things that attracted us to Tukwila was the large stretches of undeveloped land in the midst of all the industry and shopping centers. I wanted to find a way to keep wildlife a part of the community," says Michelle Roedell, an avid birder who moved to the town with her family three and a half years ago.

After some research, she discovered that NWF's *Community Wildlife Habitat* program just might be the answer. She presented her idea to the head of Tukwila's Parks and Recreation Department.

Impressed, he helped her organize a special town meeting to discuss the idea. "The turnout and interest were tremendous," she recalls.

In just two years, the town is well on its way to certifying 250 individual *Backyard Wildlife Habitat*™ sites (the long-term goal is 500), all five schools are actively working on *Schoolyard Habitats*® sites and 100 businesses have developed habitats or supported the program.

"Michelle's real strength is that she has quietly motivated and empowered a lot of other people to get involved with this program," says Gretchen Muller, education assistant in NWF's Seattle office.

In return for her efforts, Roedell says that she was rewarded with the discovery of a "real sense of community that exists here and the pride that people take in Tukwila becoming the first town in Washington to be certified as a *Community Wildlife Habitat* site."



CHRIS MITCHELL

AFFILIATE SPOTLIGHT

Maine Ads Urge Forest Certification

FRUSTRATED that Maine's timber industry has defeated one forest protection measure after another, the Natural Resources Council of Maine, an NWF affiliate, has launched an ad campaign to pressure companies to adopt sustainable forestry practices.

Ads that have run repeatedly in three of the state's largest newspapers praise two major timber companies whose lands have been certified as well-managed by the independent Forest Stewardship

Council (FSC) and challenge ten others to work toward certification.

NWF has partnered with the FSC-accredited SmartWood program to bring certification to the Northeast. To qualify for certification, landowners must not harvest trees faster than new ones grow and must ensure that timber practices do not harm wildlife and water quality.

The council's campaign includes a petition drive to allow Maine residents to express their concern about the state's forests.



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**TUALATIN
HILLS
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DISTRICT ADMINISTRATION OFFICE**

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www.thprd.org

Ronald D. Willoughby
General Manager

032802c-07

BOARD OF DIRECTORS

Bruce Dalrymple
John Griffiths
Mark Knudsen
Terry Moore
Deanna Mueller-Crispin

February 12, 2002

Mr. Mike Burton, Executive Officer
Metro
600 NE Grand Avenue
Portland, OR 97232-2736

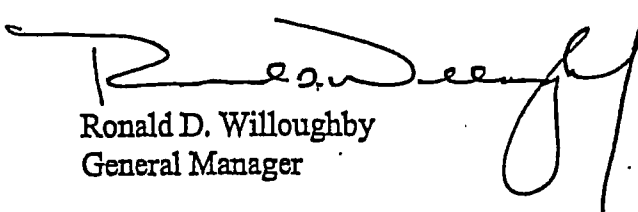
Dear Mr. Burton:

On behalf of the Tualatin Hills Park & Recreation District I am writing to express our full support for the proposed \$1 per ton solid waste excise tax increase that will provide funding for the operation and maintenance of the 11,000+ acres of regional parks, trails and open space. We are proud of Metro's commitment to the expansion of the regional park system and as a parks and recreation service provider on the west side we know that it takes funding support to operate open space areas once they are acquired.

The proposed excise tax increase is very modest compared to the current funding needs for Metro Regional Parks and Open Space areas in the region. There is much that needs to be done to manage, protect and enhance our park and natural resource areas for public use, and we believe that your proposal is a great start.

Please consider the Tualatin Hills Park and Recreation District as a strong supporter of this fee increase. THPRD is willing to do whatever it takes to support and improve our outstanding regional parks, trails and open space system.

Sincerely,


Ronald D. Willoughby
General Manager

cc: THPRD Board of Directors
Councilor Carl Hosticka, Presiding Officer
Councilor Susan McLain, Deputy Presiding Officer
Councilor Rod Park, District 1
Councilor Bill Atherton, District 2
Councilor Rex Burkholder, District 5
Councilor Rod Monroe, District 6
Councilor David Bragdon, District 7

032802c-08

March 28, 2002

To: Metro Council

From: Dick Jones, Chair MCCI Transportation Subcommittee

Subject Resolution No. 02-3168

In section 7 of Metro "Self-Certification" public involvement is addressed. In the first sentence "timely public notice" is provided by Metro. A part of that public notice should have included a review of this Resolution with Metro Committee for Citizen Involvement (MCCI), which did not occur.

The committee not only monitors public involvement but is proactive in seeking those to advocate for public involvement in the region. While the Transportation Alternatives Committee (TPAC) is identified as a citizen committee, MCCI is identified in the Metro charter as Metro's principal oversight committee related public involvement. Exhibit A of Resolution No. 02-3168 is silent with respect to any contact or consultation with MCCI concerning Metro's compliance with the requirements of the U.S. Code of Federal Regulations insofar as they pertain to citizen involvement.

I appreciate your inclusion of my comments in your discussion.

Resolution No. 02-3179
Exhibit A
Before the Land Conservation & Development Commission

In the Matter of the Adoption of a Rule)
on the Application of Goals 14 and 2)
and ORS 197.298 to the Expansion of)
the Metro Urban Growth Boundary)

Petition to Adopt a Rule

1. Petitioner: Petitioner's name, address and telephone are:

Mike Burton, Executive Officer
Metro
600 N.E. Grand Avenue
Portland, OR 97232-2736
(503) 797-1502

2. Facts: Metro is responsible for establishment and management of the urban growth boundary (UGB) for the Portland metropolitan region. ORS 197.296 requires Metro to ensure that the UGB contains a 20-year supply of land for housing each time Metro undertakes an analysis of UGB capacity. ORS 197.299(1) requires Metro to conduct such an analysis every five years. Metro is in the midst of its required analysis through the state's periodic review process.

It is likely that the analysis will lead Metro to conclude that it must expand its UGB in order to provide a 20-year supply of land. Metro must apply the factors of Goal 14, Goal 2, the priorities in ORS 197.298(1), and its own Regional Framework Plan (RFP) to determine how much land, and which land, to take into the boundary.

Goal 14 requires a selection of land that provides for "an orderly and efficient transition from rural to urban land use." Goal 14 requires Metro, as it selects land, to weigh long-term population growth; the need for housing, employment opportunities and livability; orderly and efficient provision for public facilities and services; maximum efficiency of land uses within and on the fringe of the existing urban area; environmental, energy, economic and social consequences; retention of agricultural land; and compatibility between urban and agricultural activities.

Goal 2 requires Metro to consider alternatives to expansion of the boundary.

ORS 197.298(1) establishes priorities for land that may be included within a UGB. The subsection requires a local government to determine that higher priority land "is inadequate to accommodate the amount of land needed" before it may include lower priority land.

Metro's RFP contains the 2040 Growth Concept, the strategy for management of growth in the metropolitan area. The Growth Concept designates "centers" – the Central City, Regional Centers and Town Centers – as highly-accessible, mixed-use areas of higher density employment and housing serviced by a multi-modal transportation system. RFP policies that guide Metro's selection of land for inclusion in the UGB – set forth at pages 4 and 5 of "Metro Periodic Review of the Urban Growth Boundary Subregional Assessment Paper" (attached as Exhibit B) – seek to ensure that regional management of growth contributes to the success of these centers. The Growth Concept and these policies, taken together, seek appropriate ratios between housing and employment in various parts of the region in order to accomplish state objectives: to reduce the number and length of auto trips; to better match wage levels with housing costs; to achieve a higher level of multi-modal transportation; and to achieve a more equitable distribution of employment opportunities, investment and tax capacity.

Metro's UGB contains nearly half the state's population, 24 cities and the urban portions of three counties. It is 37 miles east-to-west, 25 miles north-to-south, and includes two "islands" separated from the main UGB (Wilsonville and Forest Grove/Cornelius). Because the region is so large, it may prove impossible to achieve the objectives of the RFP and of Goal 14 without allocating housing and employment to subregions. The Oregon Court of Appeals noted the uniqueness of the metropolitan situation in ruling that subregional analysis could provide a basis for expanding the UGB:

"We recognize that, in reality, housing, job opportunities and other exigencies calling for urban support can arise in areas of a local planning jurisdiction that were not part of, or are far removed from, the territory that was included in the locality's UGB when it was first established. That fact is particularly germane in connection with a governmental entity like Metro, the planning authority of which extends to numerous cities and counties covering an enormous amount of land that ranges in kind and distance from the urban center in Portland to the prime agricultural areas of Washington and Clackamas Counties."*

Metro understands that any allocation that affects the selection of land to come into the UGB must comply with state law.

Neither Goals 2 and 14 nor ORS 197.298 states expressly how the goals or statute apply to allocation of housing and employment to subregions and consequent expansion of the UGB adjacent to a subregion. The uncertainty whether state law allows allocation and UGB expansion by subregion, the commitment of Metro to comply with state law, and the high cost of subregional analysis causes Metro to propose this rule to LCDC.

3. Propositions of Law from the Cases:

Metro's proposed rule is based upon rulings and dicta from the few cases that have addressed subregional need. Here is a short summary of the cases from the Oregon Court of Appeals and LUBA.

Subregional need is not a “specific type of identified land need” under ORS 197.298(3)(a).** It is a need identified by considering the “need factors” of Goal 14: “The relevant inquiry becomes whether any suitable higher priority land can reasonably accommodate, i.e., are sufficient in quantity to satisfy, that identified need. That inquiry is addressed under the priority scheme at ORS 197.298(1), not the exception to that scheme at ORS 197.298(3)(a).”**

Subregional need can provide a basis for expansion of an urban growth boundary in the vicinity of the subregion.*** Subregional need must be part of regional need.*** In determining subregional need, Metro may consider imbalances between housing and employment.**** Metro may allocate land to a subregion in order to address such imbalances.**** Metro must explain the basis for its determination that an area serves as a subregion.***** It must also explain why the needs of the subregion should be viewed in isolation from the rest of the region.*****

4. **Proposed Rule:** Petitioner proposes the following rule to guide the allocation of housing and employment to subregions of the region:

PROPOSED OAR 660, DIVISION 024

URBAN GROWTH BOUNDARIES

660-024-0000

Purpose

This rule describes how Goals 2 and 14 and ORS 197.298 apply to a change of a regional urban growth boundary.

660-024-0010

Definitions

For the purposes of this division, “regional UGB” means an urban growth boundary adopted by a regional government described in ORS Chapter 268.

660-024-0020

Consideration of Factors in Change of Regional Urban Growth Boundary

(1) A local government responsible for a regional UGB may determine its need for housing, employment opportunities and livability under Goal 14 Factors 1 and 2 on a subregional basis if it demonstrates that:

(a) the combined needs of all subregions do not exceed the need to accommodate long-range urban population growth in the region as a whole, as determined pursuant to Goal 14, Factor 1;

(b) a determination of need on a subregional basis is necessary to achieve a more orderly and efficient transition from non-urban to urban use in the region as a whole and to achieve policies in a regional framework plan described in ORS 197.015(16);

(c) areas designated as subregions must be differentiated from other areas of the region in order to achieve the objectives and policies described in paragraph (b) of this subsection;

(d) the allocation of need for housing and employment to each designated subregion will achieve the objectives for that subregion, as set forth in the regional framework plan; and

(e) the allocation of need for housing and employment to the designated subregions will better achieve the objectives and policies described in paragraph (b) of this subsection than allocation made without regard to subregions.

(2) If a local government responsible for a regional UGB allocates need for housing and employment to subregions in compliance with subsection (1) of this section and determines that need in a subregion exceeds the capacity of the subregion, it must:

(a) take measures to increase the capacity of the subregion;

(b) add to the capacity of the subregion by expanding the UGB near the subregion; or

(c) adopt a combination the actions described in paragraphs (a) and (b) of this subsection.

(3) If a local government responsible for a regional UGB allocates need for housing and employment to subregions in compliance with subsection (1) of this section and determines that it must expand the regional UGB near a subregion, it may limit its consideration of Goal 14 Factors 3 through 7 and Goal 2 to only those lands that can accommodate the needs of the designated subregion. The local government shall demonstrate that the land brought into the regional UGB will achieve the objectives for the subregion described in subsection (1)(d) of this section.

(4) If a local government responsible for a regional UGB allocates need for housing and employment to subregions in compliance with subsection (1) of this section and determines that it must expand the regional UGB near a subregion, it may apply the priorities set forth at ORS 197.298(1) to only those lands that can accommodate the needs of the designated subregion.

5. Interested Persons: A list of persons known to be interested is attached as Exhibit A.

WHEREFORE, petitioner requests the Land Conservation & Development Commission to adopt the proposed rules.

DATED March __, 2002.

Mike Burton
Metro Executive Officer

- * Residents of Rosemont v. Metro, 173 Or. App. 321, 328 (2001)
- ** 1000 Friends of Oregon v. Metro/Ryland Homes, 38 Or LUBA 565, 608-09 (2000)
- *** Residents of Rosemont v. Metro, 173 Or. App. 321, 326 (2001)
- **** 1000 Friends of Oregon v. Metro/Ryland Homes, 38 Or LUBA 565, 573, note 5 (2000)
- ***** Residents of Rosemont v. Metro, 173 Or. App. 321, 331 (2001)