



METRO COUNCIL MEETING

Meeting Summary
April 12, 2012
Metro, Council Chamber

Councilors Present: Council President Tom Hughes and Councilors Rex Burkholder, Barbara Roberts, Carl Hosticka, Kathryn Harrington, Carlotta Collette and Shirley Craddick

Councilors Excused: None

Council President Tom Hughes convened the regular council meeting at 2:02 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

Sharon Nassett, 1113 N. Baldwin St., Portland: Ms. Nassett addressed the Metro Council on public transportation. She emphasized that many people use public transit as their primary source of transportation. She addressed the differences and disparities in transit service and amenities between communities across the region. She provided the example of Columbia Boulevard, the state's #1 employer, is not served by rail or bus service. Additional examples included the transit stop at the Expo Center. (Handout included as part of the meeting record.)

Council recommended she forward her comments to TriMet, the region's transit agency and provider.

3. CONSENT AGENDA

Motion:	Councilor Carlotta Collette moved to approve the April 12, 2012 consent agenda which included: <ul style="list-style-type: none">• Consideration of the Minutes for April 5, 2012• Resolution No. 12-4341, For the Purpose of Confirming the Reappointment of Pre-Existing Members to the Natural Areas Program Performance Oversight Committee.
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Vote: Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Craddick, Collette and Harrington voted in support of the motion. The vote was 7 ayes, the motion passed.

4. HEARING ON ENFORCEMENT OF TITLE 13 OF THE METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN – CITY OF TROUTDALE

Council President Hughes opened the enforcement hearing and called on Ms. Martha Bennett, Metro’s Chief Operating Officer, for staff’s report.

Ms. Bennett stated that Metro and the City of Troutdale have held a series of discussions about the City and its noncompliance with Title 13, *Nature in Neighborhoods*. Several months ago, the Metro Council passed a motion to initiate the first part of the enforcement process. Since that action, Metro and the City have worked together to draft a set of provisions, that if adopted by the Troutdale City Council, would bring the City into compliance with Title 13. She indicated that the City filed notice with the Department of Land Conservation and Development (DLCD) on April 5th. Following the conclusion of DLCD’s notice period, the City is anticipated to hold a first and second reading, and vote to adopt the provisions on June 12th. She recommended the Metro Council continue its enforcement hearing to a date certain of June 14th.

Councilors asked clarifying questions regarding staff’s proposed timeline for the enforcement hearing. Councilors recommended that the hearing be continued to June 21st.

Motion:	Councilor Shirley Craddick moved to continue the April 12, 2012 hearing on compliance to June 21, 2012.
Second:	Councilor Kathryn Harrington seconded the motion.

Councilor Craddick provided a brief background on Title 13. She thanked the Metro Council and the Troutdale City Council for their work. Councilor Craddick believed the enforcement process brought both parties together and helped facilitate the discussion. She emphasized that Troutdale city councilors’ care about the environment, and Troutdale’s local community and businesses.

Council welcomed Troutdale Council President Doug Daoust, Councilors Norm Thomas and Glenn White, and City Manager Craig Ward.

Council President Hughes opened the hearing to the public. No citizens expressed interest in testifying.

Vote:	Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Craddick, Collette and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .
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The enforcement hearing was continued to June 21, 2012.

5. ORDINANCES – SECOND READING

5.1 **Ordinance No. 12- 1276**, For the Purpose of Amending Metro Code Chapter 3.09, Local Government Boundary Changes, to Conform to New Legislation and to Improve the Boundary Change Process.

Motion:	Councilor Barbara Roberts moved to approve Ordinance No. 12-1276.
Second:	Councilor Harrington seconded the motion.

Councilor Roberts introduced Ordinance No. 12-1276 which, if approved, would:

- Conform to Senate Bill 48, passed by the Oregon Legislature in 2011, which reduced the types of service districts Metro must regulate; and
- Set forth the steps Metro and other agencies would take to ensure changes to city and service district boundaries are effectuated and properly recorded.

Councilor Roberts stated that the Legislature passed SB 48 at the request of Metro. The bill, effective Jan. 2012, reduced the types of local government service district boundaries Metro was required to regulate and track. Prior to SB 48 many of the districts did not relate to Metro’s activities or mission, for example vector control and highway lighting districts. Approval of SB 48 by the Legislature narrowed the list of special districts to those that have some relation to Metro’s mission.

Council President Hughes opened a public hearing. Seeing no members of the public who wished to testify, the public hearing was closed.

Council asked clarifying questions about the proposed changes in Exhibit A, *Amendments to Metro Code Chapter 3.09 Local Government Boundary Changes* – specifically highlighting that the proposed changes would enumerate the districts. Currently, the districts are generally defined in Metro’s boundary code. Council also asked clarifying questions about water districts and transit districts.

Vote: Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Craddick, Collette and Harrington voted in support of the motion. The vote was 7 ayes, the motion passed.

6. RESOLUTIONS

6.1 **Resolution No. 12-4340**, For the Purpose of Revising the 2011 Land Use Final Order for the Expo Center/Hayden Island Segment of the South/North Light Rail Project on Remand for LUBA and the Oregon Supreme Court.

Council President Hughes stated that on August 11, 2011, the Metro Council adopted Resolution No. 11- 4280, which approved the Land Use Final Order (LUFO) for the Columbia River Crossing segment of the South/North MAX Light Rail Project. The Land Use Board of Appeals (LUBA) and the Supreme Court affirmed that decision in all but one regard, specifically, that the Metro Council lacked jurisdiction to approve the portion of the project located outside Metro’s urban growth boundary (UGB). Consequently, on remand and at TriMet’s request, Metro was asked to revise the 2011 LUFO to remove the portion of the project in Oregon that lies outside the UGB. Council

President Hughes referred to revised LUFO material. (All materials included as part of the meeting record.)

Council President Hughes emphasized that conforming the LUFO to the remand was the only issue before the Council and asked Metro Attorney Ms. Alison Kean Campbell to overview the procedural requirements for House Bill 3478. (*Decisions on LUFOs are governed by special procedures contained in HB 3478.*)

Council President Hughes explained the process for the April 12 hearing.

Motion:	Councilor Rex Burkholder moved to approve Resolution No. 12-4340.
Second:	Councilor Harrington seconded the motion.

Councilor Burkholder introduced Resolution No. 12-4340, which if approved, would adopt revisions to the 2011 LUFO to respond to the remand from LUBA and the Supreme Court, and the adoption of the land use findings of fact in support of the LUFO revisions.

Mr. Andy Cotugno and Mr. Dick Benner of Metro provided a staff report. Mr. Cotugno quickly overviewed the legislation's components and stated that the resolution and exhibits revise the past 2011 LUFO. He stated that five petitioners appealed, to LUBA, the LUFO decision in late Aug. 2011. LUBA found that 10 of the eleven objections the petitioners raised were adopted correctly – LUBA did not find that portion of the LUFO outside the Metro's UGB was adopted correctly. Two of the five petitioners then chose to appeal the Supreme Court. On Feb. 16, 2012 the Supreme Court issued its final decision in support of LUBA's decision. In doing so, the Court denied all of the issues presented by the petitioners and affirmed that the LUFO could not be applied outside the UGB. Pending the Metro Council's approval of the revised LUFO, the LUFO will be filed with the Supreme Court for its review and final judgment. (Complete list of objections included in staff report.)

Mr. Cotugno reiterated that statute provides Metro the authority to adopt LUFOs but only within Metro's UGB, and stated therefore the area north of Hayden Island must be excluded. He also confirmed that all other land use issues deliberated and approved through the 2011 LUFO process, south of the north shore of Hayden Island and inside the UGB, have been settle and confirmed by the Court.

Council asked legal counsel to clarify the process should the Metro Council choose to not adopt the LUFO amendment, and if – and if so what – land use procedures apply to the area between the Metro UGB and the Oregon state line.

Council President Hughes opened a public hearing on Resolution No. 12-4340 and asked TriMet, the applicant, to present its application. Mr. Mark Greenfield, with assistance from Mr. Steve Witter, presented TriMet's application. Mr. Greenfield restated that the Supreme Court approved all but one of the challenges presented – the Court remanded the LUFO between Metro's UGB and the Oregon state line. He reconfirmed that the full CRC project within the UGB, from the Expo Center to the north shore of Hayden Island, was affirmed by the Court and is final. He reiterated that the April 12th proceeding should focus on the project area between the Metro boundary and state line. TriMet requested Metro revise 2011 LUFO to conform it to the LUBA and Court remand.

Council asked clarifying questions regarding the various levels, roles, and responsibilities of government.

Council President Hughes then opened the hearing to the public:

- Michael Lilly, Attorney for Plaid Pantry, Inc.: Mr. Lilly distributed written testimony for the record. (Testimony included as part of the meeting record.)
- Sharon Nasset, 1113 N. Baldwin St., Portland: Ms. Nasset did not believe the UGB needed to be extended. She addressed concerns with expanding the UGB while transit service is being cut, and potential land use impacts to local residents, businesses and the port's facilities. Ms. Nasset stated that the current CRC Bridge is on the historical registry, and that ODOT officials have determined that the bridge has over 60 years of functionality left and currently has no federal requirements for bridge updates or additions. She also stated that the CRC's initial purpose and need statement focused on the port facilities and transcontinental rail line, but that the current project does not address either.
- Debbie Peterson, 1105 704 Ave., Vancouver, WA: Ms. Peterson was opposed to the project and recommended the Council delay action on the LUFO. She highlighted some of the project's challenges over the past couple years including changes in bridge design, delayed Record of Decision, and reduced revenue stream. She was also concerned that the City of Vancouver, WA City Council is not informed and not prepared to make decisions on this project.

Seeing no additional citizens who wished to testify, Council President Hughes closed the hearing to written testimony and opened the floor for TriMet's rebuttal.

Mr. Greenfield stated that Mr. Lilly's testimony required a rebuttal. He referred to Page 2, paragraph one of Mr. Lilly's testimony that stated:

"...Plaid representatives told you [Metro Council] that you [Metro Council] should not adopt the 2011 LUFO because Metro lacked jurisdiction to adopt a LUFO outside the Urban Growth Boundary. TriMet's Counsel scoffed at the objection, and led you [Metro Council] to believe that the new bridges needed to be in the LUFO because the Project was integrated, indivisible whole..."

Mr. Greenfield stated that he did not refer to the project is *indivisible*, but rather the statement was made by Plaid Pantry. He indicated that the statement was also used by Plaid Pantry in its appeal to LUBA. Mr. Greenfield also addressed Plaid Pantry's objections outlined in their testimony; highlights included clarifications to the Regional Transportation process, land use decisions, and Metro's authority. He stated that the testimony did not point out any incorrectness with the LUFO or the findings of fact before the Metro Council for its consideration.

Mr. Benner also stated that Plaid Pantry, Inc. also objected, following the hearing's notice, to the limited scope of the hearing. Ms. Kean Campbell ruled that the Metro Council should have limited the scope of the hearing, but also noted that the Council President did not limit the scope of citizens' testimony. Ms. Kean Campbell stated that the Metro Council acted appropriately on this matter.

Council President Hughes officially closed the public hearing and opened the resolution to Council discussion. Councilors expressed that the project needed to move forward to the next phase, discussions on project finance. Some members expressed that too much staff and legal resources were used during the project's planning process. Councilors expressed the need to take clear action on the issue, similar to LUBA and the Court.

Vote:

Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Craddick, Collette and Harrington voted in support of the motion. The vote was 7 ayes, the motion passed.

7. CHIEF OPERATING OFFICER COMMUNICATION

Ms. Bennett provided a status update on four local initiatives in the cities of King City, Sherwood, Tualatin and Tigard that opposed rail transit.

Ms. Bennett also confirmed Council's support for distributing a letter to Mr. Neil McFarlane of TriMet regarding the transit agency's current budget challenges. Mr. McFarlane and TriMet staff presented at a recent Council work session.

8. COUNCILOR COMMUNICATION

Councilor updates on recent meetings or events included the Metro Policy Advisory Committee (MPAC), Joint Policy Advisory Committee on Transportation (JPACT), and East Metro Economic Alliance. Upcoming events or trips highlighted included Packy's 50th birthday celebration on April 14th and President Hughes trip with Business Oregon to Japan April 16th – 23rd.

Councilor Burkholder asked Council for its support to submit a letter to President Mr. Barack Obama commending him for convening the first White House Summit on Environmental Education and encouraging the President to create a Council on Environmental Literacy and an advisory panel of stakeholders to support and make recommendations to the Council. The Metro Council supported the letter and approved Council President Hughes to sign on behalf of the full Council.

9. ADJOURN

There being no further business, Council President Hughes adjourned the regular meeting at 3:30 p.m. The Council will reconvene the next regular council meeting on Thursday, April 19 at 2 p.m. at the Metro Council Chamber.



Kelsey Newell, Regional Engagement Coordinator

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF APRIL 12, 2012

Item	Topic	Doc. Date	Document Description	Doc. Number
2.	Testimony	N/A	Written testimony from Sharon Nasset	41212c-01
3.1	Minutes	4/5/12	Council minutes for April 5, 2012	41212c-02
3.2	Legislation	N/A	Revised Resolution No. 12-4341.	41212c-03
5.1	Legislation	N/A	Revised Ordinance No. 12-1276	41212c-04
6.1	Legislation	N/A	Revised Resolution No. 12-4340	41212c-05
6.1	Testimony	4/12/12	Written testimony from Michael Lilly on behalf of Plaid Pantry, Inc.	41212c-06
6.1	Testimony	4/12/12	Written testimony from Debbie Peterson	41212c-07