

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF DEMONSTRATING)	RESOLUTION NO. 91-1403
SUPPORT FOR AMENDMENT OF THE)	
OREGON REVISED STATUTES, CHAPTER)	
197, PERTAINING TO ACKNOWLEDGE-)	
MENT AND PERIODIC REVIEW OF)	Introduced by Jim Gardner,
REGIONAL GOALS AND OBJECTIVES)	Deputy Presiding Officer

WHEREAS, Oregon Revised Statutes 268.380 (1) require the Metropolitan Service District to adopt "land use goals and objectives" for the region "consistent with statewide goals"; and

WHEREAS, the means to show consistency with statewide goals is through an acknowledgement and periodic review procedure, administered by the Land Conservation and Development Commission; and

WHEREAS, the Land Use Board of Appeals, LWV v. Metro, case 88-102, ruled that the current definition of "acknowledgement" applies only to comprehensive plans and their implementing ordinances; and

WHEREAS, the Metropolitan Service District is currently completing "Regional Urban Growth Goals and Objectives", which are intended to meet the requirements of ORS 268.380 (1); and

WHEREAS, the draft "Regional Urban Growth Goals and Objectives" are not intended to be comprehensive plans or implementing ordinances; and

WHEREAS, the Urban Growth Management Policy Advisory Committee voted on January 30th , 1991 to recommend that the Council of the Metropolitan Service District seek such changes; now, therefore

BE IT RESOLVED,

That the Metropolitan Service District hereby supports the amendment of the Oregon Revised Statutes, Chapter 197, to clarify procedures intended to show the consistency of any regional land use goals and objectives with state goals. Said regional land use goals and objectives may include the draft "Regional Urban Growth Goals and Objectives" or any part thereof, or as may be revised. Further, the Council directs its staff and representatives to work with members of the State Legislature, and other persons as may be appropriate, to request such amendments.

ADOPTED by the Council of the Metropolitan Service District the 14th day of March, 1991.

A handwritten signature in blue ink, appearing to read 'Tanya Collier', is written over a horizontal line.

Tanya Collier, Presiding Officer

TRANSPORTATION and PLANNING COMMITTEE REPORT

RESOLUTION NO. 91-1403, DEMONSTRATING SUPPORT for AMENDMENT of the OREGON REVISED STATUTES, CHAPTER 197, pertaining to ACKNOWLEDGEMENT AND PERIODIC REVIEW of REGIONAL GOALS and OBJECTIVES

Date: February 27, 1991

Presented by: Councilor Gardner

COMMITTEE RECOMMENDATION

At its February 26, 1991 meeting, the Transportation and Planning Committee voted unanimously (Devlin, Gardner, McLain, and Van Bergen) to recommend Council adopt Resolution No. 91-1403.

BACKGROUND

Resolution No. 91-1403 supports, and directs Metro staff to work toward, amending state statutes (Chapter 197) so that the State will determine if metropolitan area land use planning goals and objectives are consistent with State land use goals and objectives. The process would closely resemble the process of acknowledgement and periodic review now provided for comprehensive land use plans.

The purpose of this amendment is to avoid requiring persons to conform to two sets of goals and objectives which might not be consistent.

The Urban Growth Management Policy Advisory Committee voted on January 30, 1991 to recommend Council seek this change.

The Governmental Affairs Committee, at its February 21, 1991 meeting, voted unanimously to recommend Council adopt Resolution No. 91-1403.

In order not to miss the filing deadline, Metro staff have already asked Legislative Counsel to draft a bill to accomplish this result.

COMMITTEE DISCUSSION/ISSUES

There was no Committee discussion.

STAFF REPORT

CONSIDERATION OF RESOLUTION 91-1403, FOR THE PURPOSE OF DEMONSTRATING SUPPORT FOR THE AMENDMENT OF THE OREGON REVISED STATUTES, CHAPTER 197, PERTAINING TO ACKNOWLEDGEMENT AND PERIODIC REVIEW OF REGIONAL GOALS AND OBJECTIVES.

Date: February 19, 1991

Presented by : Rich Carson

FACTUAL BACKGROUND

Metro is mandated by the state to adopt "land use goals and objectives" for the region "consistent with statewide goals". Currently, as an interim measure, Metro is operating within the old CRAG (Columbia Region Association of Governments) Goals, which at this point are over 10 years old, and in several cases very much out-of-date.

The Urban Growth Management Policy Advisory Committee is currently drafting Regional Urban Growth Goals and Objectives, in part to meet the requirements of state statute.

However, the latest LUBA case (LVW v. Metro) indicates that acknowledgement only applies to comprehensive plans and implementing ordinances.

Accordingly, there is no means to determine whether any regional goals and objectives are consistent with state goals. There is a real concern that with either the existing CRAG goals or the draft RUGGO (when adopted), litigation could be filed by any party who may erroneously seek to use the district goals as a basis of appeal of a local land use action. Additionally, as it now stands, "consistency" could only be defined by the courts in a contested case.

For these reasons, the Urban Growth Management Policy Advisory Committee has recommended that Metro seek amendments to state statutes to clarify acknowledgement and periodic review.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends the approval of Resolution No. 91-1404, supporting the amendment of Chapter 197 of the Oregon Revised Statutes.



METRO

2000 S.W. First Avenue
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Memorandum

Date: February 5, 1991

To: Burton Weast, Western Advocates, Inc.

From: *RAC* Richard Carson, Director, Planning & Development

Regarding: METRO BILL: ACKNOWLEDGMENT AND PERIODIC REVIEW OF REGIONAL GOALS AND OBJECTIVES

Legislative Intent

Metro seeks amendments to ORS ch 197 for statutory clarification of LCDC's authority to acknowledge that its land use goals and objectives are consistent with statewide land use goals. Also, once acknowledged these district goals and objectives must be subject to periodic review for continued acknowledgment.

The intent of these amendments is to clearly utilize the same process for acknowledgment and periodic review of district goals and objectives that has been used for determining comprehensive plan statewide goal compliance. The existing statutory standard that district goals and objectives must be "consistent" with statewide goals must be retained because regional goals and objectives are not intended to be comprehensive plans. Therefore, this legislation retains the distinction between district goals and objectives, which address issues of metropolitan significance, and city-county comprehensive plans which must contain all land use policies to be implemented.

Background

ORS 268.380(1) requires Metro to adopt "land use goals and objectives" for the region "consistent with statewide goals." Such goals and objectives, intended to fulfill this requirement, are currently under consideration to replace CRAG's 1976 Goals and Objectives. However, a recent LUBA case confirms that there is currently no process in State law for determining RUGGO "consistency" with statewide planning goals.¹

¹LWV v. Metro, LUBA No. 88-102 (1989) interpreted ORS 197.015(1), the definition of "acknowledgment," to apply only to comprehensive plans and their implementing ordinances.

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In the absence of a specific procedure, like that created for acknowledgment of comprehensive plans in ORS 197.251, uncertainty exists about how to determine State goal consistency. Without amendments to ORS ch 197, "consistency" would be tested in case by case LUBA appeals whenever a litigant perceives that the district goals and objectives have been applied to a Metro land use action.

Further, without some kind of binding determination of consistency for district goals and objectives, like acknowledgment of comprehensive plans is binding in ORS 197.175(2)(d), litigants may erroneously attempt to use district goals and objectives as the basis for appeal of local land use actions as well. LCDC's determination that district goals and objectives are consistent with statewide planning goals will clarify the role of district goals and objectives and reduce unnecessary land use appeals.

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