

MINUTES OF THE METRO COUNCIL/EXECUTIVE OFFICER INFORMAL MEETING

Tuesday, April 9, 2002
Council Annex

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

Councilors Absent: Rod Monroe

Others Present: Mike Burton

Presiding Officer Hosticka convened the Council/Executive Officer Informal Meeting at 2:06 p.m.

1. UPCOMING LEGISLATION

No one presented.

2. FANNO CREEK GREENWAY TRAIL ACTION PLAN

Heather Nelson-Kent, Parks and Greenspaces Department, reviewed the Fanno Creek Greenway Trail Action Plan. She noted the first open house on the Fanno Creek Greenway Trail April 16th. They anticipated the plan coming to Council for approval in about six months.

Bob Bothman, Tualatin Hills Parks and Recreation District Trails Committee Chair and Fanno Creek Greenway Working Group member, gave a Virtual Walking Tour of the Fanno Creek Greenway Trail. He said he had been involved in the trail plan for over 28 years. He spoke to the working committee that included 14 partners (a copy of the list of partners is included in the Virtual Walking Tour this is in the meeting record). Mel Huie, Parks and Greenspaces Department included some key points about Metro partnerships with the Fanno Creek Greenway Trail.

Councilors asked questions about connectivity, funding, engineering studies, railroad lines, pedestrian versus bicycle use, connections to other trails in the region. Staff responded to their questions.

Presiding Officer Hosticka announced the open house plan (a copy of which is in the meeting record).

3. ESEE PROGRAM

Councilor McLain previewed the ESEE Process and the timeline. She spoke to handouts (copies of which are in the meeting record).

Ken Helm, Legal Counsel, updated the council on the legal requirements of Goal 5 (a copy of his memo is found in the meeting record). He felt that the Regional ESEE Analysis and the Subwatershed Analysis framework would work within the Goal 5 Administrative Rule. He overviewed the Administrative Rule and spoke to conflicting uses, impact uses, regional significant resources and impact areas which include ESEE economic, social, environmental, and energy consequences analyses factors that should result in a Regional ESEE recommendation. He said the process documentation for specific decisions were extremely important.

Councilor Atherton asked about the Clean Water Act and water quality. Mr. Helm responded that Metro was not a permitting agency. Metro primary tool to improve water quality was land use regulations. Councilor Atherton asked if Metro could create a legal connection between Clean Water Act and land use

regulations. Paul Ketcham, Planning Department, gave an example of Metro legal authority concerning land use and the Clean Water Act.

Mark Turpel, Planning Department, overviewed the next steps. Malu Wilkinson, Planning Department, provided information on ESEE Policy Direction (a copy of which is found in the meeting record). She noted the main points where council would be involved. She reviewed the elements that included an overall approach to the ESEE analysis through a two-tiered approach to the ESEE analysis, current elements for discussion included resources categories, impact areas, 2040 design type hierarchy, definition of allow, limit, or prohibit. The chart included elements, description, rationale or policy basis and council role. She spoke to resource scoring.

Presiding Officer Hosticka asked them to comment on Mike Houck's observation that on a regional level a conflicting use was not a problem if the conflicting use was for jobs or housing since Metro would be making decisions that if it wasn't allowed in one place it would be allowed someplace else.

Ms. Wilkinson said she wasn't sure that this was the approach they would be taking, it was only one aspect of looking at it on a regional scale. The conflicts might be different because the Metro Council had the opportunity to expand the Urban Growth Boundary (UGB) but it didn't mean that they wouldn't be looking at residential, industrial and commercial uses at the regional scale. Mr. Turpel said there might be energy consequences to particular property owners. Presiding Officer Hosticka said he was still sticking with the regional level. At the regional level, were they required to take note of the economic consequences on individual property owners or were they looking at the consequences to the region? Mr. Turpel said they were suggesting that this was an opportunity to look at the regional-wide big picture implications. Ms. Wilkinson said when you look at it on a regional scale; the impact on the number of private property owners was a regional impact. Another impact of expanding the UGB was environmental.

Presiding Office Hosticka said an economist would say if you limited one place and allowed it in another place, on a total regional scale, you were not effecting the economy of the region, you were transferring wealth from one part of the region to another.

Andy Cotugno, Planning Director, added that he thoughts it was a matter of describing accurately what kind of impact you were having. There may be some impacts where there was no net harm done to the regional economy, you still had losses in one place and gains in another producing that regional impact. You had to recognize all three parts of that equation. He also thought that general substitution of housing land or job land through the UGB expansion on the edge was not equal to where you were slicing it. It may be general inner and outer neighborhood residential replacement on the edge was a suitable substitution but residential land in a town center or regional center replace it with land at the edge was not a suitable substitution. This would have an energy impact for the distance factor as well as the mode factor. Loss of industrial land close to the high tech industry and replacing it somewhere else that was not close to the high tech industry was not an equal replacement either. Losing water based marine locations couldn't be replaced out in Damascus.

Ms. Wilkinson said they were working on the resource scoring to help when looking at the different ESEE consequences. She said impact areas were also important to discuss. This had been talked about when they were doing inventory work. It was a step in the ESEE process. She noted a staff proposal that they were currently having reviewed by MTAC and GOAL5TAC and would be presented to the Natural Resources Committee concerning the wildlife habitat inventory. The staff proposal was that any area between 50 and 150 feet of a stream that otherwise received no resource value be identified as the impact area. You can do anything with that impact area but it was brought in for purposes of analysis. It might not need to be regulated. This would be for already developed areas. Another area that needed to be discussed with Council was the definitions of allow, limit or prohibit. This would be the decision that

council would come up with at the end of ESEE analysis. In order to facilitate looking at the consequences they thought staff needed to come up with a general idea or preliminary definitions of what was meant by allow, limit or prohibit. She explained further how each could be developed into a range such as strictly limit, moderately limit, etc. What did prohibit mean, did they still allow utilities? She said they also wanted to discuss identification of uses.

Presiding Officer Hosticka asked what the council had to do at the end of the process. Did they have to adopt a map? Ms. Wilkinson responded that at the end of the ESEE, council would make a decision, on which areas would be allowed, limited and which kind of limit and what areas might be prohibited. This would all be mapped at the regional level and at the subwatershed level.

Mr. Cotugno said they anticipated, like the inventory step, adopting that action by resolution. This made it an important milestone for doing the final decision just like when they get to the program step, if there was something in the inventory step that needed to be modified, they could go back and do that. It was an important step in the process but was not the final decision until you had a program to carry it out.

Ms. Wilkinson continued by explaining the 2040 Design Type Hierarchy (a copy of which is found in this meeting record). She said the 2040 Design Type Hierarchy was a key part of what staff was proposing in the methodology to do the ESEE analysis. The 2040 Growth Concept provided Metro with an expression of regional goals through land use. Goal 5 was a land use goal. So they were proposing using the 2040 Growth Concept as the framework in looking at ESEE consequences. They had heard from others that 2040 Growth Concept and RUGGOs already did some of the balancing. They included looking at housing issues, economic development and protection of habitat and trying to identify the areas where it would concentrate growth which provided Metro with the vision of where we wanted to go. There was an extensive public process and committee review. The 2040 vision was a big decision for the region. She gave an example of how they used the 2040 hierarchy to develop transportation investment priorities that would allow transportation investment to help further the goals of 2040. They thought this was a good framework to look at the economic consequences and other ESEE consequences for purposes of Goal 5. She explained the 2040 Design Type Hierarchy table. Some had raised questions as to whether they were the right categories. They had taken this from the RTP framework and explained their premises. She said this was the first try and they wanted Council's input on this. She said the three key questions that Council needed to respond to were 1) Does the council agree with using this design type hierarchy for purposes of the ESEE analysis, 2) They would be using the regional zoning to identify conflicting uses. The Goal 5 rule specifically stated that you should look at zones, 3) were there specific comments on the table. Were the design types in the proper categories and should the scores in there be changed?

Presiding Officer Hosticka said he thought the Council would be looking at ESEE consequences of protecting the resource in terms of the ESEE consequence of allowing the use versus not allowing the use. They were not looking at the economics of the use versus no use; they were looking at the economics of protection as well as the economics of conflicting uses. He gave an example of an open space near a regional center. It could be that the economic benefits of protecting the open space were higher than the economic benefits of protecting the open space someplace else. Was that possible under this design?

Ms. Wilkinson responded that there were economic benefits to protecting areas as well as economic benefits to allowing conflicting uses. This was something that they had tried to ensure. The consultant would be looking at the economic values of protecting these areas and the economic value of non-protection.

Mike Burton asked about particular parcels and the economic value. He spoke to what land was being used for currently, i.e., and farming but was zoned commercial. How was this dealt with? Tax lots were another economic value because this land was being taxed at a different rate. Mr. Turpel said the rule said you have to look at zoning. If it was a holding zone and it was intended as industrial, this would have to

enter into the equation and be part of the information that Council considered. If it was zoned agricultural but over time it would change, you would have to take that into consideration. Councilor Park asked about the legal definition of a holding zone. What were the implications and actual standing?

Mr. Helm responded that you often have a conflicting use with zoning that was allowed such as on the eastside. Land use program in this state did not cater to holding zones. Councilor Park suggested it should not be in there then if they didn't have an actual legal definition of what was a holding zone. Mr. Cotugno said they had to apply the accurate condition that existed. Mr. Burton shared his understanding of what a holding zone was. He suggested these should be called non-conforming.

Councilor Park clarified that there were 8000 acres in the UGB under farm deferral, not EFU. Mr. Cotugno said one was a tax classification the other was zoning classification. Mr. Burton said that was the question, how did you count that as its value? Councilor Park said it was counted as part of the buildable inventory. Mr. Cotugno said Pleasant Valley had rural zoning, the rest of the region had urban zoning. He gave further examples of zoning.

Councilor McLain added her example of buckets. Local jurisdictions used different names for zoning areas. You can't have a separate definition for all these different names because they were not all different. They were similar with a different title. Staff took those items and put them into the right bucket. This way you could give a general definition. Anything that was called tax deferred or inside that boundary that had a different use right now had to be counted as a zoned element. This was why the buckets were helpful. You have the zoning but you have to know what that zoning really means in the real world.

Mr. Burton expressed concern about making decisions on Goal 5 and UGB and the technical record.

Councilor McLain said there was the same situation in the RTP TAZs.

Councilor Atherton asked about a resource value site in an industrial area and how that was rated? He gave an example of Tom McCall Park. The value of leaving the park as open ground was then cast back to the entire community. He felt this was a brilliant economic, social, energy and environmental decision but it ran counter intuitive to the way people have been thinking. That's why this region was different.

Councilor Burkholder expressed confusion about the matrix. He spoke to examples of the value of open spaces. He suggested separating out industrial from the regional centers in the town centers. They were different. He felt the zoning was confusing.

Mr. Cotugno agreed with Councilor Burkholder that the categories needed to be separated out. This was a generalization. He felt it was fair to characterize industrial regional center in central city as the highest priority category. The existence of a mixed-use category in those three places was different. He gave examples and explained they had linked zoning to design type. You get the finer grain detail of what was in the central city or the regional center or town center and attribute the parts of those territories that were really trying to accomplish that objective towards that goal. He said that in the Washington Square Regional Center Plan there were a couple of areas that would stay single family neighborhoods. They should be treated like single family neighborhoods. In this hierarchy they got treated like inner/outer neighborhood not like the regional center. It was not contributing to the growth of that regional center. The zoning allowed it to be tailored. They needed to line up the zoning relative to the central city and regional centers separate from industrial because they were opposites. The same thing was true for the inner and outer neighborhoods versus town centers. It was not a group score but an individual score. Councilor Park asked about the two residential zones in Washington Square and how the Goal 5 decision would effect their status. Mr. Cotugno said the whole point of this exercise was to say, if you have this

circumstance for natural resource and this circumstance for conflicting use, you get to this conclusion. It should be uniformly applicable.

Presiding Officer Hosticka said it sounded as if there were decision implications to all of this, the scoring led to a certain decision. He thought, when he asked Mr. Helm, that the scoring didn't lead to any particular decision, it merely gave Council considerations that they had to look at when they made a decision. Council could make a decision for other reasons. Did these lead Council to a decision that would have legal weight in the decision process or were they something that was considered along the way in coming to a decision? Mr. Helm responded that Presiding Officer Hosticka was right about the latter. Mr. Burton clarified that the decisions made needed to have some basis in finding.

Presiding Officer Hosticka asked if they had to treat all classes the same? Mr. Helm explained the flow chart, which told Council how it would be used. Council was headed too far down the road with the matrix. He emphasized that this was only a starting point in the ESEE analysis. What staff was trying to do was say how they gave credit to 2040 in the ESEE process. You use the scoring and combine it with other information and through combining it with the economic analysis and other data you look at the different information to support a wide variety of decisions.

Presiding Officer Hosticka asked where it was that you had to fight the war? If you say all classes had to be treated the same and we set up classes of resources in one storing system and set up a class of design types, were they saying that every time the Council saw a class of design types up against a certain resource did Council have to make the same decision?

Mr. Helm said he did not think so, he did not think you were going to have uniform data. He thought there was going to be specific data that came from a variety of sources in each one of those four categories for different areas. Council would want to be sensitive to that and it would naturally lead Council away from a one size fits all category. Presiding Officer Hosticka said depending upon the answer; he would spend a lot more time arguing over the nuts and bolts of the categories than he would if the answer were different.

Councilor Park asked about single family residents, that regional center chose for them a certain vision of what they wanted to occur. He asked when the individual choice come back into this? Mr. Cotugno responded that in the Washington Square single family neighborhood example, they wanted to stay single family surrounding a wetland, Ash Creek. They wanted to have a bigger set back from Ash Creek. They didn't want to see the creek bed developed. If you wanted it a regional center, you might have a tight set back. This would end up being a more broad set back; this was more consistent with a regional center.

Presiding Officer Hosticka asked about a piece of land designated mixed-use on the zone map. It was in a regional center. Under this matrix, it would be an "A". The residents were saying, we want this to be open space and we want to protect this. The answer was, Goal 5 would take care of that. If it was then reviewed and determined not to have a lot of high natural resource values even though it was a wetland and was in the floodplain, it might score a "C". So was Council then required to say, no Goal 5 protection?

Mr. Turpel said what they were trying to do was to say this was the first cut at the regional level. They were treating all the categories the same in the absence of any additional information that might be at the subwatershed level. He said it would be for the council to determine the additional information that needed to be considered and because of that, council might come to a different conclusion for that particular area. This was intended to look at the big picture as a starting point. What would you conclude about these categories and their relative value to the starting point?

Mr. Burton said the question that was on everyone mind was how many properties? How does the information get to the Council on the Ash Creek question? How much detail and how many properties

would they have to march through in this process to reach those conclusions? This was part of the economic analysis.

Councilor Park asked the question differently, under state law and DSL they said wetlands all had to be mapped and delineated. But they didn't delineate what they were right now. Was there any room for a similar type of concept that they knew where these protected areas were? Can they apply that when you go in at a local level that you knew you were in a protected area and then it was up to the locals to figure out what that was exactly?

Ms. Wilkinson said what they were talking about was the factors that they would use to identify areas at the subwatershed level after they had completed the regional analysis. Some areas would be identified to do additional subwatershed analysis. One of the ideas was then to ask local partners, which areas were master planned or concept planned? Were there specific areas that Metro needed to take into consideration when they did the subwatershed analysis?

Councilor Park asked if you had to collect the information initially? Can they leave it so that when it was developed they had to do this kind of work? Mr. Cotugno said Councilor Park was asking a question that effected the program in two ways, one was there will be corrections now and in the future. If when you go to develop you establish specifics, then you would follow corrected circumstances. Second, they expect the ESEE process to produce safe harbor. If that worked for their circumstances whether it was the jurisdiction or the property owner, then, they had an easy thing to adopt in applying the safe harbor. They did not have to repeat an ESEE analysis because Metro had already done one for them. If they wanted to depart from that, Metro had also said they would have a local option that they could apply. This was not yet designed. The rules still had to be written if the safe harbor didn't work for them.

Councilor McLain went back to Mr. Helm's A, B and C beginning criteria and flow chart. How much information did they have to collect at the regional level to be where they needed to be to conclude A, B, and C for the RUGGO requirements for Goal 5? Staff believed to be illustrative where they might begin, this looked to follow what Metro had done with their land use goals and issues. She suggested another session on how the flow chart worked, taking the beginning criteria, takes the additional information collected and amount of additional information that was collected and make some sense out of it to get to the end product of the ESEE. The ESEE was process and a record rather than a finished product.

Presiding Officer Hosticka asked about the timing issue and the expert review issue. Mr. Burton said they wanted to put together an expert review panel on the economic analysis. They wanted to utilize local economists to do that for Metro, they needed to get that committee in place as soon as possible. He then spoke to a letter that he gave to council (a copy of which is found in the meeting record) which spoke to timing. Mr. Cotugno said that in addition to a paid expert panel they thought they needed a standing advisory committee that would follow the course of Metro's activity.

Councilor McLain said the Natural Resource Committee asked for a proposal to come back as soon as possible for review.

Presiding Officer Hosticka reminded the council that they would be in Forest Grove for an evening council meeting next week with a dinner planned with the mayors of the area. He suggested discussing the timing issues at the dinner in an informal setting and would be reviewed again in the formal setting. He encouraged attendance at the dinner.

4. EXECUTIVE OFFICER COMMUNICATIONS

There were none.

5. COUNCILOR COMMUNICATIONS

There were none.

There being no further business to come before the Metro Council, Presiding Officer Hosticka adjourned the meeting at 4:00 p.m.

Prepared by

Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF APRIL 9, 2002

ITEM #	TOPIC	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NUMBER
III	FANNO CREEK TRAIL	11/01	FANNO CREEK GREENWAY TRAIL PROMOTIONAL PIECE PROVIDED TO COUNCIL FROM METRO PARKS DEPT.	040902CE-01
III	FANNO CREEK TRAIL	4/02	FANNO CREEK GREENWAY TRAIL PUBLIC OPEN HOUSES PROMOTIONAL PIECE PROVIDED TO COUNCIL FROM METRO PARKS DEPT	040902CE-02
II	ESEE GOAL 5	4/8/02	MEMO FROM KEN HELM TO COUNCIL MCLAIN CONCERNING GOAL 5- ESEE REQUIREMENTS	040902CE-03
II	ESEE PROCESS	4/3/02	DRAFT ESEE PROCESS - METRO COUNCIL DECISION POINTS PROVIDED TO COUNCIL FROM PLANNING DEPT	040902CE-04
II	2040 DESIGN TYPE HIERARCHY	4/9/02	2040 DESIGN TYPE HIERARCHY FOR GOAL 5 PROVIDED TO COUNCIL FROM PLANNING DEPT	040902CE-05
II	ESEE POLICY DIRECTION	3/20/02	ESEE POLICY DIRECTION (DRAFT 1) PRESENTED TO COUNCIL FROM PLANNING DEPT.	040902CE-06
II	TIMELINE	4/9/02	MEMO FROM MIKE BURTON TO COUNCIL RE: TIMELINE FOR 2002 DECISIONS	040902CE-07