

MINUTES OF THE METRO COUNCIL WORK SESSION MEETING

Tuesday, February 24, 2004
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Susan McLain, Brian Newman, Carl Hosticka, Rod Park, Rod Monroe, Rex Burkholder

Councilors Absent:

Council President Bragdon convened the Metro Council Work Session Meeting at 1:00 p.m.

1. DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, FEBRUARY 26, 2004

David Bragdon reassigned resolutions that Rod Park was scheduled to present but will be absent due to eye surgery. Rex Burkholder will do 04-3421; Brian Newman will do 04-3426. Ordinance 04-1041 that Carl Hosticka asked to be drafted will be discussed at Councilor Communication. Brian asked for input on item 7.2 if any councilors have any strong concerns. Carl presented a letter to the Congressional delegation regarding support for Tualatin River National Wildlife Refuge and he passed it around for Councilors signatures. Andy Cotugno passed out an excise tax proposal for discussion at Council retreat on Feb. 25 and explained how to read the proposal (attached).

2. NEW AREA PLANNING

Ray Valone, Planning Department, gave his "one-hour tour" of the new area concept plan and pointed out three questions in work session worksheet for council consideration:

- 1) How often does Council want updates?
- 2) Does the Council want to amend Title 11?
- 3) Does the Council want to modify its role in new urban area planning?

David Bragdon clarified that in addition to considering amending Title 11, there had been some discussion about tracking Title 11 differently.

Three-way approach:

- 1) Overview (Attachment A)
- 2) Metro's role in new-area planning (Attachment B)
- 3) Issues in new-area planning – Title 11, local government perspectives, provisions

1) Of the 26 areas listed, five concept plans are completed: Villebois, Cornelius, Shute Road, Witch Hazel, Pleasant Valley

Three areas are underway – Springwater, Damascus/Boring, Parkplace Plan (Oregon City)

Four areas are gearing up – Beaver Creek Road, Tonkin Industrial, Tigard Sand & Gravel, NW Tualatin Area

Fourteen areas that have no plans underway are due to priorities, still mapping their approach.

David Bragdon asked about Area 37 near West Linn – this was overlooked in the report, so there should be fifteen with no current plans.

The clock started in March 2003 when ordinances became effective, so communities have one more year to complete the concept planning process. This was clarified by Dick Benner. Fourth column in Table, Attachment A, shows the expiration date for each community's planning window.

2) Attachment B. Ray is working with Kim Ellis to coordinate the land use and transportation planning. They'll bring in parks staff, data resource center, and corridor planning staff as needed. Ray is seeking grants and in-kind contributions.

Dick Benner spoke about the coordination and mediation role of Metro. Metro is required by the state to coordinate among cities in the jurisdiction about population issues and growth management. Metro has coordinated territory issues, annexation, and other disputes in the past. There is a provision in Chapter 195 that speaks directly about services – cities need to inform Metro so that Metro can assume coordination or mediation role. If there is a dispute in Title 11 planning, Chapter 195 gives Metro coordination authority.

Carl Hosticka asked the question of whether it had to be disputes among local governments – e.g., Damascus is not yet legally a local government. Dick Benner replied that the coordination authority would then apply to Clackamas County and local non-elected entities. Technically, though, a non-local government would not be a party to the coordination process.

Question and answer session followed regarding clarification of statutes, regulations. Brian Newman asked if a local government refused to participate, can Metro do it ourselves. Dick Benner replied that Metro can do it ourselves. Under Title 8, Metro could say that we'll do it, at least until city or county responded. Rex Burkholder asked about provisions for cost recovery – there are none in statutes. Dick Benner suggested other ways to find funding. David Bragdon asked about situations where it isn't a dispute among governments, but rather an interpretation of Metro statutes. Dick Benner replied that it depends on intent and discussion leading up to UGB decision. Rod Park asked when do we get involved in the dispute, and commented that it seems that we wait but there is a gray area – more of a political issue rather than a legal one. Dick Benner said that Title 11 says that an area cannot urbanize until there is comprehensive planning and zoning done. If a local government wants to begin development before the planning is done, that would be against Title 11 and could be pursued in the Land Use Board of Appeals. Ray Valone gave several examples of issues in jurisdictions.

Ray Valone said that an area for future improvement would be integrating Title 11 and Metro codes to more easily understand the requirements. Once comprehensive plan is agreed to, jurisdiction would not come back to Metro for re-zoning even in case of loss of capacity. Discussion followed on capacity and zoning, based on Title 1, which is the source of our interim protection plan.

Ray Valone said that there is some confusion about inner/outer neighborhood requirements as to units per acre. Are we going to assign numbers to design type or just assign 10 units per acre across the board or require more? Brian Newman suggested Metro could fall into becoming the zoning regulator for the entire region; it might be better to require a yield per area rather than mandating units per acre. Rex Burkholder commented that he didn't want Metro to pick a random number but should be based on standards of density. Susan McLain said that the original framework plan is the basis for these plans and everyone bought into that. Any changes requested by local jurisdictions need to be discussed in terms of the framework. Dan Cooper clarified that the language of 10 units per acre *or less* came from a 1998 UGB amendment. Rather than changing the amendment, in hindsight Metro should have just made an exception for the specific area in question. Target of 10 units per acre is more important. Dick Benner commented that language right now specifies that must conform to 2040 design concept – provides range according to design type – at least 10 units per acre or other lower density depending on design type. Language is a problem. 50/50 rule and 10 units per acre rule were discussed. Dick Benner said that the rule is misinterpreted to read that density won't exceed 10

units per acre, but actually reads that must be at least 10 per acre or adjusted according to design type. Dick Benner clarified the Metropolitan Housing Rule application. Council asked Dick Benner to come up with a fix for these problems so Council can make amendments to code.

Val Counts, City of Hillsboro, gave her experience of working on Witch Hazel Community Plan and Shute Road plan. She thanked Metro staff for their assistance. She mentioned that there are conflicting goals that they must adhere to – Goal 5 and affordable housing. UGB raised price of land which makes affordable housing difficult. Title 11 provision regarding financing strategy for protecting natural resources was confusing. Another challenge is infrastructure support, especially with transportation. She gave the example of TV Highway, a state-owned structure, that had capacity problems yet Metro didn't identify it as a priority. Specificity of conditions made it unworkable. Keep in mind that when areas are added, specificity seems like de-facto zoning; use broader rules. Regarding transportation, there are different agency expectations as to transportation analysis between Metro, ODOT, and counties. Would be helpful to change requirements in transportation concept planning to match expectations of other agencies. She talked about Area 69 which is not in anyone's service provision area so two-year time period might be unrealistic. She said that finding funding is difficult, especially regarding buy-in on the part of property owners, in tight budget times.

Ray Valone shared an email from Jonathan Harker, City of Gresham, regarding issues from his experience with Pleasant Valley Concept Plan (attachment). These issues will be looked at during next presentation.

Rex Burkholder felt that Metro should be studying revenue sharing and value capturing. Michael Jordan said that we haven't made any movement toward value capture. Rex Burkholder expressed concern that this should be a priority. Susan McLain asked what is needed to get the work done, to support jurisdictions to make the standards?

Rod Park expressed concerns from some areas regarding loss of capacity – are we monitoring this? Ray Valone replied that we are not monitoring that. Heather Kent said that Eco Northwest did some studies on value capturing through urban area inclusion fee. Ray Valone will return to discuss more specific issues at a later date.

3. PHASE 2 ECONOMIC, SOCIAL, ENVIRONMENTAL, ENERGY (ESEE) RESULTS FOR FISH AND WILDLIFE PROTECTION PROGRAM

Chris Deffebach and Paul Ketcham, Planning Department, handed out Power Point presentation information (attached) that will be available at Open Houses. Program steps are anticipated to be the area of most questions at Open Houses. Narrative information on six options will be available on the website by Monday, plus an interactive map and comparison of effects of each option on a specific property. Maps will have zooming capabilities so residents can see areas near them and how they are affected plus links for them to provide comments.

Carl Hosticka asked for clarification of the term "allow". Chris Deffebach replied that it refers back to existing regulation of local jurisdiction – status quo. Paul Ketcham commented that many local jurisdictions want Metro regulations to complement or supercede their own.

One of the reasons for this program is the inconsistent protection among jurisdictions in terms of scale and extent of coverage. "Allow" could mean non-continuous protection areas. Rex Burkholder asked about parks, for example Forest Park, and the change in protection depending on program option. Chris Deffebach said that this could be a Council suggestion, that parks are

treated consistently among all options. Carl Hosticka pointed out that just because it's a park doesn't mean that it will necessarily protect habitat.

Brian Newman asked about tools used to determine percentages of development disturbance area (page 9 of handout). Paul Ketcham responded that it was a hypothetical tool. Brian Newman would like more information about what that means and what the impact is. This detail will be discussed later in the summer but Chris Deffebach said Council guidance could be provided as we move forward in this process. Andy Cotugno said that Council does need to decide which property areas will be defined for which limit-designations.

Paul Ketcham distributed Draft Program Options Matrix of presentation at open houses – (attached). This is a DRAFT for discussion purposes, will be simplified for public consumption. Purpose is to evaluate trade offs. In order to understand tradeoffs, staff developed criteria to evaluate performance. Number rankings refer to staff estimates, regarding impact of criteria, but they are not weighted. Criteria were derived from Phase I ESEE analysis. Michael Jordan expressed concerns about correlation of expanding the urban growth boundary with positive effect on the economy and concerns that Criterias One and Five are duplicates. David Bragdon asked if the matrix would be available for the CREEC meeting on Tuesday. First Open House is Monday in conjunction with Tualatin Basin and the simplified matrix should be available by then.

Metro operates non-regulatory programs outside of boundary, but cannot apply regulatory programs outside of jurisdictional boundary. Areas outside of boundary were included to study functional interrelation and also to include areas under consideration for future inclusion in boundary. Karen Withrow clarified that Goal 5 notices went out to residents who live or own property within the proposed habitat area or within one mile of such areas.

David Bragdon complimented staff on the quality of their work.

Discussion followed about public lands. Paul Ketcham said that they have found that public lands bear a higher proportion of restrictive treatments under all six options compared to privately owned lands.

4. 2006-09 TRANSPORTATION PRIORITIES AND MTIP SCHEDULE AND POLICY UPDATE

Ted Leybold and Andy Cotugno, Planning Department, handed out calendar of activities, staff report and resolution (attached). Additional issues have arisen since last public outreach, including new funding at the state level. Ted Leybold reviewed the draft calendar and pointed out that this will for the first time include a joint outreach policy process with the State Transportation Improvement Program (STIP). Andy Cotugno added that last time for the first time Metro commented on ODOT's draft program and this time ODOT and Tri-Met plans will be included in the outreach step for input.

Michael Jordan asked Rod Park about outcome of JPACT retreat regarding this MTIP process. Rod Park said that JPACT was looking for broader issues, not necessarily mandating policy process. He pointed out that the process will not include a second presentation to MPAC after first cut because they weren't interested in project information. Andy Cotugno pointed out that Council will have an opportunity in December to comment and make policy priorities on the MTIP. Michael Jordan said that JPACT had expressed interest in linking transportation to 2040 plan at the retreat.

Ted Leybold walked through the staff report and the nine policy issues identified by staff. Discussion followed about option of limiting road related or bridge projects as a total percentage of STP funds – flexible funds for flexible projects. David Bragdon suggested the option of tying percentage to 70-30. Rod Monroe said that our goal should be to limit road projects from MTIP because it's the only flexible funds we get, but we shouldn't eliminate the possibility. Brian Newman suggested eliminating road projects outside of Tier I and Tier II areas. Staff recommendation is to adopt Options B and C (p. 2 of staff report). Rod Park pointed out that this is supposed to be a minor update. If Council undertakes major changes, Metro will lose the opportunity to match up with the state process. Ted Leybold briefly discussed Issue 2 (Oregon Transportation Investment Acts) and Issue 3 (Bicycle and Pedestrian improvements). Ted Leybold pointed out changes to options on page 9 of brown resolution handout and asked for Council feedback.

Andy asked if Council wants to consider changing road modernization requirements to 50% match, but keeping 70/30 requirement for trails over a mile from Tier I or town center areas. Rod Monroe suggested keeping a 90/10 split for trails. Discussion followed on trails and one-mile criteria outside of Tier 1 or town centers. Council asked for further discussion – MTIP discussion scheduled for March 9 at Council work session after meeting with TPAC, JPACT and MPAC first.

Andy Cotugno said they will add the policy question on 50% road match outside of one-mile radius based on the discussion today.

Ted Leybold discussed Issue 8, better coordination with ODOT in application process. Rex Burkholder asked for discussion of OTC policy with TPAC on alternative transportation preservation and maintenance, asking for exemption for certain projects.

5. REGIONAL SOLID WASTE MANAGEMENT PLAN (RSWMP) CONTINGENCY OPTIONS

Mike Hoglund, Solid Waste and Recycling Director, and Lee Barrett, SW&R staff, gave a report on the contingency plan work group. Will be presented to MPAC on March 10. Susan McLain mentioned that local jurisdictions are part of the Solid Waste Advisory Committee so they are included in that process. She will also try to meet with local jurisdictions that have solid waste facilities in their boundaries and invited other councilors to participate.

Solid Waste Advisory Committee was begun in August 2003 by Metro COO to evaluate strategies. State mandated recycling goal is 62% and projections don't show that we'll get there, so the work group has given their recommendations (presented in December 2003). Also directed to meet with local government solid waste staff to gather feedback, which has been done. They will also give a presentation at MPAC on March 10.

Two of strategies focused on today and asking for Council input for MPAC presentation:

- 1) Mandatory construction and demolition loads
- 2) Mandatory business recycling

Input so far shows support for C&D, but not uniform agreement on how to do mandatory business recycling. Susan McLain said that SWAC wants flexibility but want conformity with

RSWMP. Mike Hogland said that this process is adjunct to RSWMP process; adjustments will have to be made if they don't match up with RSWMP.

Attachment B (attached) will be presented to MPAC. This is the first time mandatory language may be required through local governments requiring code adjustments in business recycling. The RSWMP would need to be amended and would require public hearings and outreach. Mike Hogland clarified that today they were only asking for Council direction before presentation to MPAC. Any changes would require changes to the RSWMP through legislation, public hearings and public outreach.

Mike Hogland reviewed the proposed implementation for both C&D and business recycling.

Rex Burkholder asked how or if we account for C&D recovery that never comes to our transfer stations. Lee Barrett said that we are allowed a 2% credit each for composting, waste prevention, and reuse efforts. Metro qualifies for that 6% credit by letting state DEQ know about programs existing to promote those goals. Rex Burkholder asked for more discussion about the credit program. Susan McLain pointed out that discussion is needed about the overall goals and also that any changes today have to be made in RSWMP.

Mike Hogland said that mandatory business recycling will be a longer process and require more local government assistance. Contingency group asked for more funding through CTAC to help with costs of implementing program. Susan McLain said that it's very important to have a roll-out and PR strategy for this program to reassure businesses.

Rod Park asked for changed wording to Strategy #2 under Contingency Plan Recommendations – clarify that governments are requiring local businesses to adopt recycling programs, not local governments.

Mike Hogland said that staff will be preparing anticipated effects of new capacity and loss of dry waste in terms of cost structure. What is the effect on the regional system credit fee of mandatory morphing or recycling? Competition in business waste may affect tonnage at transfer stations.

Mike Hogland also asked what is the impact on the regional system fee credit program of mandatory dry waste or C&D morphing? This must be looked at in three time frames: short term (this year), intermediate term (next budget year), and long term (budget year 05-06 and beyond).

Lee Barrett reported on meetings with eight of the local government jurisdictions – Beaverton, Washington County, Hillsboro, Portland, Troutdale, Milwaukie, Gresham, Clackamas County. They asked them for reactions to the four proposed strategies. City of Hillsboro and Washington County were concerned with rate impacts on customers. Most of other local jurisdictions were supportive of requirement of C&D recovery at all facilities. Second contingency strategy of business recycling presented the biggest disparity in reactions. Hillsboro, Washington County and Gresham were against requirement but preferred non-regulatory options, services provided to businesses. City of Portland already has a business recycling requirement in place. Other jurisdictions would like to see modeling of where similar programs have been implemented. Jurisdictions would like a joint outreach with Metro to businesses when it comes to implementing whichever option is adopted. Local jurisdictions had other questions that they would like answered as well.

Council gave support for SW&R staff to present to MPAC. Mike Hogland also encouraged Council visits to local officials, with or without SW&R staff. This could happen in April, after all the outreach on other issues in March.

**6. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660 (1) (d)
FOR THE PURPOSE OF DELIBERATING WITH PERSONS
DESIGNATED TO CONDUCT LABOR NEGOTIATIONS.**

Time Began: 4:36pm

Time Ended: 5:06pm

Members Present: Ruth Scott, Kevin Dull, Cherie Yasami, Bill Stringer, Mike Wetter

7. CITIZEN COMMUNICATION

There were none.

8. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, reminded Councilors about the retreat for tomorrow, February 25, 1:00pm, in OCC VIP room D. Three budget issues will be covered: Planning, Oregon Zoo and MERC.

9. COUNCILOR COMMUNICATION

Rex Burkholder said that he feels that Council has talked too much about the budget at retreats and not enough about strategic planning. He doesn't feel that Council has set goals and therefore are backing into the budget. He felt that we're losing opportunities to talk about where we're going.

David Bragdon agreed with part of Rex's comments, that we haven't had the discussion of the larger picture. However, he also said that discussion of budget issues for specific departments does include vision.

Susan McClain also expressed frustration that we're still trying to recapture a strategic planning process in the absence of committees. She agreed that what Council needs to do is do short, medium and long-range planning, including budget process, but also needs to do strategic planning.

Michael Jordan expressed his hope that the discussions at the retreat tomorrow, particularly the one involving Planning, could move above budgetary issues to include goals and programmatic issues. David Bragdon expressed concern that the Zoo strategic plan seemed to be put together without input from the Council. Mike Jordan agreed and said that it should be addressed at the retreat tomorrow. Rex Burkholder asked David Bragdon and Mike Jordan, as the Council leaders, to budget time for strategic planning and goal-setting. Susan McLain suggested an overnight retreat at the McMenemy's in Forest Grove.

Brian Newman restated that the excise tax vote and budget vote must be connected. This Friday, 3-5pm at Sunnybrook, will be a meeting to discuss extending Sunnybrook trail to Estacada.

Metro Council Meeting

02/24/04

Page 8

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:15p.m.

Prepared by,

Patty Unfred Montgomery for:

Chris Billington

Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF FEBRUARY
24, 2004**

| Item | Topic | Doc Date | Document Description | Doc. Number |
|------|---------------------|----------|--------------------------------------------------------------------------------------------------|-------------|
| 1 | Agenda | 02-24-04 | Metro Council Regular Agenda for February 26,2004 | 022404c-01 |
| 1 | Excise Tax Proposal | 02-24-04 | Planning Department "Buck-A-Ton" Excise Tax Proposal | 022404c-02 |
| 2 | New area planning | 02-24-04 | New Area Planning Attachment A | 022404c-03 |
| 2 | New area planning | 02-24-04 | New Area Planning Attachment B | 022404c-04 |
| 2 | Email | 02-23-04 | Jonathan Harker Email to Raymond Valone | 022404c-05 |
| 3 | Power Point | 02-24-04 | Metro Fish and Wildlife Habitat Protection Program – Phase II ESEE Findings and Project Schedule | 022404c-06 |
| 3 | Matrix | 02-24-04 | Fish and Wildlife Habitat Protection Plan Regulatory Program Options Matrix - Draft | 022404c-07 |
| 4 | Calendar | 02-17-04 | 2006-09 Transportation Priorities Calendar of Activities – Draft | 022404c-08 |
| 4 | Staff Report | 03-18-04 | Staff Report to Resolution 04-3431 | 022404c-09 |
| 4 | Resolution | 02-24-04 | Resolution No. 04-3431 and Exhibit A | 022404c-10 |
| 5 | Implementation | 02-18-04 | Contingency Plan Implementation | 022404c-11 |