

# A G E N D A

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**MEETING: METRO TECHNICAL ADVISORY COMMITTEE**

DATE: August 4, 2010  
 DAY: Wednesday  
 TIME: 10:00 a.m. to noon  
 PLACE: Council Chamber

TIME	AGENDA ITEM	ACTION REQUESTED	PRESENTER(S)
10:00 a.m.	<b>CALL TO ORDER AND INTRODUCTIONS</b>		Robin McArthur
1. 30 min.	<b>Revising local and regional monitoring and reporting requirements</b> <ul style="list-style-type: none"> <li>Review of draft revisions to Title 8 and 9 of the Urban Growth Management Functional Plan</li> </ul> <i>Objective: Obtain additional input on purpose, procedural and policy points that MTAC raised at the last meeting</i>	Informational/ Discussion	Dick Benner
2. 30 min.	<b>The Intertwine: What is it and why is it important?</b> <ul style="list-style-type: none"> <li>Update on Intertwine activity on protecting and providing access to nature</li> <li>The collaborative approach of The Intertwine Alliance: From brewpub to corporate board room</li> </ul> <i>Objective: Feedback on how to integrate The Intertwine into local and regional investment decisions</i>	Informational/ Discussion	Janet Bebb
3. 30 min.	<b>Urban forestry enhancement project</b> <ul style="list-style-type: none"> <li>Overview of existing forestry policy</li> <li>Introduce new collaborative project to enhance urban forestry</li> </ul> <i>Objective: Feedback on grant proposal and input on activities or assistance that would be of most value for urban forestry</i>	Informational/ Discussion	Gail Shaloum John Nelson
4. 30 min.	<b>Nature in Neighborhoods (Title 13) monitoring and reporting</b> <ul style="list-style-type: none"> <li>State of the Watersheds Report update</li> <li>Non-regulatory reporting from local jurisdictions' report</li> </ul> <i>Objective: Feedback on staff proposal to modify reporting requirements in the Urban Growth Management Functional Plan for Nature in Neighborhoods</i>	Informational/ Discussion	Heather Kent
Noon	<b>ADJOURN</b>		

MTAC meets the 1<sup>st</sup> & 3<sup>rd</sup> Wednesday of the month. The next regular meeting is scheduled for August 18, 2010. For further information or to get on this mailing list, contact Paulette Copperstone @ 503-797-1562 or "paulette.copperstone@oregonmetro.gov"  
 Metro's TDD Number – 503-797-1804  
 Need more information about Metro? Go to [www.oregonmetro.gov](http://www.oregonmetro.gov)

2010 MTAC Tentative Agendas  
As of July 28, 2010

August 18 <ul style="list-style-type: none"><li>• Chief Operating Officer Recommendation</li></ul>	September 1
September 15	October 6
October 20	November 30 <ul style="list-style-type: none"><li>• Recommendation to MPAC on the Community Investment Strategy and capacity ordinance</li></ul>
November 17	December 9
December 22	

Proposed Amendments to Title 8 (Compliance Procedures)  
of the Urban Growth Management Functional Plan

Title 8 establishes procedures to ensure that city and county comprehensive plans and land use regulations comply with requirements of the Urban Growth Management Functional Plan (UGMFP). Generally, the title requires cities and counties to notify Metro when they propose to adopt changes to their plans and land use regulations. It prescribes the manner in which Metro participates in the local process. It offers local governments an option with to request extensions of time for compliance and for exceptions from compliance. Title 8 requires the COO to report to the Metro Council on progress of cities and counties toward full compliance with the UGMFP). And, finally, it establishes a procedure for enforcement of a functional plan requirement if a city or county refuses to comply.

The proposed amendments seek to streamline the procedures in Title 8 to lighten compliance burdens on local governments and Metro. The principal amendments would do the following:

1. Eliminate the process for MPAC review of non-compliance. This process was intended to seek MPAC's advice on issues of non-compliance that are widespread, rather than single instances of non-compliance. The process has not been used. Should issues of general non-compliance arise the Council can seek MPAC's advice at any time, without a Title 8 process.
2. Authorize the COO to grant extensions of time for compliance and exceptions from compliance, with appeal to the Metro Council. Currently, local requests go directly to the Council for hearing. The criteria for an extension or an exception would be unchanged. The COO would issue an order that could be appealed to the Council.
3. Eliminate the annual hearing before the Council to consider the annual compliance report from the COO. The COO would simply file the report. Anyone who disagreed with a determination in the report could seek Council review of it.
4. Conform the enforcement remedies to 2009 legislation that clarifies enforcement actions the Council can take in the face of non-compliance by a city or county.

**Exhibit I to Ordinance No. 10-1244**

**TITLE 8: COMPLIANCE PROCEDURES**

3.07.810 Compliance With the Functional Plan

- A. The purpose of this section is to establish a process for determining whether city or county comprehensive plans and land use regulations comply with requirements of the Urban Growth Management Functional Plan. Where the terms "compliance" and "comply" appear in this title, the terms shall have the meaning given to "substantial compliance" in section 3.07.1010.
- B. Cities and counties shall amend their comprehensive plans and land use regulations to comply with the functional plan, or an amendment to the functional plan, within two years after its acknowledgement of the plan or amendment, or after any later date specified by the Metro Council in the ordinance adopting or amending the functional plan. The Chief Operating Officer (COO) shall notify cities and counties of the acknowledgment date and compliance dates described in subsections C and D.
- C. After one year following acknowledgment of a functional plan requirement, cities and counties that amend their comprehensive plans and land use regulations shall make such amendments in compliance with the new functional plan requirement.
- D. Cities and counties whose comprehensive plans and land use regulations do not yet comply with the new functional plan requirement shall, after one year following acknowledgment of the requirement, make land use decisions consistent with the requirement. The COO shall notify cities and counties of the date upon which functional plan requirements become applicable to land use decisions at least 120 days before that date. For the purposes of this subsection, "land use decision" shall have the meaning of that term as defined in ORS 197.015(10).
- E. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan upon the expiration of the appropriate appeal period specified in ORS 197.830 or 197.650 or, if an appeal is made, upon the final decision on appeal. Once the amendment is deemed to comply, the functional plan

requirement shall no longer apply to land use decisions made in conformance with the amendment.

- F. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan as provided in subsection E only if the city or county provided notice to the COO as required by subsection A of section 3.07.820.

3.07.820 Review by the Chief Operating Officer

- A. A city or county proposing an amendment to a comprehensive plan or land use regulation shall submit the proposed amendment to the COO at least 45 days prior to the first evidentiary hearing on the amendment. The COO may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the COO submits comments on the proposed amendment to the city or county, the comment shall include analysis and conclusions on compliance and a recommendation with specific revisions to the proposed amendment, if any, that would bring it into compliance with the functional plan. The COO shall send a copy of comment to those persons who have requested a copy.
- B. If the COO concludes that the proposed amendment does not comply with the functional plan, the COO shall advise the city or county that it may:

1 Revise the proposed amendment as recommended in the COO's analysis;

2 Seek an extension of time, pursuant to section 3.07.830, to bring the proposed amendment into compliance with the functional plan; or

3 Seek an exception pursuant to section 3.07.840.

3.07.830 Extension of Compliance Deadline

- A. A city or county may seek an extension of time for compliance with a functional plan requirement. The city or county shall file an application for an extension on a form provided by the COO. Upon receipt of an application, the COO shall notify the city or county and those persons who request notification of applications for extensions. Any

person may file a written comment in support of or opposition to the extension.

- B. The COO may grant an extension if the city or county is making progress toward compliance or there is good cause for failure to meet the deadline for compliance. Within 30 days after the filing of a complete application for an extension, the COO shall issue an order granting or denying the extension. The COO shall not grant more than two extensions of time to a city or county and shall grant no extension of more than one year. The COO shall send the order to the city or county and any person who filed a written comment.
- C. The COO may establish terms and conditions for the extension in order to ensure that compliance is achieved in a timely and orderly fashion and that land use decisions made by the city or county during the extension do not undermine the ability of the city or county to achieve the purposes of the functional plan requirement. A term or condition must relate to the requirement of the functional plan to which the COO has granted the extension.
- D. The city or county applicant or any person who filed written comment on the extension may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the extension and shall send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

### 3.07.840 Exception from Compliance

- A. A city or county may seek an exception from compliance with a functional plan requirement by filing an application on a form provided by the COO. Upon receipt of an application, the COO shall notify the city or county and those persons who request notification of requests for exceptions. Any person may file a written comment in support of or opposition to the exception.
- B. Except as provided in subsection C, the COO may grant an exception if :

1. it is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;
2. this exception and likely similar exceptions will not render the objective of the requirement unachievable region-wide;
3. the exception will not reduce the ability of another city or county to comply with the requirement; and
4. the city or county has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.

C. The COO may grant an exception to the housing capacity requirements in sections 3.07.120, or 3.07.130 if:

- a. the city or county has completed the analysis of capacity for dwelling units required by section 3.07.120;
- b. it is not possible to comply with the requirements due to topographic or other physical constraints, an existing development pattern, or protection of natural resources pursuant to Titles 3 or 13 of this chapter; and
- c. this exception and other similar exceptions will not render the targets unachievable region-wide.

D. The COO may establish terms and conditions for the exception in order to ensure that it does not undermine the ability of the region to achieve the purposes of the requirement. A term or condition must relate to the requirement of the functional plan to which the COO grants the exception. The COO shall incorporate the terms and conditions into the order on the exception.

E. The city or county applicant or a person who filed a written comment on the exception may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If

an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the exception and send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

### 3.07.850 Enforcement of Functional Plan

- A. The Metro Council may initiate enforcement if a city or county has failed to meet a deadline for compliance with a functional plan requirement or if the Council has good cause to believe that a city or county is engaged in a pattern or a practice of decision-making that is inconsistent with the functional plan, ordinances adopted by the city or county to implement the plan, or the terms or conditions in an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively. The Council may consider whether to initiate enforcement proceedings upon the request of the COO or a Councilor. The Council shall consult with the city or county before it determines there is good cause to proceed to a hearing under subsection B.
- B. If the Council decides there is good cause, the Council President shall set the matter for a public hearing before the Council within 90 days of its decision. The COO shall publish notice of the hearing in a newspaper of general circulation in the city or county and send notice to the city or county, MPAC and any person who requests a copy of such notices.
- C. The COO shall prepare a report and recommendation on the pattern or practice, with a proposed order, for consideration by the Council. The COO shall publish the report at least 14 days prior to the public hearing and send a copy to the city or county and any person who requests a copy.
- D. At the conclusion of the hearing, the Council shall adopt an order that dismisses the matter if it decides the city or county complies with the requirement. If the Council decides the city or county has failed to meet a deadline for compliance with a functional plan requirement or has engaged in a pattern or a practice of decision-making that is inconsistent with the functional plan, ordinances



adopted by the city or county to implement the plan, or terms or conditions of an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively, the Council may adopt an order that:

1. Directs changes in the city or county ordinances necessary to remedy the pattern or practice; or
2. Includes a remedy authorized in ORS 268.390(7).

E. The Council shall issue its order not later than 30 days following the hearing and send copies to the city or county, MPAC and any person who requests a copy.

### 3.07.860 Citizen Involvement in Compliance Review

- A. Any citizen may contact Metro staff or the COO or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the COO to appeal a local enactment for which notice is required pursuant to subsection A of section 3.07.820. Such contact may be oral or in writing and may be made at any time.
- B. In addition to considering requests as described in A above, the Council shall at every regularly scheduled meeting provide an opportunity for citizens to address the Council on any matter related to this functional plan. The COO shall maintain a list of persons who request notice in writing of COO reviews, reports and orders under this chapter and shall send requested documents as provided in this chapter.
- C. Cities, counties and the Council shall comply with their own adopted and acknowledged Citizen Involvement Requirements (Citizen Involvement) in all decisions, determinations and actions taken to implement and comply with this functional plan. The COO shall publish a citizen involvement fact sheet, after consultation with the Metro Committee for Citizen Involvement, that describes opportunities for citizen involvement in Metro's growth management procedures as well as the implementation and enforcement of this functional plan.

### 3.07.870 Compliance Report

- A. The COO shall submit a report to the Metro Council by March 1 of each calendar year on the status of compliance by cities and counties with the requirements of the Urban Growth Management Function Plan. The COO shall send a copy of the report to each city and county within Metro.
  
- B. A city, county or person who disagrees with a determination in the compliance report may seek review of the determination by the Council by written request to the COO. The Council shall review the request at a regularly scheduled meeting and shall notify the requestor and the affected city or county of the date of the review. The notification shall state that the Council does not have authority to:
  - 1. Determine whether previous amendments of comprehensive plans or land use regulations made by a city or county comply with functional plan requirements if those amendments already comply pursuant to subsections E and F of section 3.07.810; or
  - 2. Reconsider a determination in a prior order issued under this section that a city or county complies with a requirement of the functional plan.
  
- C. Following its review, the Council shall adopt an order that determines whether the city or county complies with the functional plan requirements raised in the request. The Council may rely upon the COO's report for its determination. The COO shall send a copy of the order to the requestor, the affected city or county and any person who participated in the Council review.
  
- D. A city or county or a person who participated at hearing may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

Title of Presentation: A regional approach to urban forestry enhancement

Date: August 4, 2010 MTAC meeting

Presenters: Heather Nelson Kent, Gail Shaloum and John Nelson—Nature in Neighborhoods, Metro

Background: The Nature in Neighborhoods program has the opportunity to partner with the Oregon Department of Forestry and Washington Department of Natural Resources to submit a grant proposal to provide technical assistance to jurisdictions in the region on urban forestry enhancement. We submitted a pre-proposal and have been asked to submit a full proposal, due on August 27. Participation in this project, if the grant proposal is successful, would be voluntary.

Seeking input from MTAC members and other interested parties: We are seeking feedback on a draft grant proposal and input on what activities or assistance would be of the most interest and value to jurisdictions. We would like to submit a grant proposal for activities we know would be useful to you. The following DRAFT grant proposal is attached for your review; we seek input on these elements and welcome requests for other elements you would prefer.

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**DRAFT DRAFT DRAFT—URBAN FORESTRY GRANT PROPOSAL—DRAFT DRAFT DRAFT**

**GOAL:** Assist jurisdictions in setting goals related to urban forestry and achieving successful urban forestry programs that ensure the future health of the urban forest and allow meeting of both tree canopy targets and urban density targets. Metro will pay particular attention to the rural-urban interface; these are the unincorporated portions of Metro region counties, and hold the highest tree cover in the region. These areas are also likely to be subject to the highest future development pressure.

**BACKGROUND:** This project addresses issues identified in an Audubon-PSU report commissioned by Metro that established the need for improved urban forestry practices in the region. It also reinforces the non-regulatory aspects of the Nature in Neighborhoods program and addresses some of the issues and priorities described in the Oregon Department of Forestry’s Statewide Forestry Assessment. Nature in Neighborhoods staff provides education and technical assistance to builders and developers about the use of low impact development practices including: tree preservation, planting and management. Grant funding will make it possible for Metro to provide more direct support to local jurisdictions in developing and implementing more effective tree policies and programs and continuing work involving a variety of stakeholders on this topic.

**STRATEGY:** Identify successful strategies, as well as issues and barriers, to creating effective urban forestry programs in cities and counties. Develop tools and processes to help jurisdictions solve problems that are similar across the region. Because urban forestry programs in the region are at different points of development, we plan to use peer-to-peer discussions to allow jurisdictions to share experiences and strategies, to learn from each other in addition to sharing case studies and best practices from other areas.

**SUMMARY OF PROPOSAL:** This project will convene jurisdictions to encourage information sharing and increase the collective knowledge in the region on urban forestry best practices and codes in order to

foster tree cover retention or enhancement across the region. We have found through other events that staff members in jurisdictions value these peer-to-peer interactions. Planners in the following cities and counties have already expressed interest in participating: Damascus, Wilsonville, West Linn, Milwaukie, Oregon City, Washington and Clackamas Counties. The key tasks are:

*Task 1 Identify key jurisdictions and players to target*—Metro staff will research to determine jurisdiction needs as well as which jurisdictions have urban forestry resources to share. We will also work with Oregon Department of Forestry (ODF) and Washington Department of Natural Resources (DNR) to identify resources available for sharing from other organizations. Work will include investigating tree canopy maps (either those available from Metro or those currently being developed by ODF and OSU Extension) and reviewing jurisdiction-specific results in the Audubon-PSU urban tree code report to determine the areas of highest need for both tree planting and preservation. We will also conduct a survey to determine the barriers that currently prevent jurisdictions from using urban forestry best practices. The survey will also query jurisdictions to determine needs/level of interest in participating and use the input to scope the workshops. In addition, we will use our existing relationship with the Home Builders Association of Metro Portland to identify key stakeholders from the development community to include in code-related conversations as well as key stakeholders from our existing partners in the advocacy community. *Deliverable: list of jurisdictions in need and those with research/experience to share, list of other stakeholders to include.*

*Task 2 Workshops*—Once the needs and available resources are assessed, Metro or its consultant will develop and hold workshops for jurisdictions to learn about urban forestry best practices and expose participants to a variety of effective codes, policies and programs. Workshop topics will include guidance on setting goals and targets, funding mechanisms (including the emerging issue of capitalization of trees), codes, mitigation and right-of-way issues, among others. Workshops will include expert presentations and peer-to-peer discussions. An effort will be made to target key staff and officials to attend within jurisdictions, so that the full range of those whose work relates to urban forestry and watershed health within a jurisdiction will have a common understanding on the topic. We intend to include elected officials in an attempt to foster interest and leadership on this topic. The workshops will allow jurisdictions to share experiences, methods, successes, and potential difficulties to overcome. We found during the “Green From the Ground Up” seminar series on low impact development that jurisdiction staff find peer-to-peer discussions to be valuable and discovered that Metro is well-suited to facilitate collaborative discussions in the region. The intent is for jurisdictions to learn from each other and from other experts in the field.

*Task 2a. County workshops*. We propose a parallel but somewhat separate process for counties, because we know that the unincorporated urban area within counties face different issues from the cities. We have discovered that Tree City USA no longer applies its program to counties and that limited models exist to help them develop urban forestry programs. These areas lying at the interface of the urban and the rural areas have issues that differ from the more urban cities; this task will develop a strategy specifically aimed at those issues. As these areas urbanize, protecting and managing their tree resources is paramount to protecting watershed health and water quality. Planting new trees will also be an important aspect to maintaining livability in these communities as the density of development increases. As these areas urbanize, new infrastructure will also be created;

with the increased interest in “green infrastructure,” an urban forestry program can be an important element in such infrastructure plans. By the end of 2010, Clackamas County is expected to approve a new tree policy that will apply to the unincorporated urban area within the county. In 2011, the county will begin implementing this newly-adopted policy. A group of citizens in Washington County has also expressed an interest in working with the County to start an urban forestry program; Metro proposes facilitating discussions between these two counties and Clark County, Washington, to identify opportunities for sharing information about program development and implementation. There is also the potential for this grant to support the development and/or implementation of individual programs in partnership with county staff. Currently, the counties have the highest percentage of tree cover in the Metro region. These areas are within the urban growth boundary, meaning that further, more urban development is coming. These areas still have a chance to keep important habitat intact, avoiding forest fragmentation, and can do so by targeting those resources that should be preserved in an urban forestry plan.

While strong urban forestry programs exist in some of our cities, the unincorporated county areas do not have the same structure to create such programs. In addition, the non-profit advocacy groups do not tend to have as strong a presence in these areas as they do in the cities. This model could be useful to other counties throughout the country in similar situations as those in Oregon. (Note: we explored King County’s approach to urban forestry and found it to be focused on keeping land in large ownerships as opposed to protecting and managing an urban forest.)

To help garner support for the workshops, we plan to emphasize the multiple benefits of trees in addition to water quality, habitat and livability benefits. In particular, many jurisdictions have programs aimed at curbing climate change. Making the link between trees and these other programs and policies might compel more jurisdictions to participate. In addition, because various jurisdictions already have varying degrees of urban forestry activities, helping them to set goals and targets appropriate to their programs will be important. *Deliverable: Execution of 3-4 workshops and memo describing process/challenges/successes in process to share with others. Workshops will be videotaped; both the videos and memos will be posted to Metro’s website for easy access by those both within the region and elsewhere.*

**Task 3** Input from other stakeholders—Metro will facilitate meetings between jurisdictions and stakeholders from the development community and advocacy communities to gain input on issues important to these groups. The objective is to have these groups work together with the jurisdictions early in the process to come up with plans and programs that make sense and respond to concerns from all. We will also facilitate discussions on how green jobs can be developed as part of an urban forestry program. We will include non-profit advocacy and action groups such as Friends of Trees, county tree advocacy groups and the local non-profit venture that provides a model for training minorities in green jobs, Verde, in these discussions. *Deliverable: Execution of 2-3 meetings and memo describing stakeholder concerns and requests, memo describing ideas for creating green jobs in urban forestry or tree planting.*

**Task 4**     Published report with case studies—Metro or a consultant will develop a publication (or web based information) to detail examples of effective urban forestry programs including the methods, successes, and difficulties of implementing such a program. A variety of tools will be presented, detailing the information gleaned from the workshops. In addition, we will use this publication to update and attempt to fill in the information holes we have found in existing studies. We will address concerns and issues that arose during workshops and stakeholder input discussions. The publication will also detail a development project case study that used urban forestry best practices and also achieved economic success. In addition, a description of model citizen action programs, such as Audubon’s Backyard Habitat program and the Friends of Trees program will be incorporated.

The report will also include set of tools or a “toolkit” of elements of a successful urban forestry program for counties, including funding strategies and implementation.

In 2011, Metro will also embark on an effort to update its Green Streets series of handbooks. We plan to connect participants in the update process with the findings here and to use Green Streets resources (staff, publications, research data) to help with this publication. If the timing works, we will add production of this publication onto the production of the new Green Streets handbooks, to maximize efficiency. Metro will also examine how to combine tree canopy work with other ongoing work and policies as they relate to maintaining and improving the quality of life as communities grow. *Deliverable: Case study publication, including toolkit for counties, both hard copy and electronic version to be posted on Metro’s website for easy access by others.*

**Task 5**     Distribution of findings—Metro will present results of the project and findings to the groups that have the ability to direct action to be taken, such as agency and political leaders. Presentation time will be requested on the agendas of the Metro Council, Metro Policy Advisory Committee, and Metro Technical Advisory Committee. We have worked with Oregon State University in the past on academic evaluations of our work; we will explore working together again both to have workshops evaluated and to publish the results in a professional journal. We will also submit the project for presentation at a technical conference. *Deliverable: plan for disseminating information and lessons learned.*

**COST:** Request approx. \$200K over a time period of three years

**MATCH:** Metro and its partners will provide \$200K of match in staff salaries.