

MINUTES OF THE METRO COUNCIL WORK SESSION MEETING

Tuesday, July 6, 2004
Metro Council Chamber

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

Councilors Absent:

Council President Bragdon convened the Metro Council Work Session Meeting at 1:04p.m.

1. DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, JULY 8, 2004.

Council President Bragdon reviewed the July 8, 2004 Council agenda. Ordinance No. 04-1054 was developed to clarify filling vacancies so that there would be an appointment and then have it at the next general elections rather than having a special election. Council President Bragdon asked about the Jewish Cemetery issue and had it come together. Michael Jordan, COO, said it had come together. Councilor Newman asked about a presentation on Resolution No. 04-3470. Council said yes they thought it was good to do this for the public.

2. SCHEDULE AND SCOPE OF WORK FOR FISH AND WILDLIFE HABITAT AND TUALATIN BASIN APPROACH UPDATE

Chris Deffebach, Planning Department, provided a power point presentation (a copy of which is included in the record). Brent Curtis would be talking about the Tualatin Basin approach. She updated the council on what had been happening since she last met with Council. The public outreach had continued with presentations to special groups such as the homebuilders. The most visible activity that was coming up was with the Tualatin Basin Approach rollout. They had focused much of their work on making map corrections including incorporating stream layers. They had rerun the riparian and wildlife inventories. They would look at how this affected the inventory. They would then load up the new inventory, coupled with the Environmental Social Economic Energy (ESEE) inventory. Councilor Burkholder asked about map accuracy. Ms. Deffebach said she thought it was 90+%. They had a combination of fine-tuning stream layers and technical errors. Councilor Burkholder asked if the methodology was pretty accurate? Ms. Deffebach said she felt it was. Councilor Burkholder stated that the more you use the methodology the more accuracy there was. Ms. Deffebach explained next steps. They anticipated getting back to Council in a couple of weeks. They were continuing to research non-regulatory opportunities, how could we alter our resources now, new funding sources, legislative issues to effect program protection? She said they had a group that they would like to pull together, many who had been involved in implementation of Goal 5. They would like to pull together resources they have here at Metro to focus on the non-regulatory program. She spoke to committees that were currently reviewing the program components including MTAC, MPAC, and GOAL5TAC. She said Tualatin Basin was working on a program that would roll out on August 16th. They had two more meetings before they shared the program with the public. They had asked Mr. Curtis to come and brief the Council. Council President Bragdon asked about the timetable in making the comparison with the Tualatin Basin Approach. Ms. Deffebach detailed what the Intergovernmental Agreement (IGA) covered and the timing for their program. The IGA timing listed 120 days for Council to take action after the Tualatin Basin Approach was submitted.

Brent Curtis, Tualatin Basin Approach Coordinating Committee, said he would be talking about where they had come from and where they were at right now. He spoke to the involving nature of the program. The meat was in the program proposals. He provided a power point presentation (a copy of which is included in the record). He said the timing was adoption of their program August 16th with Council adopting a program 120 after this date. He spoke to the overall goal. He spoke to how they would be achieving that goal. The Tualatin Basin Approach's primary goals were to improve the environmental health and a well-documented program that met the Goal 5 program. He spoke to why they wanted to do the basin approach. He noted the eleven sites that had been chosen. They had prepared a document that provided a baseline so that when they got to the end they could show how the overall health had improved. The program did an analysis of the sites from seven points of view (detailed in the power point presentation). A big part of the analysis was bringing together Metro inventory work and Tualatin Basin inventory work. They utilized environmental expertise to bring these inventories together. He talked about the "allow, limit and prohibit" decisions they had made. With these decisions they departed into the program phase. They wanted this to be an interim phase. They had three general categories of tools. He noted concerns they had. He spoke to their conclusions. He noted revenue tools and design tools. They had looked at these tools such as system development charges (SCDs), taxes, etc. The fundamental conclusion was the SDCs had been ruled out but the other tools were appropriate to use. He talked about fee in lieu of tools when mitigation was required. The second kind of tools was swim tide user fee. This was a fee not a tax, it was fee based, and it went for the maintenance and certain improvements to riparian areas. It was a broad based revenue source where the entire community would pay a fee that would go to improving the environment. It was an existing operating tool. Councilor Park asked if they had the backing to apply this kind of tool? Mr. Curtis said yes. He felt the slides would explain why. He said much more of the basin was developed then not developed. They needed a revenue source in combination with the other tools.

Mr. Curtis talked about the Clean Water Act and program and how it could be used toward the Goal 5 program. They were primarily riparian projects. Clean Water Services was using a model called the restore model to make judgments about where they should make investment first to meet the Clean Water Act. He talked about both their small and large program. He then detailed the larger program. The larger program met the test for the Goal 5 program. He said if those were the projects how could they implement them. They envisioned something that could pool money. Councilor Newman asked about relative impact of the small and large project. Council President Bragdon asked about the projects. Mr. Curtis said there were three types of projects, riparian corridor improvements, culvert repair, and tree planting. Council President Bragdon asked about acquisition and would this also apply. Mr. Curtis said they knew that a large share of these were whole system improvements. He said Clean Water Services had worked closely with the Farm Bureau to preserve riparian corridors. Clean Water Services still had refinement work to do. He spoke to the Portland system versus the Tualatin Basin system.

Councilor Park talked about the storm water run-off program. In this model the polluter paid. In this case the person who had the habitat area was paying one time and then the second time was being charged a fee. Was there any thought about only charging these individuals once. Mr. Curtis said they had thought about this. They had thought about the relationship between the broad public and the person with the resource. There was a relationship between the outer area and the resource. Councilor McLain asked about in lieu of fees—if the acquisition or upland areas were being underserved.

The choices were to mitigate onsite, to take the fees and integrate them into the overall project. If there were an increase or fee in lieu of, it would be passed onto a committee for review. He talked about groups offering opinions about the program. He noted criticisms of the program. He

noted the three objectives. They were trying to employ avoid, minimize, and mitigate. They were using those three in each one of the cases. He spoke to Low Impact Development (LID), land use tools to minimize disturbance for no touch areas. They had added a land use buffer for strictly limit. They had added low impact tools.

He briefly talked about non-regulatory programs but their main focus had been on the regulatory programs. He then talked about the timelines for the Tualatin Basin Approach. While Council was reviewing this program, they intended to continue to refine their program.

Councilor McLain talked about timing and Measure 36. She was curious to hear what they were thinking about. Mr. Curtis said the Board of County Commissioners had not talked about this issue as a Board. He thought the topic would come up tomorrow. They recognized the impact of this type of legislation. The timing question was an issue. He felt this would be worked out at the elected official level. They recognized that this was an issue. Council President Bragdon asked about their notice, the content and the wording of the notice. Mr. Curtis said this was not a Measure 56 notice. It was similar to what was sent for the ALP decision. It would get changed a bit because of the map correction pieces. Council President Bragdon asked how many households were included. Ms. Deffebach said she would guess about 30,000 notices. Councilor Hosticka said the real issue was timing and substance. How does what they do relate to what the Basin does? He was concerned that the overall dynamic was to preserve and improve watershed health and how that was going to be done. He talked about funding the mitigation. Mr. Curtis said his description was accurate. Councilor Hosticka said within a watershed area, were there going to be mitigation opportunities? How were the projects distributed in relationship to same resource units were the disturbances were going to occur? Mr. Curtis responded that this was a system that they would do through time. They wanted to keep track of the development area and what was the relationship to the watershed. They couldn't predict where development would be but overtime they would keep track of the impacts. Councilor Hosticka said this was based on a lot of faith. Mr. Curtis said their goal was to improve the environmental health of the site and of the basin as a whole. They thought there was a need for two kinds of tools. How do you do it for the developed areas? Making those improvements in some of those places was a wise investment, in other areas it may not be. Councilor McLain talked about the inventory. Mr. Curtis said the inventory did change. The question was where should we invest? That was what Clean Water Services provided for them. Councilor McLain said yes. The projects were broadly distributed but it was a long-term investment. He spoke to refinements to the program similar to periodic review. Councilor Hosticka said you were relying on money. At what point would they be in the process by showing that money would be generated. Mr. Curtis explained, when they got to August 16th, Council should expect certain general things. He detailed some of those expectations. Councilor Burkholder said his concern was the level of confidence of the performance measures being used, what was environmental health, how did you measure if you were getting better? Mr. Curtis said that was valid and part of this should include how you monitored the success overtime. They would make a commitment to develop ways to deal with this. Councilor Burkholder asked could you measure this overtime?

Mr. Jordan said the idea of performance measures and competency that money would be spent on was an issue. What got measured got done. He would expect the Council to be thinking about how success would be measured. Mr. Curtis said he felt this was important. He wasn't sure we could close the gap in a definitive way by August 16th. He spoke to the architecture for success. They had taken Clean Water Services projects and made them their own. They would be looking at success because it would be tied to permitting. If they made a commitment to carry out the program, he felt it was more likely to be carried out. Councilor McLain said they needed to make sure that they didn't limit the tools too quickly. She gave an example of design types encouraged

versus required. How much potential was there still for that tool? Mr. Curtis said they would have on site clustering design. The low impact development standards were for the basin as a whole and with the individual projects. They were looking at both of those tools.

Council President Bragdon said it was leap of faith. It seemed that there were some big difference between the Tualatin Basin Approach and Metro's. He detailed some of the differences. He talked about the assurance that money was going to flow. How did you go back and measure it? He saw these as issues that needed to be discussed post August. He was encouraged by what he was seeing here. Mr. Curtis said they knew they were going to have to demonstrate a degree of proof. They did have a land use approach. Andy Cotugno, Planning Director, talked about buffers and how much we had gone beyond Title 3. They went beyond to include enhancement, the streams go up further than the watershed. You also had to restore.

Councilor Monroe said you couldn't fix a problem like this without money. He was concerned how Measure 36 would impact what Tualatin Basin Approach was trying to accomplish. Mr. Curtis said he felt that had to be answered by the elected officials. He shared that we signed this agreement twice with Metro. Each time they looked carefully of the dates. The dates were most important to Metro Council to finish by the end of the year. There was always something on the horizon looming. In many regards there were things that responded to those who had concerns and would be supporting Measure 36. Other concerns were what might be the implication of slowing down from a technical and policy perspective. Councilor Monroe commented that if you wait to do something innovative and progressive because of the political climate, it might never happen. Councilor Newman talked about the other pieces, such as a non-regulatory program. Council President Bragdon asked Council about the issues they had to take to Tualatin Basin Coordinating Committee, which included timing. Councilor McLain said they had asked Ms. Deffebach to prepare a memo, which provided those issues for the Coordinating Committee. Councilor McLain talked about timing and Measure 36. She felt we had an obligation to continue out work. Councilor Monroe said when they first started in this process, Washington County had asked Council to let them do their own approach. He applauded Washington County. They had taken this very seriously. They had proven that it was a right decision to have Washington County do this. Mr. Cotugno said they were a step ahead of us. He suggested some of their proposals could be Metro's as well. Council agreed. Councilor McLain said this was an integrated process.

3. CITIZEN COMMUNICATION

Jim Labbe, Audubon Society, said they had been participating actively in the Tualatin Basin Approach. He passed out an issue sheet. He said their overriding concern was focusing on Title 3. He talked about maintaining the corridors overtime and what they had to do. They were focusing their comments on protection of high quality habitats. They needed to hold on to these. He spoke to differences between Metro's maps and Tualatin Basin's. He gave an example of the OHSU site in Washington County. There were a number of functions and values that needed to be integrated. He felt there was still a lot to resolve. Council President Bragdon asked about performance measure as it related to mitigation. Were there difference sorts of performance measures? Mr. Labbe responded that he didn't know about mitigation but in terms of tracking the progress of health streams, what Metro had put together was good. Loss of connectivity was important measures to have. Mr. Labbe said mitigation for wildlife habitat was in beginning stages. They had raised issues of understanding the consequences of these programs overtime. Councilor Burkholder asked for clarification on the urban areas. Mr. Labbe said there were discrepancies in the maps and those areas should be looked at. Councilor McLain talked about discrepancies in the maps and that they were talking about protection.

4. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, provided some suggestions on work session formats. When they started a year ago with the Work Session format, they knew it would continue to evolve. He suggested restructuring these so they were more regular. We currently have a first come, first serve. He suggested dividing workload into four to five parts. First and third Tuesdays, there would be two sessions such as Planning and Parks. So it would be predictable. They would also reserve a half hour at the beginning of the session for other agency issues. It might be easier to keep track of when things would be on the agenda. The last piece was the fifth Tuesday of the month. He suggested 5th Tuesday seminars. They would think about doing this after the recess. Council President Bragdon said they also wanted to have flexibility but provide some structure to the work sessions.

5. COUNCILOR COMMUNICATION

Councilor Burkholder talked about his experience at the Kennedy School in Harvard. He said it was a very intense three weeks, primarily leadership focused. He talked about the composite of the group. It was a fertile group for discussion. He wanted to share some of the analytical processes. He thought they might be useful for the Council.

Councilor Burkholder asked about next week's Tuesday retreat. Council President Bragdon said Mr. Wetter took the information at the first two days of retreat in June and tried to put them in some kind of context. Councilor McLain talked about outreach for Goal 5 and county fairs.

Mr. Jordan said they had talked about a booth at the League of Oregon Cities conferences. He asked Council how they felt about this. Councilors supported the idea. They were both in November. LOC and AOC were both in Portland this year.

Councilor Burkholder said they hosted an MPO conference in June and were planning another in the fall. They were working at developing statewide relationships.

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 3:12 p.m.

Prepared by,

Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JULY 6, 2004

Item	Topic	Doc Date	Document Description	Doc. Number
1	Agenda	7/8/04	Metro Council Agenda for July 8, 2004	070604c-01
2	Power Point Presentation	7/6/04	To: Metro Council From: Brent Curtis, Tualatin Basin Coordinating Committee Re: Tualatin Basin Goal 5 – Basin Approach Protection Update	070604c-02
2	Power Point Presentation	7/6/04	To: Metro Council From: Chris Deffebach, Planning Department Re: Update Regional Fish and Wildlife Habitat Protection Program	070604c-03
3	Memo	7/1/04	To: Tualatin Basin Steering Committee From: Jim Labbe and Celina Patterson, Audubon Society of Portland Re: Comments upon mitigation, development capacity and constitutional takings	070604c-04