

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF PROVIDING)	RESOLUTION NO. 04-3512
DIRECTION TO METRO CONCERNING BILLS)	
BEFORE THE 2005 OREGON LEGISLATURE)	Introduced by Chief Operating Officer
)	Michael J. Jordan, with the concurrence of
)	Council President David Bragdon

WHEREAS, Metro has an interest in bills before the 2005 Oregon Legislature;

WHEREAS, the Metro Councilors and Metro staff will represent Metro's interest during the upcoming legislative session;

WHEREAS, the Metro Council wishes to establish a united position on important legislative proposals and provide direction to Metro staff in order to represent the will of the agency;

WHEREAS, the attached Exhibit A of this resolution lists specific proposals that are of concern to Metro and the Metro Area and gives guidance to Metro staff on Metro's position on these proposals; and

WHEREAS, the attached Exhibit B is a statement of principles regarding categories of legislation that gives guidance to Metro staff in representing Metro; now therefore

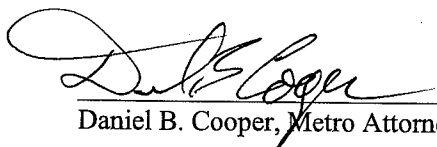
BE IT RESOLVED that the Metro Council hereby directs the Metro Chief Operating Officer, the Metro Attorney and Metro staff to make the agency's position on a variety of legislative proposals clear with the 2005 Oregon Legislature consistent with Exhibits A and B attached hereto.

ADOPTED by the Metro Council this 9th day of December, 2004.

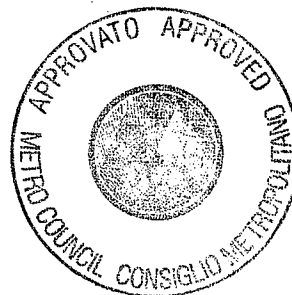


David Bragdon, Council President

Approved as to Form:



Daniel B. Cooper, Metro Attorney



**Exhibit “A” to Resolution 04-3512
METRO LEGISLATIVE PRIORITIES
November 22, 2004**

TOP PRIORITY ISSUES

- **Comprehensive review of Oregon’s land use planning program:** The Department of Land Conservation and Development (DLCD) is proposing a multi-year review of Oregon’s land use program. Such a review should be comprehensive, balanced, fact-based, and solution-oriented. Metro should actively participate in the development of legislation initiating such a process and in the effort to secure adequate funding for an important effort of this magnitude.
- **Extending the five-year cycle for evaluation of Metro UGB to ten years:** Metro is the only jurisdiction in the state that is required to evaluate the residential capacity of its urban growth boundary (UGB) every five years. This exercise demands a tremendous dedication of public resources and prevents Metro and its local government partners from engaging in the long-range planning that can keep the region both livable and economically competitive in the future. Metro should introduce legislation extending the cycle to ten years.
- **Multi-modal transportation funding package:** On November 17, 2004, the Joint Policy Advisory Committee on Transportation (JPACT) endorsed a transportation funding concept that includes the following elements: (1) funding for operations, maintenance, and modernization of the state and local road system; (2) funding for improvements to alternative modes of passenger and freight transportation, including light rail and transit, passenger and freight rail improvements, and improvements to marine terminals and airports; and (3) continued funding within the ODOT budget for elderly and disabled transit service, bus replacement and transportation demand management. Metro should work with JPACT, the five other Oregon MPOs, and other interested parties to secure passage of a package that includes as many of these elements as possible.
- **Funding for a headquarters hotel serving the Oregon Convention Center:** In order to maximize the Oregon Convention Center’s benefits to the region and the state, Metro supports the construction of a convention center headquarters hotel. Pending the completion of further analysis of the financial viability of this project, Metro should collaborate with the Metropolitan Exposition Recreation Commission, the Portland Development Commission and other interested parties to pursue financial support from the state for hotel construction.

OTHER PRIORITY ISSUES, BY TOPIC

LAND USE

- **Eliminating duplicative UGB appeals:** The same statute that gives the Land Conservation and Development Commission (LCDC) jurisdiction over most UGB expansions limits the scope of LCDC’s jurisdiction in these matters to the statewide planning goals. This leads to

the same UGB decision being appealed to both LCDC (for alleged violation of statewide goals) and LUBA (for other alleged violation of Metro's charter, for example). This unnecessary duplication wastes time and money for all parties. Metro should introduce legislation to eliminate this duplicative process.

- **Allowing Metro-area cities to use annexation plan provisions of ORS 195:** Because of an apparent drafting error in Metro's statute (ORS 268), Metro-area cities are unable to use the "annexation plan" provisions of ORS 195. Metro should introduce legislation to correct this error. Doing so will help to facilitate the orderly urbanization of land within the urban growth boundary.
- **Urban-scale commercial and industrial development outside UGBs:** Metro has an interest in restricting urban-scale commercial and industrial development to lands within urban growth boundaries. Legislation passed in 2003 greatly reduced the restrictions on industrial development on rural land outside the Willamette Valley. Legislation is expected in 2005 to extend similar treatment to commercial development, though the Willamette Valley may still be exempted. DLCD will also convene a work group on this topic. Metro should participate in this work group and monitor this legislation, with the goal of retaining the functional integrity of Metro's UGB.
- **Industrial Facility Siting Council:** A proposal may be forthcoming to create a new body and a new process to streamline the siting of certain industrial facilities. Metro has an interest in an industrial facility siting process that is efficient, fair, and accountable, and that results in siting decisions that comply with regional economic goals, sound land use planning principles, and community aspirations. Until more details become available, Metro should monitor this proposal.

The following issues should be discussed in the context of the proposed comprehensive review of Oregon's land use planning system, though it is possible that they may become the subject of 2005 legislation:

- **Rural reserves:** Defining certain lands as "rural reserves" and giving them a legally enforceable status as the fifth priority in the hierarchy of lands for UGB expansions would provide a mechanism to implement the "hard edge" concept under consideration by the Metro Council and make enforceable the Green Corridor Agreements with neighboring jurisdictions to maintain separation from the Metro area. Metro should continue to develop this concept and ensure that it is considered in any discussion of major changes in the UGB expansion process, including any changes in the hierarchy.
- **20-year land supply:** While Metro is committed to providing adequate land to accommodate future housing needs, the 20-year supply requirement is inflexible and possibly excessive. Metro supports the removal or relaxation of this requirement; at a minimum, it would be helpful to allow jurisdictions some leeway as to how precisely they meet an exact 20-year need.
- **Annexation and related issues:** Cities are the best means of providing public services to urban areas. Metro has a strong interest in encouraging the orderly incorporation of urban

and urbanizing areas. Metro should oppose legislative efforts to create procedural obstacles to annexation, monitor other annexation-related legislation, and promote continued conversations with other interested parties about how to create the conditions for rational urbanization.

TRANSPORTATION

- **Transportation planning rule:** The TPR is nationally recognized for its groundbreaking approach to the integration of land use and transportation planning, but has been controversial in Oregon since its inception. A number of recent events have heightened this controversy and caused various interests to again suggest that the TPR be re-evaluated or modified. Metro has consistently supported the integration of land use and transportation planning through the TPR, which has helped the region to achieve many of its livability goals, and thus does not support wholesale changes to the rule. However, it may be advisable to clarify certain provisions implicated in recent litigation. While it would be preferable to accomplish this through rulemaking, legislation will be introduced in 2005; Metro should closely monitor any administrative or legislative activity on this topic.
- **TDM funding:** Metro's Regional Travel Options (RTO) Program 5-Year Strategic Plan identifies collaborative marketing of transportation alternatives as a top priority and provides a coordinated framework for marketing activities in the Portland region. ODOT's 2003-2005 budget includes \$1.5 million for marketing transportation alternatives, much of which is likely to be spent in the Metro area in connection with the RTO effort. Metro should support the renewal of this funding in the 2005-2007 ODOT budget. (This concept is also encompassed within the larger transportation finance proposal.)

PARKS AND GREENSPACES

- **System development charges:** Metro has an interest in ensuring that local communities have the resources necessary to provide adequate parks facilities to new and existing residents and does not support proposals to limit the ability of local governments to raise those resources through system development charges. Legislation to cap park SDCs is expected in 2005. Metro should collaborate with other local governments and parks providers to respond to this legislation.
- **Forest Legacy funding:** The Forest Legacy Program is a federal program that is intended to protect environmentally important forests threatened with conversion to non-forest uses through conservation easements or fee-acquisition from willing landowners. However, federal funding that might have come to Oregon under this program has been blocked by certain legislators. Metro should work with other natural resource and conservation organizations, property owners, the Oregon Department of Forestry, and Oregon's Congressional delegation to urge the Oregon Legislature to allow these federal funds to come to Oregon.

SOLID WASTE

- **Electronic waste management:** Used electronic products are a rapidly growing waste problem due to their quantity, rapid obsolescence, and toxicity. As a member of the Advisory Committee on Electronic Products Stewardship established by the 2003 Legislature, Metro supports measures aimed at increasing reuse and recycling of electronic waste through the creation of a product stewardship system based on producer responsibility. Legislation is likely in 2005.

ENVIRONMENT

- **MTBE:** Methyl tertiary butyl ether (MTBE) is used as a fuel oxygenate elsewhere in the country in order to lower carbon monoxide emissions from gasoline-powered vehicles. California and Washington have banned the use of MBTE because it has been considered a potential carcinogen and it is very difficult (costly) to remove from water if it leaks into a water supply. Metro should support a ban on MTBE as an oxygenated fuel additive and should introduce legislation on this topic if necessary.

OREGON ZOO

- **Zoo debt repayment:** Metro and the Oregon Zoo took out a \$5 million loan from the Oregon Economic and Community Development Department (OECDD) in 1997 to fund the light rail station and parking lot improvements at Washington Park. This loan is being repaid at \$400,000+/year for 15 more years. This is a huge economic burden on Metro and the zoo. Metro should seek either debt forgiveness from the state or an allocation of funds by the Legislature for general zoo support that could be used to pay down the debt, allowing the Zoo to direct cost savings to deferred maintenance.

LOWER PRIORITY ISSUES

LAND USE

- **Suitability of land for inclusion in UGBs:** Metro should support a “housekeeping” amendment of ORS 197.298 to clarify that the hierarchy of lands for UGB expansion does not require the inclusion of higher-priority lands (e.g., exception areas) that are not suitable for the proposed use.
- **LUBA structure:** Legislation may be introduced that would transfer the Land Use Board of Appeals (LUBA) from the executive branch to the judicial branch, turning LUBA referees into “magistrates” under the Court of Appeals. Legislative discussion of this proposal could expand into a broader discussion of the appeals process. Metro should monitor this proposal and other proposals related to the land use appeals process.
- **Funding for planning:** Lack of funding is a barrier to sound planning. This problem manifests itself in many ways; examples include planning of UGB expansion areas and concept planning for the future urbanization of areas like the Stafford basin. Metro should

support the inclusion of adequate grant funds in the DLCDC budget to support local planning efforts.

- **Performance measures:** Statutory timelines for reporting on performance measures and taking corrective action are unrealistically short. Metro supports amending ORS 197.302 to establish more realistic timelines.

FINANCE

- **Land value taxation:** This policy would allow local taxing districts to tax land at a higher rate than improvements. Such a system could create an incentive for more efficient development. However, given the restrictions on property taxes that have been added to the Oregon Constitution by the voters, the development of such a system would almost certainly require a constitutional amendment. Metro should introduce legislation on land value taxation as the vehicle for making informational presentations to the Revenue Committees of the Legislature.
- **Regional revenue sharing:** Regional revenue sharing (also known as tax base sharing), in which a portion of the increased tax revenues from new development are distributed throughout a metropolitan region, can both increase social and geographic equity and support sound regional land use policies. Rather than introducing legislation at this time, Metro should convene a regional dialogue (possibly in the form of a task force or advisory committee) on the relationship between land use and fiscal policy.

PARKS AND GREENSPACES

- **M66 local share allocation:** Since its inception, the local share appropriation from Measure 66 funds (Parks and Salmon) has been \$5,000,000 annually statewide, regardless of lottery collections and allocations to State Parks. Metro supports increased state funding for parks in the region and will work collaboratively with park providers in the metro region and around the state to support increased state funding for local park providers.

SOLID WASTE AND RECYCLING

- **Funding for pesticide use reporting system:** The Legislature enacted a pesticide use reporting system in 1999 but has never provided adequate funding to implement the program. Metro's work to improve water quality, fish and wildlife habitat, and stormwater management would be enhanced by information resulting from a comprehensive pesticide use tracking program. Accordingly, as part of its efforts to reduce the impact of pesticides on residents and the environment, Metro should support adequate funding for, and implementation of, the Pesticide Use Reporting System.
- **Bottle bill expansion:** A legislative proposal may be forthcoming in 2005 to "modernize" the state's beverage container system. Metro should support improvements to Oregon's bottle bill with the goals of reducing litter and increasing the number of beverage containers that are recycled rather than landfilled.

ENVIRONMENT

- **Funding for watershed councils and soil and water conservation districts:** Metro has an interest in supporting organizations that are using cooperative and non-regulatory approaches to help protect fish and wildlife habitat. Metro should support legislation that provides funding for the Oregon Watershed Enhancement Board (which funds local watershed councils) and local soil and water conservation districts at levels adequate to allow them to complete their mission. Metro should also support legislation that recognizes the importance of funding their activities in urban areas.
- **Conservation easement property tax assessments:** This proposal would allow a property owner who enters into a conservation easement to transfer land from a previous farmland or forestland tax assessment program into a conservation easement tax assessment program designed to keep the land at the same assessed value after the switch as before. This would remove a barrier to the acquisition of conservation easements, thereby helping to facilitate protection of open space, and of fish and wildlife habitat in Metro's Goal 5 habitat inventory, through non-regulatory means.

OREGON ZOO

- **Zoo parking lot:** The Metro Council should oppose any legislation that would require the zoo to give up the parking lot for non-zoo uses.

**Exhibit “B” to Resolution 04-3512
METRO LEGISLATIVE PRINCIPLES¹**

LAND USE:

1. **Efficiency:** Land within UGBs should be used efficiently before UGBs are expanded.²
2. **Need:** The requirement to demonstrate need for UGB expansions should not be evaded or diluted.³
3. **Transportation:** Land use and transportation planning should be coordinated so land uses do not undermine the transportation system and transportation investments do not lead to inappropriate land uses.⁴
4. **Pre-emption:** Within the context of Oregon’s land use system, Metro’s authority should not be pre-empted.
5. **Annexation:** As cities are the preferred governing structure for providing public services to urban areas, Metro supports reforms that will facilitate, or reduce barriers to, orderly annexation and incorporation.
6. **Rules/Statutes:** Administrative rules should not be adopted into statute.
7. **Complete Communities:** Metro supports legislation that facilitates development of complete communities, including employment opportunities, choices of housing types affordable to people of all income levels, transportation choices, and parks and greenspaces accessible to all.⁵
8. **Non-Regulatory Tools:** State efforts at regulatory streamlining should include funding to support development of non-regulatory tools for achieving desired land use outcomes.⁶
9. **Funding:** State mandates to expand UGBs should be accompanied by funding for planning.
10. **Fiscal Responsibility:** Funding to support urban development should be generated at least in part by fees on those who directly benefit from that development.
11. **Measure 37:**
 - Gains from government regulation/investment should be accounted for in any calculation of value reduction.
 - The state should be responsible for claims when a state requirement is the ultimate basis for the claim.
 - No public funds should be spent to support development outside UGBs in response to a Measure 37 waiver.
 - Landowners should provide compensation to neighbors or the public when their actions after waiver of regulations reduce neighbors’ property values or reduce the value of publicly owned resources, including but not limited to the air and waters of the state.

SOLID WASTE:

12. **Toxicity and waste reduction:** Metro supports efforts to minimize the impact of the waste stream on the environment.

TRANSPORTATION:

13. **Transportation Funding:** Metro supports an increase in overall transportation funding and supports flexibility in the system to provide for local solutions to transportation problems.

PARKS AND GREENSPACES:

14. **Parks and Greenspaces:** Metro supports measures to increase the level of state funding distributed to local governments for acquisition, capital improvements, and park operations.

¹ Footnotes refer to applicable policy statements in Metro’s Regional Framework Plan (RFP), July 2003.

² Numerous RFP references, including: p. 10, growth should occur inside the UGB in the form of infill and redevelopment with higher density where appropriate; policy 1.1, Urban Form; policy 1.6, Growth Management; policy 1.8, Developed Urban Land; policy 1.9, Urban Growth Boundary; policy 1.12, Protection of Agriculture and Forest Resource Lands. The RFP, on p. 36, also quotes the Future Vision statement: “Widespread land restoration and redevelopment must precede any conversion of land to urban uses to meet our present and future needs.”

³ P.11, UGB will be expanded only when a need for additional urban land is demonstrated; policy 1.1, Urban Form.

⁴ Numerous RFP references, including: p. 10, by coordinating land uses with transportation system, the region embraces its locational advantage as trade hub; p. 17, growth concept links urban form to transportation to ensure the development of a regional plan that is based on efficient use of land and safe, efficient and cost effective transportation system; p. 59, integrating movement of goods and people with surrounding land uses is fundamental to RFP; policy 2.2, Consistency between Land Use and Transportation; policy 2.6, Urban Form; policy 2.7, Jobs/Housing Balance; policy 2.11, Street Design; policy 2.21, Adequacy of Transportation Facilities.

⁵ See p. 11 re: mixed-use centers of housing, employment, transit, with a range of services and amenities in a walkable environment; jobs/housing balance outside neighborhoods; and protection of open spaces. See also policy 1.3, Housing and Affordable Housing; policy 1.4, Economic Opportunity; policy 1.5, Economic Vitality; policy 1.7.2, Sense of Place; Chapter 2, Transportation, on transportation choices generally; Chapter 3, Parks, Natural Areas, Open Spaces And Recreational Facilities, recognizing “the importance of parks, natural areas and recreational facilities in the urban fabric of communities throughout the region.” The RFP, on p. 37, also quotes the Future Vision statement: “Focus public policy and investment on the creation of mixed-use communities that include dedicated public space and a broad-range [*sic*] of housing types affordable to all.”

⁶ Policy 1.1, Urban Form (on targeting public investments to reinforce a compact urban form); p. 92, a variety of strategies will be used to protect and manage parks and natural areas to support habitat and recreational opportunities, including acquisition, education, landowner incentives.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3512, FOR THE PURPOSE OF PROVIDING DIRECTION TO METRO CONCERNING BILLS BEFORE THE 2005 OREGON LEGISLATURE

Date: November 22, 2004

Prepared by: Randy Tucker

BACKGROUND

The Metro Council has taken formal positions on legislation since its inception. The first action taken by the Council was in Resolution No. 79-23 in which it took a position on SB 66, which dealt with economic development. Since that time, Metro has taken formal and informal positions on legislation (state and federal) that it feels impacts the region.

The agenda and principles described in Exhibits "A" and "B" were developed by Randy Tucker (Legislative Affairs Manager) in consultation with the Metro Council. The specific legislative issues described in Exhibit "A" emerged from consultation with legislative liaisons in each Metro department. These issues were discussed with the Metro Council in work sessions that occurred on August 10, September 21, October 19, and November 2. They reflect current Metro policy where applicable.

In the work session on November 2, the Council provided direction on its legislative priorities and principles and asked that they be incorporated in Resolution 04-3512. Where applicable, these principles also reflect existing Metro policy as embodied in the Regional Framework Plan.

As issues arise and develop during the 2005 Oregon Legislative Session, the Council will have the opportunity to take positions on specific pieces of legislation and to modify its agenda as it sees fit.

ANALYSIS/INFORMATION

1. **Known Opposition:** none
2. **Legal Antecedents:** none applicable
3. **Anticipated Effects:** Provide direction to Metro staff with respect to issues before the 2005 Oregon Legislature.
4. **Budget Impacts:** None

RECOMMENDED ACTION

Staff recommends approval of Resolution No. 04-3512.