



**METRO COUNCIL MEETING**

Meeting Summary

Oct. 10, 2013

Metro, Council Chamber

Councilors Present: Council President Tom Hughes, and Councilors Shirley Craddick, Sam Chase, Kathryn Harrington, Bob Stacey and Craig Dirksen

Councilors Excused: Councilor Carlotta Collette

Council President Tom Hughes called the regular council meeting to order at 2:04 p.m.

**1. INTRODUCTIONS**

There were none.

**2. CITIZEN COMMUNICATIONS**

There were none.

**3. CONSENT AGENDA**

Motion:	Councilor Shirley Craddick moved to approve the Oct. 10, 2013 consent agenda which consisted of: <ul style="list-style-type: none"><li>• Consideration of the Council Minutes for Oct. 3, 2013; and</li><li>• <b>Resolution No. 13-4445</b>, For the Purpose of Approving the Sale of Certain Real Property to Union Pacific Railroad Company.</li></ul>
Second:	Councilor Sam Chase seconded the motion.

**Vote:** Council President Hughes, and Councilors Craddick, Harrington, Chase, Dirksen, and Stacey voted in support of the motion. The vote was 6 ayes, the motion passed.

**4. ORDINANCES – SECOND READ AND QUASI-JUDICIAL HEARING**

**4.1 Ordinance No. 13-1316, For the Purpose of Amending the Urban Growth Boundary in the Vicinity of the City of Wilsonville Upon Application By the West Linn-Wilsonville School District.**

Council President Hughes stated that Ordinance No. 13-1316 required a quasi-judicial hearing. As part of the hearing process, councilors were required to declare a conflict of interest, bias or ex parte contact prior to the staff presentation. Councilor Bob Stacey stated that he informed Wilsonville Mayor Tim Knapp that he had some reservations about the West Linn-Wilsonville School District petition, but did not provide any substantive comments on the ordinance or request. No additional councilors declared conflicts of interest, biases or ex parte contacts for Ordinance No. 13-1316.

Metro Attorney Alison Kean read the procedural requirements for the quasi-judicial hearing for Ordinance No. 13-1316. Council President Hughes gaveled and opened a public hearing.

Mr. Tim O'Brien of Metro provided a presentation on the West Linn – Wilsonville School District's petition to amend the urban growth boundary (UGB) under the major amendment process outlined in Metro Code. Mr. O'Brien stated that the school district has applied to amend the UGB to add 40 acres to be used for a primary and middle school campus and city park facility. The proposed site, titled the Advance Road property, is owned by the district. The property consists of four tax lots located within unincorporated Clackamas County on the south side of SW Advance Road, immediately east of the Wilsonville city limits and west of SW 60<sup>th</sup> Avenue.

***Staff's report on Hearings Officer's findings and conclusion***

Mr. O'Brien stated that the hearing's officer, Andrew H. Stamp, held a public hearing on June 27, 2013 to receive testimony on the city's petition. After considering staff's presentation, public testimony, and findings of fact, Mr. Stamp submitted a proposed order that recommended support for the school district's application with two conditions:

- The subject property shall be developed with a middle school, a primary school, and a public park.
- The City of Wilsonville shall zone the subject property with a designation, such as Public Facility, that requires Site Plan Review for the subject property.

The criteria for a major amendment of the UGB are contained in Title 14 of the Urban Growth Management Functional Plan. Mr. O'Brien stated that code requirements can be divided into two sections: identifying a valid need, and secondly identifying the best location to meet the identified need. The hearings officer stated that the district did complete both long and short-term enrollment forecasts that identified potential inadequate school capacities, with the most pressing capacity shortfall at the middle school level by 2017. In addition, the city completed a park master plan in 2007 that identified a demand for additional athletic fields as the city continues to grow.

The hearings officer also addressed the second criterion related to the best location to meet the need. The officer determined that the district demonstrated an acute, short-term need for additional middle school capacity in the Wilsonville area. The district completed an analysis of six sites within the UGB based on five primary considerations including plan designation, availability, site character, location, and urban facilities, services and transportation. The district determined

that five of the six sites within the UGB were rated poor for various reasons such as close proximity to existing middle and primary school facilities and isolation from residential areas. The sixth site reviewed, 25 acres in the Frog Pond area of Wilsonville, was purchased by the district in the late 1990s, brought into the UGB in 2002, and was identified as a primary school site. However, the site was also determined insufficient for the request. The site, which is part of a larger urban growth boundary expansion area, is not anticipated to be planned or ready for development until sometime in 2016, based in part on planning requirements related to Metro's Functional Plan. Consequently, the city and district determined, and the hearings officer concurred, that this was too late to construct a new school facility to meet the 2017 enrollment needs. Additionally, the hearings officer noted that the Frog Pond site did not lend well to shared middle and primary school, and city park facilities.

Mr. O'Brien quickly noted the majority of the other criteria in the major UGB amendment process are the locational factors that are weighed and balanced to determine the most suitable location for the UGB expansion. The determination of the most suitable location occurs once the need has been validated and it has been determined that the need can't be satisfied on land already within the UGB. The district did consider numerous urban reserve areas within the district boundary, but all were determined insufficient for various reasons. (Hearing's officer report included as Exhibit A to ordinance.)

### ***Options for Metro Council consideration***

The Metro Council was presented with four options for their consideration:

1. Adopt Ordinance No. 13-1316 and approve the district's application based on the findings of fact and conclusions of law in the hearings officer's report;
2. Adopt Ordinance No. 13-1316 and approve the district's application based on revised findings of fact and conclusions of law to be prepared by Metro staff;
3. Remand the proceeding to the hearings officer for further consideration; or
4. Adopt a resolution to deny the district's application based on revised findings of fact and conclusions of law to be prepared by Metro staff.

### ***Applicant Presentation***

- Tom Woodley, West Linn – Wilsonville School District: Mr. Woodley thanked the Metro Council for their consideration. He stated that this is an important project, and that the district is already experiencing overcapacity at the middle school level.
- Keith Liden, West Linn – Wilsonville School District: Mr. Liden, a consultant for the school district, provided a presentation on the project purpose and need, the site's concept plans, and district's future growth assumptions and long range planning efforts. The district currently projects that by 2017 it will be responsible for a total of approximately 250 students over capacity at its three middle schools. Mr. Liden briefly overviewed each of the six sites in the UGB and the urban reserve expansion areas considered as part of the evaluation process – all of which were determined less suitable than the Advance Road site for the district's primary and middle school campus and city park facility needs. He specifically addressed the Frog Pond site. He stated that the district determined that the site could not be developed in the same timeframe as the Advance Road site, and was likely to cost more due to additional land acquisition needs, potential condemnation costs, and the need to acquire temporary facilities to accommodate students until the new facility was

opened. Mr. Liden stated that the end outcome for the Advance Road and Frog Pond sites were the same, as both would ultimately be surrounded by urban neighborhoods. In conclusion, Mr. Liden emphasized that Advance Road was the best alternative, citing availability of urban services and facilities, location to existing and future residential areas, and opportunities to integrate the school site into the community. He stated that the district could not wait until the next legislative UGB expansion process. (Presentation included as part of the meeting record.)

### ***Council questions***

Councilors asked clarifying questions about the district's growth projections, and immediate and long-term needs, and the timeframe in which the school district shifted interest from the Frog Pond property to the Advance Road site. Mr. Woodley clarified that the district has an immediate need for a middle school and city park facility. The primary school is part of the district's long-term vision. Mr. Liden clarified that the district's growth projections were based on developments already approved and/or expected to be approved within the current UGB in the next 3 to 4 year period.

The presenters reiterated that the Frog Pond property would not provide the right site configuration or acreage, and believed the time needed to complete the site's planning process and purchase additional land would cause a delay. As such, the district purchased the 40 acres in 2002 or 2004; citing proximity to the city and flat topography as reasoning. While the district's land acquisition was privileged information, the presenters anticipated that the change in the housing market and the complexity in planning the Frog Pond site also influenced the district's decision. The presenters also confirmed that, to date, no attempts to acquire additional properties in the Frog Pond area have been made. Additional questions addressed the provision of utilities and services, and street connections at both sites, and the potential for a future school bond measure to help finance the project's construction.

### ***Citizens in Support of Ordinance No. 13-1316:***

- Tim Knapp, City of Wilsonville: Mayor Knapp stated that it is important to plan for a complete community and stated that the Metro Code provides a specific process for this type of request. He highlighted various sections of the hearings officer's report regarding: (1) the short and long-term enrollment forecasts and identified shortfall at the middle school level; and (2) the challenges provided by Frog Pond's size and configuration, and (3) stated that even under the best-case scenario the Frog Pond site could not be planned and ready for development by 2017. In addition, he stated the Advance Road site would not only accommodate both the short and long-term needs, but provide greater efficiency through shared or coordinated services such as parking, school programs, and reduced operating and maintenance costs. Mayor Knapp emphasized the city's strong support for the application and stated that the district's proposal meets the need of the community moving forward. (Report pages referenced include 5, 13, 15, 19 and 21 of 33.)

Councilors thanked Mayor Knapp for his thoughtful testimony. Councilors asked Mayor Knapp for his opinion on why the Frog Pond site was not pursued with the same level of energy as the Advance Road property. Mayor Knapp believed the real estate market – at the time – influenced the district's decision, as the Advance Road property presented significant cost savings. He stated that the purchase was a

responsible and prudent decision that allowed the district to get mileage out of the public dollar. Mayor Knapp also stated that he would like to see Frog Pond's full acreage – approximately 125 acres –comprehensively planned for a residential community in the future.

- Meredith Frigarad, 28500 SW 60<sup>th</sup> Ave., Wilsonville: Ms. Frigarad expressed her support for the application. She stated that her and her husband were in full support of the project and stated that using the property for primary and middle school facilities and a park was essential. Having grown up in a neighborhood with schools, she could relate to the request and believed that anything the community could do to increase opportunities for the children made sense. She also stated that she lives opposite of the property, and is a parent of children who have gone through the school district.

***Citizens in Opposition to Ordinance No. 13-1316:***

There were none.

***Rebuttal***

Mr. Liden and Mr. Woodley addressed the citizen testimony and questions raised by councilors. Mr. Liden believed that the school district purchased the Advance Road site as defensive tactic as property costs increased, and as the district experienced a lack of interest from property developers and willing sellers. That said, he believed that the school district was acting in good faith, and tried to find the best location for the school.

The presenters expressed their support for the conditions recommended by the hearings officer, but not those raised by citizen member Mr. William Ciz. Mr. Ciz's comments addressed zoning requirements, permitting, and concept planning along 60<sup>th</sup> Avenue. (Written testimony submitted by Mr. Ciz included as part of the meeting record.)

Additional clarifications provided by presenters included: (1) the Advance Road site was under two legal ownerships composed of four tax lots; and (2) the Frog Pond site is approximately 2,000 feet from east to west.

Seeing no additional citizens – either in support or opposition to the application – who wished to testify, the public hearing was closed.

***Council discussion***

Motion:	Councilor Stacey moved to: 1. remand the hearings officer's decision based on the following findings:  a. The Metro Council concludes that the applicant has not met its burden to establish that the "Frog Pond" alternative site inside the existing UGB cannot accommodate the identified need once existing planning barriers are removed by Metro.  b. The School District owns approximately 25 acres at this alternative site, which it acquired for school and park purposes, and there are adjoining vacant or nearly vacant parcels that could be aggregated with the school district's property to create a 40-acre or larger school and park site.
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	<ul style="list-style-type: none"> <li>c. The Metro Council can modify conditions adopted by Metro as part of the 2002 ordinance adding the Frog Pond area to the UGB in order to allow concept planning to occur for a subarea of the Frog Pond planning area on a schedule that will be consistent with the applicant's identified timing needs.</li> <li>d. The Metro Council interprets Metro Code 3.07.1120 to allow the applicant to undertake concept planning for a subarea of the Frog Pond planning area containing the existing district-owned property and sufficient other adjacent land to create a 40-acre school and park site.</li> <li>e. The Frog Pond school site can be provided sewer service upon annexation, according to the report of the city's community development director at Record, appendix C-S.</li> </ul> <p>2. Direct Metro staff to bring an ordinance before the Metro Council, after appropriate public notice but no later than November 21, 2013, modifying the conditions attached to Metro's approval of the Frog Pond UGB expansion in Ordinance No. 02-969B in order to allow the adoption of planning and zoning for the school district site, as well as its annexation and development, prior to completion of planning for the entire Frog Pond area.</p> <p>3. Direct the hearings officer to hold an evidentiary hearing on remand to analyze the applicant's ability to accommodate its identified needs on the Frog Pond property, in light of the findings adopted by the Metro Council. Specifically the hearings officer should consider the applicant's ability to acquire sufficient property to meet its identified need for a particular size and configuration of parcels, and the applicant's ability to acquire property and complete necessary planning efforts on a schedule that will be consistent with the applicant's identified timing needs. The hearings officer will then prepare a revised recommendation to the Metro Council regarding the alternative site analysis for the Frog Pond area.</p>
Second:	Councilor Chase seconded the motion.

Councilor Stacey stated that the record clearly articulates a real need for a middle school facility in the school district, and that it is desirable that the middle school facility be provided on a campus that includes a primary school and associated park facilities. He congratulated the district for its thorough analysis of areas in and outside the current UGB. However, per state law, in order for Metro to expand the UGB the Council must determine that the need cannot be accommodated on land inside the UGB. He believed that the Frog Pond site could be increased in size through successful negotiations and acquisition strategies, and had the potential to accommodate the three desired uses. Councilor Stacey requested that the hearings officer conduct an additional hearing to build a record that would establish whether or not negotiations could occur or other strategies pursued to allow for planning, annexation, permitting, etc. within the district's 2017 deadline.

The remainder of the Council did not support the motion. Councilors referenced the hearings officer's report which states that Metro staff believes that the allowing the new urban area planning to be completed solely for the middle school facility in the Frog Pond area is inconsistent with Metro code requirements and not good planning practice. While some councilors expressed discomfort with the school district's application, they believed that the district did demonstrate and clearly justified a need for the middle school facility, and recognized the challenges presented by the Frog Pond site. However, Councilors were interested in holding a future discussion about how this scenario may be prevented moving forward, and how Metro can be involved and provide guidance earlier in the process. Additionally, Metro's legal counsel believed a Council approval of the hearings officer's report was a valid and defensible position, and did not anticipate a formal appeal to be filed with the state's Land Use Board of Appeals.

Given his colleagues' comments, Councilor Stacey withdrew his motion.

Action:	Councilor Stacey and Councilor Chase withdrew the motion.
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Motion:	Councilor Stacey moved to approve Ordinance No. 13-1316.
Second:	Councilor Harrington seconded the motion.

Councilors believed the applicant made a compelling argument, which the hearings officer supported, to expand the UGB. That said, councilors expressed discomfort with the application, and were disappointed that the city had yet to comprehensively plan the Frog Pond area since its inclusion into the UGB in 2002. Councilors reiterated their request for a future discussion about preventing this scenario in the future, and the importance of not taking the topic of UGB expansion lightly.

Lastly, councilors remind the region's school districts that the Metro Council is scheduled to consider and approve the next Urban Growth Report in 2014. For more information on the 2014 decision and subsequent UGB discussions, visits [www.oregonmetro.gov](http://www.oregonmetro.gov).

Vote:	Council President Hughes, and Councilors Craddick, Harrington, Chase, Dirksen, and Stacey voted in support of the motion. The vote was 6 ayes, the motion <u>passed</u> .
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**5. ORDINANCES – SECOND READING**

5.1 **Ordinance No. 13-1318**, For the Purpose of Amending the FY 2013-14 Budget and Appropriations Schedule to Add 0.75 FTE to Each of the Parks Levy Fund and the Zoo Bond Fund.

Motion:	Councilor Harrington moved to approve Ordinance No. 13-1318.
Second:	Councilor Craig Dirksen seconded the motion.

Mr. Tim Collier provided a brief staff report for Ordinance No. 13-1318 which if adopted would add two fulltime positions fall 2013. The first new position, a Senior Public Affairs Specialist, would lead public involvement and oversee stakeholder engagement for parks and natural areas levy-funded projects. The position is proposed to be funded through June 30, 2018. The position request, estimated at \$71,000, would be funded in FY 13-14 by under spent Levy funds budgeted for contracted professional services. Funding for future fiscal years would be addressed during the regular FY 14-15 budget process.

The second new position, a Construction Assistant Project Manager, is proposed to support the Zoo Bond project team with construction documentation, research, contracts and communication. The fulltime limited duration position would be funded through June 30, 2019. The position would be funded in FY 13-14, approximately \$55,900, through budgeted Zoo Bond contingency funds. Similar to the first position, funding for years beyond the current fiscal year would be addressed during the regular FY14-15 budget process.

Council President Hughes gaveled and opened a public hearing on Ordinance No. 13-1318. Seeing no members of the public who wished to testify, the public hearing was closed.

Vote: 

Council President Hughes, and Councilors Craddick, Harrington, Chase, Dirksen, and Stacey voted in support of the motion. The vote was 6 ayes, the motion <u>passed</u> .
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**6. CHIEF OPERATING OFFICER COMMUNICATION**

Ms. Martha Bennett provided an update on:

- Ms. Bennett highlighted recent or upcoming improvements at various Metro parks and natural area properties including a new parking lot at Cooper Mountain, new play structures at Oxbow Park, and a new entrance and maintenance building at Blue Lake Park.
- The Oct. 15 and Oct. 22 council work sessions and Oct. 17 council meeting have been canceled.

**7. COUNCILOR COMMUNICATION**

Councilors provided updates on the following meetings or events: Metro Policy Advisory Committee (MPAC), Joint Policy Advisory Committee on Transportation (JPACT), Tigard City Council, The Intertwine Alliance annual summit, Transit Oriented Development Radiator



groundbreaking, and Council Creek regional trail master plan kick off event. Highlighted upcoming meetings included the Oct. 23 Metro quarterly trails forum.

**8. ADJOURN**

There being no further business, Council President Hughes adjourned the regular meeting at 4:45 p.m. The Metro Council will convene the next regular council meeting on Thursday, Oct. 24 at 2 p.m. at Metro's Council Chamber.

Respectfully submitted,



Kelsey Newell, Regional Engagement & Legislative Coordinator

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF OCT. 10, 2013**

<b>Item</b>	<b>Topic</b>	<b>Doc. Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
3.1	Minutes	10/3/13	Council minutes for Oct. 3, 2013	101013-01
4.1	PowerPoint	10/10/13	West Linn – Wilsonville School District, Advance Road Property Major UGB Amendment	101013c-02
4.1	Handout	N/A	Proposed amendment by Council Stacey for Ordinance No. 13-1316	101013c-03
4.1	Letter	10/1/13	To: Metro Council From: Wilsonville Area Chamber of Commerce RE: Support for Ordinance No. 13-1316.	101013c-04
4.1	Letter/Written Testimony	10/10/13	Written comments on Ordinance No. 13-1316 submitted by W. Ciz	101013c-05