

A G E N D A

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METRO

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MEETING: METRO POLICY ADVISORY COMMITTEE

DATE: December 8, 2004

DAY: Wednesday, 5:00-7:00 p.m.

PLACE: Metro Council Chamber/Annex

NO	AGENDA ITEM	PRESENTER	ACTION	TIME
	CALL TO ORDER	Becker		
1	INTRODUCTIONS	All		5 min.
2	ANNOUNCEMENTS	Becker		3 min.
3	CITIZEN COMMUNICATIONS FOR NON-AGENDA ITEMS			3 min.
4	CONSENT AGENDA • Meeting Summary for November 10 & 17, 2004	Becker	Decision	5 min.
5	COUNCIL UPDATE	Bragdon		5 min.
6	NOMINATIONS OF OFFICERS FOR 2005		Briefing Only	10 min.
7	HOUSING TECHNICAL ADVISORY COMMITTEE CHARGE	Burkholder	Discussion	30 min.
8	RESOLUTION 04-3506, FISH & WILDLIFE PROTECTION PROGRAM AND PROPOSED AMENDMENTS	Metro Councilors	Decision	60 min.

UPCOMING MEETINGS:

January 12 & 26, 2005

For agenda and schedule information, call Kim Bardes at 503-797-1537. e-mail: bardes@metro.dst.or.us

MPAC normally meets the second and fourth Wednesday of the month.

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METRO POLICY ADVISORY COMMITTEE MEETING RECORD

November 10, 2004 – 5:00 p.m.

Metro Regional Center, Council Chambers

Committee Members Present: Charles Becker, Nathalie Darcy, Rob Drake, Andy Duyck, Judie Hammerstad, John Hartsock, Tom Hughes, Richard Kidd, Deanna Mueller-Crispin, Doug Neeley, Wilda Parks, Ted Wheeler

Alternates Present: Larry Cooper, Jack Hoffman, Laura Hudson, Karen McKinney, David Ripma

Also Present: Bev Bookin, Columbia Corridor Association; Ron Bunch, City of Gresham; Bob Clay, City of Portland; Valerie Counts, City of Hillsboro; Danielle Cowan, City of Wilsonville; Bob Durgan, Andersen Construction; Kay Durtschi, MTAC; Meg Fernekees, DLCD; Ed Gallagher, City of Gresham; Steve Kelley, Washington County; Susie Lahsene, Port of Portland; Barb Ledbury, Damascus Councilor; Roy Ledbury, Damascus CPO; Harlan Levy, Oregon Association of Realtors; Irene Marvich, League of Women Voters; Amy Scheckla-Cox, City of Cornelius; Jonathan Schlueter, Westside Economic Alliance; Andrea Vannelli, Washington County; David Zagel, TriMet

Metro Elected Officials Present: Liaisons – Carl Hosticka, Council District 3, Susan McLain, Council District 4; David Bragdon, Council President

Metro Staff Present: Kim Bardes, Dick Benner, Dan Cooper, Andy Cotugno

1. INTRODUCTIONS

Mayor Charles Becker, MPAC Chair, called the meeting to order 5:10 p.m. Those present introduced themselves.

2. ANNOUNCEMENTS

Chair Becker asked Tom Hughes, Gene Grant, and Lisa Naito to serve on the nominating committee for the 1st and 2nd Vice Chairs for 2005.

Doug Neeley said that the election for those members nominated by the nominating committee should take place in January 2005 due to possible changes on the roster between now and then.

Chair Becker then passed out and reviewed the proposed meeting schedule for 2005 and asked the members if they would like to change the two dates right before Thanksgiving and Christmas. He proposed substitutions.

Motion:	Nathalie Darcy, Washington County Citizen, with a second from John Hartsock, Special Districts, Clackamas County, moved to adopt the 2005 MPAC meeting schedule with the change of November 23 to November 16 and December 28 to December 21.
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Vote:	The motion passed unanimously.
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Chair Becker reviewed the Goal 5 proposed resolution schedule for decision.

Doug Neeley said that MPAC had indicated that they would like to have the decision on December 8th.

Chair Becker announced that the Goal 5 agenda item would be deferred to the December 8th meeting for decision. He said that he had been receiving comments on global warming since the last MPAC meeting.

Andy Cotugno said that the agenda for November 17, 2004 included an item on the Governor's Task Force on Global Warming report and comments. He invited Chair Becker and the MPAC members to forward any further comments to him so that they could be included in the packet for the meeting.

3. CITIZEN COMMUNICATIONS

There were none.

4. CONSENT AGENDA

Meeting Summary for October 27, 2004.

Motion:	Rob Drake, Mayor of Beaverton, with a second from Richard Kidd, Mayor of Forest Grove, moved to adopt the consent agenda without revision.
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Vote:	The motion passed unanimously.
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5. COUNCIL UPDATE

Council President David Bragdon said that the Council had talked about the Housing Technical Advisory Committee in the prior week. There had been some discussion about the types of interests that should be included in that group. The focus would be more on the implementation part of things in terms of housing affordability. They had recommended not focusing so much on subsidizing. That draft would be redone and then brought back to MPAC early next year.

6. PROPOSED GOAL 14 CHANGES

Dick Benner said that he was a member of the Goal 14 Work Group. He said that a couple of years ago there was an effort at the state level to revise Goal 14. One objective had been to make the process of expanding urban growth boundaries (UGB) easier. Not, however, in the sense that the substantive criteria would be lowered, but rather some of the procedures for the expansion process would be made easier. That effort got to a certain point and was dropped towards the end of 2000. The commission took it up again, hoping to wind up the new effort in early February 2005. The agency was holding hearings across the state and would hold several more in the next two months. He reviewed the materials included in the packet, which are attached and form part of the record.

Rob Drake said that the League of Cities had sent a formal letter to the governor and a copy to Lane Shetterly, requesting that the commission stop the Goal 14 process. He wondered if the commission would continue with that rule making.

Dick Benner said that he did not know. He said that there were two pieces pertaining to this: 1) the proposed changes to Goal 14 and 2) the rule. If there were any implications for local governments and the state under Measure 37 they would come from the rule and not from the goal. If there was value for local governments in the changes to Goal 14, and he said that he thought there was, then he would suggest that the agency continue with the Goal 14 work and set aside the rule work. He then reviewed the highlights of the draft amendment to Goal 14.

Doug Neeley asked if there was anything in Goal 14 that would allow or prohibit the potential of having hard edge boundaries.

Dick Benner said no. It did not change the law on hard edges.

Doug Neeley asked if the rules would affect how they looked at soil classification.

Dick Benner said no. The strongest language about soil capability classification was in the priority statute that provided that they go down the classes from 8 to 1. That had not changed, and it was also reflected in factor six (6) of the Goal 14 factors.

Tom Hughes asked if the proposed language on livability would have resulted in a different outcome on the north plains case.

Dick Benner said that he did not think so. North Plains ultimately got its UGB expansion and the state approved it, but not on the grounds of a livability need. That was the city's first proposal, but it changed as the matter went back and forth between the city and the agency. It was ultimately acknowledged by LCDC, not on the basis of livability but rather on the basis of the provision of public service facilities and how difficult it would have been to integrate the exceptions land on the other side of the highway. The result would be the same if this was adopted.

Richard Kidd said that one of the safe harbors for justifying expansion would be that they could assume a 50/50 split between multi-family and single-family units. If they had a jurisdiction that wanted to add single-family land to the UGB and there already was an existing situation of 100 multi-family units and 50 single-family units, would that be grounds to build 50 more single-family units?

Dick Benner said that in a 50/50 circumstance the obligation would be to make sure that the zoning of the residential land base (vacant land) allowed for a 50/50 split. It did not, however, require it.

Richard Kidd asked if, in converting acreage from gross to net, 25% was allowed.

Dick Benner said that as a rule of thumb he could rely on 25%.

Judie Hammerstad said that when they were looking at need, it must be shown that there were no "reasonable alternatives to accommodating the need inside the existing boundary." She wondered what "reasonable alternative" really meant? Some felt that the unused industrial land should have been counted so that it could be redeveloped, while others thought it was too expensive or there were brownfields and it should not be counted. That issue had not yet been addressed, and she wondered if it would be addressed in the Goal 14 process.

Dick Benner said it would take about a century to get people to agree on what "reasonable alternative" meant. He suggested that they should not try to define it. He said it was not completely undefined because it had been in the exceptions test since 1975 mostly as applied to things outside the UGB. Did Metro do everything it possibly could to use that land efficiently? There was not a great deal of guidance, however, LCDC had accepted that in its acknowledgement of the decisions that the Metro Council made in December of 2002, and tentatively accepted a more recent formulation of Title 4. It accepted a 29% residential refill rate, although some people contended that it could have been more. He said it was probably a good thing that "reasonable alternative" was not a specific criterion and allowed for flexibility.

Judie Hammerstad said it was bothersome that there was usable land within the boundary that wasn't being used while the boundary was being expanded.

Dick Benner said that instead of trying to define "cannot reasonably accommodate," one notion was to establish a safe harbor. The draft rule talked about residential refills and making assumptions about refill strategy, and if they did the state would not challenge it, which would make it nearly invulnerable to litigation. He said that he could see ways to take pieces of it through safe harbors and use land more efficiently.

Ted Wheeler asked what specifically was new in factor three (3).

Dick Benner said that there was nothing new but rather there was a section in Goal 14 that talked about the consequences of bringing in one type of land versus another. The focus was with the ESEE consequences of bringing land into the boundary. That was similar to one of the exceptions criteria. They were treated differently because they were slightly different in case law. By getting rid of the "tied to the exceptions process" they then would fall back on factor five (5), as it currently existed.

7. EXCEPTIONS PROCESS

Dick Benner said that the Metro Council had received its first application for exception. He reviewed the process and the role of Metro in the process. He emphasized that they would not be having a discussion about the exception, only that one had been filed and what the process entailed. He reviewed the Metro code that discussed exceptions.

Rob Drake wondered why Clackamas County did not go through MPAC on the issue.

Dick Benner said it was a choice for the county to make. The County understood that the exception process was more appropriate for a specific fact situation.

Doug Neeley asked if a request for exception had to go through the governing body before going to Metro or could county staff directly submit to Metro.

Dick Benner said it was an exception that Clackamas County itself wanted to take. It did have to be filed by the governing body. He said that there were two pathways that were designed for separate things. The MPAC pathway was conceived with policy making in mind. The exceptions process was conceived with very specific questions that were related to facts that did not necessarily raise a policy question.

8. BALLOT MEASURE 37

Council President David Bragdon said that in terms of the type of organization that Metro wanted to be, and the type of relationship that Metro would like to have with local governments, that Metro was not likely to be getting claims. Metro did not regulate property directly. It was clear, however, that local governments could get claims because Metro did regulate them. The threshold issue for Metro was how to work with local governments on Measure 37, and the relationship between the local governments that may be exposed to claims and those on the regional level that adopted some of the policies that may have exposed the local governments to those claims. He assured the members that Metro wanted to be there to help develop solutions. He said that there seemed to be two potential ways on how Metro might respond to claims, neither of which was acceptable to the Council. One was to waive everything and forget the

functional plan and everyone do what they want, and the other extreme would be that Metro would say the heck with the financial consequences to the local governments and ignore the fact that Measure 37 passed. The most constructive role that Metro could play would be to marshal some of the issues, and set up ways to regularize some of the procedures. The first step would be to look at the technical basis and methodology for evaluating claims. The second step would be to determine the criteria for the “pay or waive” decision that the local governments would have to make. The third step would be to establish consistency across the region. The fourth step would be to produce and define public notice requirements, which were lacking in the measure but a fundamental need in the region. They would also need to find the best means to explore the issues that Measure 37 has generated. He said that Dan Cooper had met with his colleagues, city attorneys around the region, to pull together a workgroup that would address these issues. Council President Bragdon said that it would be helpful to pull a group of the mayors together and talk about/create/provide policy guidance. He said that Metro wanted to convene anything that would be helpful in dealing with Measure 37.

Rob Drake said the City of Beaverton intended to notice the request for either waiver or payment of claim just as they would with a land use process. He said that state law required a minimum notice of 100-feet from a project, but the City of Beaverton provided notice up to 300-feet from a project. About 5 years ago Washington County had expanded that notice area to 500-feet. He said it would be costly and there was question as to whether the cities could charge fees. He said that the City of Beaverton would call for a public hearing process. The public had the right to know what was happening inside their city. He said that the City of Beaverton would include in the draft ordinance a provision for cause for claim for adjoining owners.

Andy Duyck said that there should not be a rush to respond to the measure. He said that there were 180 days until the local governments had to act on applications. He said he thought it would be good to develop a consistent plan that they could all utilize.

Judie Hammerstad asked Dan Cooper if the working group would be coming up with proposed legislation.

Dan Cooper said it was not yet clear. The initial focus would be on whether local jurisdictions would adopt claims ordinances and how to resolve claims that implicated Metro due to Metro requirements. There also was the question of finding ways to assist smaller jurisdictions with fewer resources. He agreed that if the jurisdictions did not have their process policy in place by December 2nd there would still be plenty of time and opportunity to figure out what they wanted to do.

Richard Kidd asked how they could accept a claim in a jurisdiction if they did not have a process to file. His concern was that if claims could be accepted on December 2nd then he would need to have a process to accept claims and collect fees.

Dan Cooper said that lawyers from all three counties, as well as attorneys from many of the cities, met to discuss Measure 37. That group had talked about creating a working group to represent the local governments that would start the process of thinking about the issues related to Measure 37. The measure was getting a lot of focus from the local government bar, which he considered a healthy thing. He said that the real problem was that the measure was written in a way that there were many factual situations that may or may not generate the ability to have a claim. The measure itself indicated that local governments could adopt procedures/processes for handling claims but the applicant was not required to follow them, including paying any fee. It was written in such a way that the claim did not have to come with documentation, or an appraisal. Once the claim was submitted, the jurisdiction was then on notice,

had to do the research, and if the jurisdiction did not do what the property owner wanted, then the property owner could take the city to court. That created a lot of uncertainty about how the measure would play out.

Doug Neeley said that Oregon City did not know if it would get claims or not, but it was certain to get requests for annexations. He wondered if they could condition annexations so that they met the current land use requirements.

Dan Cooper said that he believed annexations and the zone changes that came with it were increases in property value and therefore not vulnerable to claims.

Doug Neeley said that he was talking about policies in hand and not zoning. He said that certain claims could be made based upon Title 3 requirements. He wanted to know if the jurisdictions could require that the property owners recognize the current land use code of each city at the time of annexation.

Dan Cooper said that annexations required both the city and the annexed property owners to agree to the annexation. He said that there was a pretty good consensus that Measure 37 did not require any jurisdiction to provide municipal services. Therefore, if properties could not be developed because services were not available, as opposed to land use restrictions, then Measure 37 had no bearing.

Rob Drake asked Mr. Cooper if he had heard of a watchdog group that would sue a city for waiving.

Dan Cooper said that after Measure 7 passed such suites had occurred. He said that Measure 37 did discuss waivers, so the issue was different. He said he thought this was why most governments would institute some sort of claim procedure. Most governments would probably require evidence to support the claim because it would be to their benefit to create the record.

Rob Drake asked how a large retailer who wanted to build a store outside of the UGB where the city didn't have to supply the infrastructure, would proceed.

Dan Cooper said the measure explicitly exempted health, safety, building codes, sanitation codes, etc. from triggering the measure. He said that just because a business was willing to pay for the water main, or for building a road, or whatever services they wanted, it did not mean that the jurisdictions were required to supply it.

John Hartsock asked about keeping the work product done on each claim and not giving it to the claimant in case of a lawsuit down the road.

Dan Cooper said that there was discussion as to whether once a jurisdiction received a claim they could start taking depositions and treating it as if they were on notice of possible litigation. The jurisdiction would then be in an attorney-client confidentiality situation, and preparation for litigation would provide an exemption under the public records act subject to the discovery rules. He cautioned that that would put them in a posture that once they passed the 180-day time period, and if it was later determined that it was a valid claim, then the jurisdiction would be exposed to attorney fees. He said that people would have to discuss the pros and cons of which posture to take.

Susan McLain asked Mr. Cooper to explain the relationship to federal regulations such as the clean water act.

Dan Cooper said the measure exempted regulations required by federal law. The question was – when was that triggered? He said that there was and would continue to be a lot of sharing of information and research from around the state that was being put together on the local government websites. Therefore they would all benefit from a compilation of work on Measure 37.

David Ripma asked if there was any speculation about Measure 37 suffering the same fate as Measure 7?

Dan Cooper said it could not be challenged on the same basis as Measure 7 because it was not a constitutional amendment. He said so far as he knew nobody had identified any possible attempts to block the effect of Measure 37. Therefore, nobody was anticipating that it would not go into effect on December 2nd.

Meg Fernekees said that the state was working towards a process for receiving, evaluating, responding, and processing claims. They hoped to have that in place by December 2nd. The urban studies department of PSU had offered their services to set up a central database for incoming claims. All the state agencies would be using it and it would be made available to local jurisdictions should they wish to participate. This would allow them to track certain types of claims and responses to them. The department of justice was working on a series of opinions. The first opinion would be a procedural one, as opposed to an interpretive one. There would not be a special legislative session to deal with Measure 37. The government would oppose any efforts to waive in a blanket way Measure 37. The state would also work on how to deal with the issue of state requirements and how they impact local regulations. She asked the jurisdictions that were preparing local processes/ordinances to share those with her so that she could carry them to the state for informational purposes.

Dan Cooper said that those preparing ordinances would share them through the League of Oregon Cities website. He suggested to Ms. Fernekees that she check with Linda Ludwig at the League because she was trying to make sure that information was being shared.

Tom Hughes said that from his local standpoint he had concerns about attempts to create consistency in criteria. The decision to pay or waive on a case-by-case basis was really a question of public policy that was up to local jurisdiction. There might be claims that they chose to pay one year and waive the next year. He said that he felt they should leave as much flexibility in the process as they could because it had huge potential impact on resources and land use planning implementation.

Dan Cooper said that the discussion had mostly focused on the criteria to use and the decision process regarding whether a claim created a valid need to decide whether to pay or waive.

Tom Hughes said it would be valuable to have criteria for reaching the threshold evaluation. He added that they did not want to be in the position of being caught between the claimant and Metro.

Dan Cooper said that he was not suggesting that Metro would give the jurisdictions criteria that they would have to follow except on claims related to Metro requirements, but rather that it would be useful for the jurisdictions to get together and talk through what the measure meant and what the associated risks would be so that they all had a common knowledge and understanding. He emphasized that it would be good to share information among the jurisdictions.

There being no further business, Chair Becker adjourned the meeting at 6:46 p.m.

Respectfully submitted,

Kim Bardes
MPAC Coordinator

ATTACHMENTS TO THE RECORD FOR NOVEMBER 10, 2004

The following have been included as part of the official public record:

AGENDA ITEM	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NO.
#2 Announcements	November 2004	Metro Policy Advisory Committee Meeting Schedule for 2005	111004-MPAC-01

METRO POLICY ADVISORY COMMITTEE MEETING RECORD

November 17, 2004 – 5:00 p.m.

Metro Regional Center, Council Chambers

Committee Members Present: Charles Becker, Nathalie Darcy, Bernie Giusto, Gene Grant, Judie Hammerstad, Deanna Mueller-Crispin, Lisa Naito, Doug Neeley, Wilda Parks, Ted Wheeler

Alternates Present: Laura Hudson, Karen McKinney

Also Present: Bev Bookin, CREEC; Hal Bergsma, City of Beaverton; Bob Durgan, Andersen Construction; Kay Durtschi, MTAC; Meg Fernekees, DLCD; Charlotte Lehan, City of Wilsonville; Irene Marvich, League of Women Voters; Leanne MacColl, League of Women Voters; Greg Miller, AGC; Amy Scheckla-Cox, City of Cornelius; Kendra Smith, Clean Water Services; Andrea Vannelli, Washington County; David Zagel, TriMet

Metro Elected Officials Present: Liaisons –Susan McLain, Council District 4; Brian Newman, Council District 2; Rod Park, Council District 1

Metro Staff Present: Kim Bardes, Dick Benner, Dan Cooper, Andy Cotugno, Linnea Nelson, Mark Turpel, Gerry Uba

1. INTRODUCTIONS

Mayor Charles Becker, MPAC Chair, called the meeting to order 5:11 p.m. Those present introduced themselves.

2. ANNOUNCEMENTS

Chair Becker said that MPAC would meet on December 8, 2004 and that the Goal 5 ordinance would be on the agenda for decision.

Doug Neeley asked that all Goal 5 documents be resent via email for review before the December 8th meeting.

3. CITIZEN COMMUNICATIONS

There were none.

4. CONSENT AGENDA

Consent for the meeting summary for November 10, 2004 was deferred to the next MPAC meeting, as it was not yet complete.

5. COUNCIL UPDATE

Deputy Council President Brian Newman reviewed the LCDC decision on the Urban Growth Boundary (UGB) for the MPAC members.

Andy Cotugno said that LCDC had concurred with Metro about not going south of the Willamette and not going into the Frog Pond Wilsonville area. They had discussed at length whether or not to ask the Metro Council to reconsider Helvetia versus Evergreen. They chose not to ask Metro to reconsider Evergreen but did ask that if Metro was to add lands because of other reasons, then to consider Evergreen. There was also discussion about whether Metro had the obligation to meet Goal 9 and concluded that Metro did not

have that obligation. Therefore, some of the requirements in Goal 9, that apply to local governments, don't apply to Metro.

6. COMMENTS ON THE GOVERNOR'S TASK FORCE ON GLOBAL WARMING REPORT

Andy Cotugno circulated two handouts for the members, which are attached and form part of the record. He reviewed those handouts for the members.

Doug Neeley suggested that they cite their figures in the comments letter. He also suggested that they expand on the freight rail portion of the letter.

Rod Park asked about the process of incorporating the comments from MPAC and Council. He suggested that it might be more manageable to constrain it within the land use portion and not so much on the transportation portion.

Andy Cotugno said that the letter did emphasize land use over transportation.

Rod Park clarified the area he was speaking to.

Andy Cotugno said that he could include Doug Neeley's suggestions without contradicting JPACT's comments earlier in the day.

Nathalie Darcy said that she went to a briefing on the Artic Climate Impact Assessment and the work was amazing. She gave the webpage address for the executive summary at www.acia.uaf.edu. The title of the report was "Impact of a warming Artic."

The recommendation was to put together one integrated letter to submit to the state.

7. PERFORMANCE MEASURE REPORT REVIEW

Gerry Uba passed out a draft copy of the 2004 Performance Measures Report and a staff report for Resolution No. 04-3513. He gave an overview of where the review had reached and what was scheduled to happen next. Gerry Uba and Andy Cotugno then reviewed some highlights in the report. They both answered some technical questions about some of the charts.

Karen McKinney said that she was impressed with the amount of information included in the draft. She suggested that while this was just supposed to be a report of facts, it might be a good idea to at some point to actually draw some conclusions based on the data.

Gerry Uba said that when the review was done they would try to draw some conclusions on what the data was indicating. He cautioned that different folks could reach different conclusions and that was why the report was as objective as they could make it.

Wilda Parks said she was surprised that the data had indicated that bus usage was relatively stable while MAX use had gone up. She said that she had thought there would be more bus use due to the increase in MAX use.

Bernie Giusto said that when they added a bus line and/or built more park and rides people seemed to drive directly to the rail stations or park and rides instead of taking the bus. Also, the City of Vancouver used to run express buses to downtown Portland, but now they only went to the second most northern MAX station.

Doug Neeley asked if people living in public housing were being included in the statistics.

Gerry Uba said that those numbers were included.

8. GOAL 5 DISCUSSION

Rod Park passed out a memorandum regarding the local compliance schedule for Goal 5, which is attached and forms part of the record.

Council Deputy President Brian Newman reviewed his proposed resolution to replace Resolution 04-3506, which was included in the meeting packet and forms part of the record. He said that it had not yet been introduced at Council but drafted as a simpler resolution to incorporate suggested changes. He mentioned the proposed amendments from other Councilors that were circulating for review.

Doug Neeley said that Metro and MPAC should establish a minimum standard. He said that he felt that "equal credence" was too ambiguous a term. He also expressed concern that they did not have uplands included at all. He said there was understandable angst regarding Measure 37. He said that Oregon City had raised the issue at their last meeting that a jurisdiction might be able to condition new annexations based on the extent of land use ordinances in place in the given jurisdiction. The upland issue was more of a concern for areas that had not yet come into the boundary or jurisdiction. If they were excluded altogether then it seemed that no matter how cities expanded there would never be a requirement for protection of upland areas. He said that there should be some restraint on areas that had not currently been annexed into the boundary. He suggested that maybe part of the protection would be to exclude annexation if the property owner did not want to do so.

Brian Newman said that was implied in his approach. There would be a regional significance test on different classes of habitat. He said that when the entire inventory was adopted in 2002, a reasonable significance designation was given to all habitats. The resolution suggested that certain habitats, class 1 and class 2 riparian, rise to a regional significance that justified a regional role and a regulatory approach. It also suggested that other habitats would not rise to that test. He said that they would encourage an incentive based approach to protecting the uplands.

Lisa Naito asked about the other amendments that would be submitted to the council.

Brian Newman said that Councilor Hosticka and Councilor Burkholder had some amendments circulating and that there was one that was not completed yet.

Lisa Naito asked if there was some sense of where the Council stood on issues.

Susan McLain said that they were putting together a comparison of the different amendments for distribution. She said that they were trying to find out where there was agreement. She said that MPAC had heard all the issues thus far.

Chair Becker asked if the comparison could be distributed by December 3, 2004 so that all the jurisdictions could look at it before making the decision on December 8th.

Gene Grant said that another issue of concern was the possibility of new zoning in a concept plan where they wouldn't be able to protect the uplands. He said that there was a fundamental fairness problem if they tried to strictly limit those uplands to no development. He said that if they really wanted open space then, in his opinion, they should buy it. He said that it seemed unfair to manipulate the zoning system to protect the upland, and that they would do better to get a bond going and buy those upland acres. He then asked Brian Newman about the class 1 riparian classification, and if that classification would be strictly limited or prohibited.

Brian Newman said that those designations would be flushed out in the program phase.

Gene Grant wanted to know what size buffer would be mapped out.

Chris Deffebach said it was 100 feet for class 1 and up to 250 feet for class 2.

Doug Neeley said that "allow" meant that there were no prohibits for that area. High quality habitat would not mean that development could not occur but that it would be limited. He said that his concern was not with limited development, but rather that under the resolution, development was allowed in all upland areas. He said that the designation for limitation should remain particularly for the class A or 1 upland areas.

Judie Hammerstad said that part of that would be determined by takings problems.

Doug Neeley said that whatever ordinances in existence at the time of annexation would apply and be accepted by the annexation process. That might control some of the issues currently outside the existing urban growth boundary, but the future urban growth boundary might not be protected.

Judie Hammerstad said that was two separate issues: 1) conditions of annexation and 2) within the urban growth boundary and/or the city limits there would be areas zoned for resource conservation. She said that City of Lake Oswego's takings provisions allowed for one (1) housing unit or up to 50% of the use of a property. Therefore, they would still be protecting 50% of the habitat even though a 100% was in a resource conservation zone. She said that was as strictly limiting as they were likely to get, otherwise they would be violating the takings provisions.

Doug Neeley said that the City of Lake Oswego did have some limitations, which was a good thing. He said that under the resolution, however, development would be allowed without stating limitations.

Brian Newman said that Metro did not allow development where local governments prohibited it. The resolution simply provided for Metro to act on behalf of the region by not prohibiting it.

Karen McKinney said that the City of Hillsboro's first preference was to postpone the decision until the implications of Measure 37 were determined. The city's second preference was to be supportive of Councilor Park's and David Bragdon's approach with the resolution. She said that the city councilors felt the resolution would provide more flexibility. She said they were concerned about using class 1 and 2 riparian habitat, which would add another 663 acres for consideration. The acres that would be added would be a large part of their urban renewal district. Due to the potential growth, the city had concerns about congestion. She said that Metro was moving closer to regulations in the class 1 & 2 categories. She

said that the passage of Measure 37 could also create problems. She said that she felt that the Bragdon approach provided more opportunities for flexibility over a longer period of time.

Brian Newman said that Measure 37 was an issue regardless of which resolution they were to choose. Each resolution had regulatory components. He said that his approach had fewer Measure 37 concerns because it required a regulatory approach for just class 1 & 2 riparian lands. He said that when he put together his resolution he was attempting to find common ground and a way to get the work done by March without dragging it out for another 7 years.

Rod Park reviewed the memorandum that he had handed out at the beginning of the discussion. He said that a lot of the controversy was about regulations for 2012 being too late. He wondered what would be the right year? The regulatory piece of the proposed resolution was potentially weak unless it dealt with two things: 1) the Endangered Species Act (ESA) or 2) the annexation issue. He said that the annexation issue was a new wrinkle that he found interesting. He said that two years ago he proposed that they would regulate on new areas and self – regulate the existing land within the boundary.

Nathalie Darcy said that from a citizen's perspective, for future properties coming in to the urban growth boundary, it did not send the right message for Metro to say that it would try to develop incentives. She also hoped that they could be a little optimistic that MPAC and Metro would achieve some positive things post Measure 37. She encouraged them to think creatively about what they could do to protect the uplands without getting into the takings issue.

Gene Grant said that they needed to get the message of Measure 37 and not find some sort of loophole, technicality, or alternative to regulate outside of the measure. The message of Measure 37 was that property owners were tired of governments taking property for free for any reason. They were tired of land use regulations that took away development rights without compensation. He said that they needed to move on to a better approach with voluntary incentives.

Doug Neeley said that if class A upland habitat was better protected in a non-urban area then let it be in that area and let the conditions of annexation apply to protection of those uplands should they want to come in. Then it would be the property owner's choice if they wanted to be annexed or not.

There being no further business, Chair Becker adjourned the meeting at 6:51 p.m.

Respectfully submitted,

Kim Bardes
MPAC Coordinator

ATTACHMENTS TO THE RECORD FOR NOVEMBER 17, 2004

The following have been included as part of the official public record:

DOCUMENT

AGENDA ITEM	DATE	DOCUMENT DESCRIPTION	DOCUMENT NO.
N/A	11/17/04	Metro Policy Advisory Committee Meeting Schedule	111704-MPAC-01
#6 Comments on the Governor's Task Force on Global Warming Report	11/17/04	Memorandum to Metro President David Bragdon from Rod Park, Chair JPACT re: draft Oregon Greenhouse Gas Reduction Strategy – JPACT comments	111704-MPAC-02
#6 Comments on the Governor's Task Force on Global Warming Report	11/17/04	Memorandum to Mayor Charles Becker, MPAC Chair from Andy Cotugno, MTAC Chair, re: draft Oregon Greenhouse Gas Reduction Strategy – MTAC comments	111704-MPAC-03
#7 Performance Measure Report Review	11/16/04	Staff Report: In consideration of resolution No. 04-3513, for the purpose of receiving the performance measure report and directing the Chief Operating Officer to submit the report to the Oregon Department of Land Conservation and Development	111704-MPAC-04
#7 Performance Measure Report Review	November 2004	Draft 2004 Performance Measures Report	111704-MPAC-05
#8 Goal 5	11/11/04	Memorandum to Metro Councilors from Chris Deffebach re: Local compliance schedule for Goal 5	111704-MPAC-06

Charge (Work Program) for the 2005 Metro Regional Housing Technical Advisory Committee (HTAC)

Purpose and Background

Why is Metro involved in Housing? Metro's policies support involvement in housing from a variety of perspectives:

- To meet State land use requirements to demonstrate that the region has an adequate supply of land to meet a 20-year demand for housing.
- To support the development of housing in the region's mixed use areas as envisioned in the 2040 Growth Concept.
- To address affordable housing adopted in the Regional Framework Plan (after an appeal by some local governments and a mediation process that resulted in adoption of a revised housing and affordable housing policies).

Housing in general, and its affordability in particular, is a multifaceted issue. Housing and its affordability have direct impact on the regional economy. As stated in the Regional Affordable Housing Technical Advisory Committee (HTAC) 2000 report, Regional Affordable Housing Strategy (RAHS), to the Metro Council, housing choices provides family and neighborhood stability, employees' productivity, strong tax base, and complete communities that accommodate people of all income, ages and physical condition. The affordable housing requirements adopted in Title 7 of the Functional were based on the RAHS, and has been implemented since 2001 (see progress summary in the next section).

Metro is obligated by Title 7 to employ the assistance of a new HTAC in the assessment of local governments' efforts in the implementation of Title 7, including the housing tools and strategies used by the private sector, and funding sources and legislative changes that might have enhanced or hindered the production of affordable housing in the region. The assessment offers Metro an opportunity to re-evaluate its own role and the role of local jurisdictions in the production of housing in the region.

Key Issues and Problems?

The evaluation of local governments' progress implementing Title 7 requirements and some trends appear to call for a concerted, regional approach to housing supply and affordability as stated below.

1. **Difficulty implementing regional affordable housing (Title 7) requirements:** Metro annual compliance reports on the implementation of Title 7 (affordable Housing) of the Functional Plan show that only two local governments (Beaverton and Portland) have adopted voluntary affordable production goals, while another seven have adopted policies to increase the diversity of housing, maintain existing supply of affordable housing and increase affordable housing for all income levels in their jurisdictions. Most local governments declined to adopt the land use strategies recommended in Title

7. Some of the reasons provided by local governments for declining to adopt Title 7 requirements are:
 - Limited tax base and demand on general fund will create hardship;
 - Existing land is already developed;
 - City has an ample supply of affordable housing;
 - Developers are not seeking higher densities than those provided in the code;
2. **Rising cost of housing in areas with good access to jobs and services:** we are already experiencing “bidding wars” in conveniently located neighborhoods that price out even middle income buyers and renters.
3. **Revitalization and unintended gentrification:** revitalization projects implemented in some areas of the region in the 1990s was greeted with changing taste in the American middle class looking for “Victorian fixer-upper” with character, history and texture, and new families and people moving to Portland quickly scooping up low priced houses. We are still experiencing real estate speculation and conversion of often neglected rental housing into houses for sale to new burgeoning middle class market. (Note: gentry-fication means a rise in the ratio of homeowners to renters in a given neighborhood)
4. **Demographic shifts:** currently 60% of households are made up of one or two people. Over 65 share of population is increasing as baby boomers age. This will affect demand for type and location of housing (smaller units, located near services and transit).
5. **Decline of cheap fossil fuels:** the cost of motor vehicle transportation will rise significantly in the next couple of decades as global demand for oil exceeds supply, reducing the cost advantage of less convenient locations and increasing the demand for housing in areas with good transportation options and mixed use.
6. **Real incomes of lower quintiles are dropping and middle quintile wages are stagnant.** The other half of the affordability question is the income of potential renters and buyers. Over the past ten years, middle and lower income households have seen their incomes fail to keep up with inflation of housing prices.

Clearly, in the near future there will be a greatly increased need for housing that is affordable¹ in the Central City and other 2040 centers that the private market is failing to provide.² Except for isolated instances such as the Pearl District in Portland, very little new housing is being built in these areas, despite the City’s radical regulatory change directed at facilitating this, including; higher allowed densities, provision of high capacity transit, lower parking requirements, SDC discounts, etc.

Meanwhile, the predominant focus of the housing industry has been on increasing the land supply available for larger, single family units built on separate lots. These types of developments are hard to service with utilities as well as public transport and don’t achieve the densities necessary to support conveniently located services, essentially requiring auto use of their residents. In addition, for the first time since the 1940’s housing production isn’t keeping up with household growth.

¹ This language intends to broaden the discussion from its focus on housing the poor to include those with incomes in the 80-120% of median who can’t afford the average house today (\$215,000 in Portland)

² In *Hidden in Plain Sight: Capturing the Demand for Housing Near Transit*, the Center for Transit Oriented Development estimates that almost 200,000 new households will *want* to locate near light rail stations in the Portland region.

Outside of the question of how to provide decent shelter for the very low income households, there is a bigger question of ensuring that our cities will meet the needs of residents in the future as the trends noted above converge. How do we get more housing built where it is needed - of the appropriate size, cost and configuration - when the private real estate market doesn't seem to be interested or able?

The Big Question

The following is a suggestion for how to frame the issue and how to ask for advice from a re-formed HTAC.

How do we ensure that the "right type" of housing is built in the "right" places?

Definitions:

- "Right type" means housing that matches needs (income, household size, age and disability).
- "Right places" means those areas in the region with good access to jobs, services, education, etc., including most 2040 centers and corridors.

To answer these questions we would need advice from people with different perspectives and skills than those who served on the original HTAC and are listed in Title 7 of the Functional Plan. In addition, we may want to have staffing for the committee to be based in our Centers program. Certainly we'd want any of this work to coordinate closely with our Centers work.

Charge for the new HTAC

Some specific questions (below) and issues that the new HTAC should address are grouped by:

- Research products (mandated by Title 7) for the new HTAC to use.
- "Right places" to build the "right type" of housing
- Other locations that housing providers builds the "right type" of housing
- Role of governments
- Guideline for articulating recommendations
- Process for reviewing recommendations
- Types of people wanted on the new HTAC

Questions

A. Housing Need and Assessment of Regional Efforts

1. What is the region's housing need (including affordable housing) by income, household size, and age and people with disability?
 - i) (Some ideas: estimating regional affordable housing need is one of the current tasks of the long range planning division)
2. What progress has been made in the region since the adoption of Metro Title 7, including housing tools and strategies used by public and private sectors and funding sources and legislative changes that has enhanced or hindered the production of affordable housing in the region?

B. 2040 Centers Housing Capacity and Strategies

3. What is the housing capacity of the 2040 centers³ by need: - income, household size and age?
4. What are the characteristics (income, household size and age) of households currently living in the 2040 centers?
5. How much of the region's housing need can the 2040 Centers accommodate?
6. What barriers prevent greater housing production, including affordable housing in 2040 centers?
 - i) (Some ideas: federal tax law favoring new construction and single family housing; focus of housing industry on the "SUV's" of housing—very large, single family houses—rather than smaller, multi-family, mixed use buildings; zoning and building code restrictions on multi-story buildings; negative impact of traffic on main streets and corridors; tax structure that favors speculation and under development; oversupply of cheap land at edge; SDC's that fail to account for true cost of development; lack of interest, fear of risk in financial and building community.)
7. What types of housing projects can be realistically built, and should be promoted, in the 2040 centers?
8. What barriers exist to production of smaller housing units (e.g., 1 and 2 bedroom apartments and condominiums) in the 2040 centers?
9. What are some strategies to increase housing production in 2040 centers?
 - i) (Some ideas: regional revolving loan fund; public/private mixed use development company; traffic calming on main streets; lowering of parking requirements; significant SDC discounts; transfer of development rights, loosening of fire and building regulations; technical assistance to local jurisdictions and potential developers; etc)

C. Housing Production in Other Locations in the Region

10. What barriers prevent the production of affordable housing in other locations across the region?
 - i) (Some ideas: see #3 above)
11. What barriers exist to production of smaller housing units (e.g., 1 and 2 bedroom apartments and condominiums) in other locations across the region?
12. What are the some strategies to increase housing production in other locations in the region?
 - i) (Some ideas: see #6 above)

D. Role of Metro

13. What is the appropriate role for Metro in particular in affecting housing supply in the 2040 Centers and other locations in the region?
14. What Metro programs can affect housing supply? (e.g., Transit Oriented Development program)
15. What is the appropriate and achievable technical assistance Metro could provide to local governments?

E. Role of Local Governments

16. What is the appropriate role for local governments in affecting housing supply in the 2040 Centers and other locations in their jurisdictions?
 - Counties

³ 2040 centers include Central City, Regional Centers, Town Centers and Station Communities.

- Large cities
- Smaller cities
(Some ideas: smaller cities may focus their resources and energy on the preservation of existing affordable housing or strive not to lose what they have, and seize any opportunity to add new affordable housing units)

17. Should local governments be required to adopt and implement the suggested code changes (diversity policies and land use strategies) in Title 7? (i.e., HTAC should address issues raised in the RAHS)

F. Guideline for HTAC Recommendations

18. Use adequate factual information to make recommendations to the Council on:
- i) Strategies to increase housing production in the 2040 mixed use areas based on characteristics of households (income, size, age and disability).
 - ii) Strategies to increase housing production in other locations in the region based on characteristics of households (income, size, age and disability).
 - iii) Strategies to increase production of smaller housing units based on characteristics of households (income, size, age and disability).
 - iv) Strategies for rationalizing some service deliveries (e.g., Housing Authorities and other organizations providing services and technical assistance to housing providers)
 - v) Local governments' roles in affecting housing and affordable housing supply using suggested code changes (diversity policies and land use strategies), and/or other strategies including partnership with the private sector; i.e., roles of:
 - Counties
 - Large cities
 - Smaller cities
 - vi) Metro role in affecting housing supply
 - vii) Regional housing fund: role of governments in its creation.

G. Process for Reviewing and Considering HTAC Work and Recommendations

- MPAC
- MTAC
- Expert Group/s?
- Metro senior staff team?
- Metro Council

H. Type of Organizations and People Wanted on HTAC

- Land use regulating agencies (cities and counties)
- Housing providers
- Financiers
- Advocates
- Some key past members of the 1998 HTAC (who are already well tuned with regional housing issues)

Timeline for HTAC Tasks (and Staff Reports)

	Tasks	Period/Deadline
1	Identify charge for the new HTAC	November & December 2004
2	Staff report: estimate housing need by income, household size, age	January – March 2005
3	Staff report: estimate housing capacity of the 2040 centers by need (income, household size, age), and document the characteristics of households currently living in the 2040 centers	January – March 2005
4	Staff (and consultant) report: assess housing tools and strategies used by public and private sectors, including funding sources and legislative changes that has enhanced or hindered the production of affordable housing in the region	January – April 2005
5	Recruit HTAC membership	December 2004 & January 2005
6	Metro Council gives charge to HTAC	January (or February) 2005
7	HTAC reports to Council on strategies	September 2005
8	Metro Council consideration and adoption of regional housing strategies	October – November 2005
9	Implementation of strategies by local governments and Metro starts	January 2006

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M E M O R A N D U M

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METRO

To: MPAC

From: Chris Deffebach, Long Range Planning Manager

Subject: MTAC comments on Resolution 04-3506

Date: December 2, 2004

MTAC discussed Resolution 04-3506, proposed by Councilors Bragdon/Park and amendments to the resolution as proposed by Councilors Hosticka, Newman and Burkholder at their December 1 2004 meeting. This memo summarizes MTAC comments for MPAC consideration. MTAC did not vote on either the resolution or amendments. This memo tries to reflect the comments that were generally in agreement and highlight those areas of disagreement. The major points covered are as identified in the matrix included in the MPAC packet that summarizes the differences and similarities between the proposed resolution and amendments.

Common features:

- A common feature of the resolution and amendments is that Metro would seek LCDC acknowledgement of a regional Goal 5 program. A few questioned the value of this and others reiterated the importance of a regionally consistent approach.
- One suggestion was made that Metro establish its “desired outcomes measures” through its functional plan authority and leave the job of meeting Goal 5 to local governments.
- Support for acknowledging the value of a wide array of tools, both regulatory and non-regulatory, and giving jurisdictions local flexibility in achieving the appropriate mix.

Acquisition and restoration bond measure:

- The bond measure to support habitat acquisition and restoration was generally supported, though a concern was raised about the increased household costs to pay for the measure and the loss of tax revenue when land becomes publicly owned.
- A specific date for the bond measure was supported, as long as flexibility for changing it was referenced. Language along the order of, “...seek voter approval

of a bond measure in 2006 or 2008, depending on which would be most strategic..” was suggested.

Coverage of regionally significant habitat with a program

- Generally MTAC supported developing a program for all of the areas included in the regionally significant habitat inventory, recognizing that some of the areas may not be covered by a regulatory program. However, there were several comments that the inventory as adopted was too overly inclusive and that fewer areas are truly regionally significant. The value of retaining coverage for the full habitat areas was identified as important for supporting the Clean Water Act and the Endangered Species Act.

Effective date of a regulatory program

- MTAC members expressed concern at listing any specific date for compliance (2007 too soon, 2012 too late) with a regulatory program at this time, given the uncertainties of what the program will include and the effect of Measure 37 implementation on jurisdictional capacity.
- MTAC members expressed concern about tying the outcome of performance measures to an automatic trigger for a regulatory program. Concerns included the lack of belief that jurisdictions need the threat of regulatory program as motivation, instead saying that the jurisdictions will rise to the occasion. Other concerns were more pragmatic, relating to the difficulties of monitoring, assessing and interpreting results in the future. The concept of the outcome measures was supported to make future judgments on the effectiveness of the program, just not tied to local accountability.
- MTAC supported references to implementation dates in the resolution that would direct local jurisdictions to develop a timely, uniform and reasonable compliance timeline.
- Adequate time and support for letting the non-regulatory elements work was considered important, as was the need for Metro to help local jurisdictions that don't have an adequate Goal 5 program to get one.

Reporting requirements

- The use of monitoring and reporting was supported, with an interest in seeing and developing performance measures soon and establishing regular reporting times.

Significance/Use of the regional outcome measures

- MTAC expressed support for linking program goals, desired outcomes and measures, but not in tying progress to an automatic trigger for an action. Support was expressed for using the results to judge progress and take corrective actions over time.

Additional Whereas

- MTAC did not review the Whereas in the Resolution or the proposed modifications to the Whereas in the amendments. An additional whereas was

suggested that would reiterate that the regional program would not roll back existing programs.

Additional staff direction

- A suggestion was made that the Resolution should include a provision that calls for additional evaluation of the technical and fiscal feasibility of the non-regulatory programs and their effectiveness in habitat protection and restoration.

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METRO

To: Metro Council
From: Chris Deffebach
Subject: Goal 5 TAC/WRPAC comments on Resolution 04-3506 and amendments
Date: November 22, 2004

At their November 19th meeting, the combined Technical Advisory Committee for the Fish and Wildlife Habitat Program (Goal 5 TAC) and the Water Resources Policy Advisory Committee (WRPAC) reviewed Resolution 04-3506, proposed by Bragdon/Park and draft amendments to this Resolution as prepared by Councilors Hosticka, Burkholder and Newman. A summary of the main features of the Resolution and the effect of the amendments that Goal 5/WRPAC reviewed is attached. This memo summarizes this group's comments on each of the major elements of the Resolution: Date of the acquisition and restoration bond measure, habitat coverage, role of regional outcome measures, effective date of the regulatory program, and reporting requirements. All comments were made as one body, not two.

Acquisition and Restoration Bond Measure Date

The Committee considered alternative dates for a bond measure and agreed, without formally voting, that the sooner the bond measure was on the ballot, the better with recognition that consideration needs to be given to the timing of other ballot measures. Additional comments included a request that the bond measure be directed for fish and wildlife habitat and that staff needed direction to determine what would be included for funding in the bond measure.

Coverage of Regionally Significant Habitat

The Committee considered three alternative levels of coverage for regionally significant habitat. No one (0) voted to restrict the coverage of the regulatory element of a fish and wildlife habitat program to Class I and II Riparian areas only. Seventeen (17) agreed with a statement that the uplands are important. The nature of the protection program for these areas was not discussed. One (1) person voted that they were not ready to make a recommendation. Another commented that the cost of the choices should be determined.

Effective date of regulatory program

The Committee discussed the merits of an effective date for a regulatory program for the years 2012, 2007, no recommendation, or as soon as possible. No one voted in support of an effective date of 2012. Several expressed concerns that 2007 may not give local jurisdictions enough time

to develop and adopt a program. The group reached an informal agreement that an early date, and a certain date was desirable as well as a process for determining exceptions, as Metro has established for other Functional Plan requirements.

Outcome measures

Without voting, the Committee discussed the importance of determining goals (or a trajectory) for the region and the importance of using measures to determine if the region is making substantial progress towards these goals. Further discussion indicated that the indicators should be readily measurable and attributable to local programs. The measures should also be used to applying an adaptive management program.

- Comparison of:**
- 1. Resolution No. 04-3506 (Bragdon/Park);**
 - 2. Nature-Friendly Neighborhoods Proposal (Hosticka Amendment to Res. No. 04-3506);**
 - 3. Newman Amendment; and**
 - 4. Burkholder Amendments.**

Common Features

1. Development of non-regulatory program elements including education, incentive, restoration and acquisition components.
2. Development of regulatory program element based on local program performance standards. Regulatory component will both provide flexibility to allow local governments to come up with their own unique approaches, provided they will meet the performance standards, and will include a model ordinance that local governments may adopt without further review, if they choose not to expend any additional resources toward program development.
3. Metro will seek LCDC acknowledgment of its program.
4. Metro to provide technical assistance to local governments to assist them in the development of regulatory and non-regulatory aspects of local programs.

Differences are expressed in the chart on the following page.

Differences Between Original and Proposed Amendments to Resolution No. 04-3506

<u>Program Feature</u>	<u>Resolution No. 04-3506</u>	<u>Nature-Friendly Neighborhoods Proposal (Hosticka)</u>	<u>Newman Amendment</u>	<u>Burkholder Amendment</u>
Acquisition bond measure	Intent to develop and seek voter approval expressed; no date certain.	Intent to develop and seek voter approval no later than Nov. 2006.	Intent to develop and seek voter approval no later than Nov. 2006. Local share amounts dependent upon local jurisdiction adoption of non-regulatory habitat protection and incentives for restoration.	Intent to develop and seek voter approval no later than Nov. 2006.
Regionally significant habitat covered by regulatory program	All habitat covered, with implementation delayed until 2012 (Council's May 2004 preliminary ALP decision unchanged).	All habitat covered (Council's May 2004 preliminary ALP decision unchanged).	Revises Council's May 2004 preliminary ALP decision to only apply regulatory program to Class I and II Riparian Habitat; applies non-regulatory program to upland habitat.	All habitat covered, with implementation contingent on passage of acquisition bond measure (May 2004 preliminary ALP decision unchanged).
Effective date of regulatory program.	June 1, 2012 (with option to extend if region meets the regional outcome measures as assessed in 2010).	June 1, 2007, or 2 years from LCDC acknowledgement.	June 1, 2007, or 2 years from LCDC acknowledgement.	June 1, 2012, if voters approve acquisition bond measure by Nov. 2006, (with option to extend as in original resolution). If acquisition bond measure not approved, then June 1, 2010 (with option to extend).
Reporting Requirements— Assessment of Progress Toward Meeting Regional Outcome Measures	Metro COO to periodically assess—but no specific deadlines established except final deadline: COO's final written report due to Metro Council by March 1, 2010.	Metro COO to annually assess on the ground habitat conditions and compile written report to Metro Council.	Not tied a regulatory trigger.	Metro COO to periodically assess. COO's final written report due to Metro Council by March 1, 2010 (if acquisition bond measure approved) or by March 1, 2008 (if bond measure not approved).
Significance/Use of Regional Outcome Measures	If region meets the outcome measures in 2010, then regulatory program may be further delayed.	Used to measure region's progress in preserving habitat. No direct relationship with regulatory program.	Not specifically included in proposal.	If region meets the outcome measures, then regulatory program may be further delayed. Local governments must prepare plans to meet outcome measures within two years of overall program adoption.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DIRECTING THE	)	RESOLUTION NO. 04-3506
CHIEF OPERATING OFFICER TO DEVELOP A)	
FISH AND WILDLIFE HABITAT PROGRAM)	
THAT RELIES ON A NON-REGULATORY)	
EFFORT TO IMPROVE HABITAT PRIOR TO)	
ANY IMPLEMENTATION OF NEW REGIONAL,	)	Introduced by Metro President David Bragdon
PERFORMANCE-BASED REGULATIONS	)	and Metro Councilor Rod Park

WHEREAS, Oregonians have a long tradition of understanding the interdependent values of economic prosperity and environmental quality, both of which constitute important elements of the livability that distinguishes this state and the Portland metropolitan region; and

WHEREAS, citizens of the Metro region value living in a place that, within the built environment, provides access to greenspaces and habitat for fish and wildlife species; and

WHEREAS, citizens representing a range of economic and environmental interests have stated that wildlife habitat and water quality need to be more consistently protected and improved across the region, as part of an ongoing regional commitment to planning for the future; and

WHEREAS, the Metro Policy Advisory Committee (MPAC), comprised of elected officials representing the region’s cities and counties, adopted a “Vision Statement” in 2000 to enunciate the region’s commitment to improve the ecological health and functionality of the region’s fish and wildlife habitat; and

WHEREAS, that Vision Statement set an overall goal “to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with the surrounding urban landscape . . . [to be] achieved through conservation, protection and appropriate restoration of streamside corridors through time;” and

WHEREAS, Metro has pursued the development of a regional fish and wildlife habitat and water quality protection program consistent with Statewide Planning Goal 5, one of 19 state land use planning goals, thereby producing a region-wide inventory of habitat comprising over 80,000 acres that has been located and classified for its ecosystem values and mapped to provide an information system for developing the region-wide program; and

WHEREAS, by developing the habitat inventory, Metro now has extensive and comprehensive information on the ecological health of the region’s fish and wildlife habitat, and an important role for Metro to play in the future will be to keep the inventory up to date, to continue to monitor the state of habitat in the region, and to share such information with local governments in the region to help them develop effective habitat protection and restoration programs; and

WHEREAS, fish and wildlife habitat depends on healthy functioning watersheds and follows the natural contours of the landscape, while political boundaries frequently split watersheds and divide the natural landscape, and Metro, as a regional government, can play an important role to help ensure a

consistent level of habitat protection and restoration across the region's political boundaries, in an ecologically-based manner that respects watersheds and the natural landscape; and

WHEREAS, access to resources for protecting and conserving habitat varies widely among the region's communities and Metro also can provide technical assistance to communities with fewer resources to help them develop protection and conservation approaches that are appropriate for their communities, such as tools to allow and encourage lowest impact development or the conservation of critical wildlife habitat through purchase or the use of creative land-trust instruments; and

WHEREAS, the rights of private property owners and their commitments to community goals and environmental protection should be recognized and honored, and that doing so will help us attain and sustain a high quality of life for both humans and wildlife; and

WHEREAS, the types of actions that affect the quality and quantity of the region's fish and wildlife habitat vary widely, including thousands of small decisions made each day by individuals, such as whether to use pesticides on their lawns, as well as bigger decisions, such as how development of these properties occurs; and

WHEREAS, to produce desired, measurable outcomes of cumulative improvements to fish and wildlife habitat throughout the region, the fish and wildlife habitat protection and restoration program must enlist the broad support of hundreds of thousands of people across the region, making habitat property owners participants in a regional program that includes education and incentives for lowest-impact development practices, restoration initiatives directed by watershed councils, and purchase of the most ecologically valuable habitat areas from willing sellers through the funds generated by a bond measure; and

WHEREAS, by making a concerted effort to provide the region's citizens with additional fish and wildlife habitat education, incentive, restoration and willing-seller property acquisition programs the region can potentially make substantial progress toward improving the quality and quantity of its fish and wildlife habitat; and

WHEREAS, Metro, local governments, and the citizens of the region should make such a concerted effort to meet the goals of the Vision Statement using non-regulatory strategies, and our progress toward meeting those goals should be measured, before local governments are required to comply with any new rules or regulations; now therefore,

BE IT RESOLVED that the Metro Council hereby directs the Chief Operating Officer to develop a fish and wildlife habitat protection and restoration program consistent with the following provisions:

1. Metro's Program Shall Rely Primarily on Education, Incentive, Restoration and Acquisition Programs

Metro, other government agencies and volunteer-based non-governmental organizations across the region already have in place extensive education, restoration and acquisition programs designed to protect and enhance the quality and quantity of well-functioning fish and wildlife habitat. Metro's parks and solid waste and recycling departments and the Oregon Zoo, for example, have already developed education programs to teach individuals about fish and wildlife habitat, water quality, natural gardening, and what we all can do to improve fish and wildlife habitat. Many local governments (e.g. Portland's Bureau of Environmental Services), special districts (e.g. Clean Water Services in the Tualatin Basin), and non-governmental organizations (e.g. Friends of Trees) already engage in extensive natural area restoration programs and

neighborhood tree planting programs that improve habitat. Metro, local governments, and non-governmental organizations (e.g. the Wetlands Conservancy) are all engaged in willing-seller land acquisition programs designed to purchase, preserve, and restore the region's highest-quality fish and wildlife habitat. Many of these efforts only take place thanks to the strong support of the region's private businesses and the efforts of many individuals. The region's vision of protecting and restoring a "continuous ecologically viable streamside corridor system" will only be achieved by harnessing the collective power of regional and local governments, non-profits, citizen volunteers, and private business to expand these programs. Such an effort should include:

a. Education and Incentive Programs

Metro's program shall be focused, first and foremost, on creating citizen education and incentive programs to help the citizens of the region voluntarily make the best choices for the protection and enhancement of fish and wildlife habitat. In addition, existing incentive programs that have not yet been implemented at the local level, such as Oregon's riparian and wildlife habitat property tax incentive programs that are ready for use by local governments, shall be identified and efforts made to ensure that such programs are available to, and used by, the citizens of the region.

b. A Regional Habitat Acquisition and Restoration Program

The Metro Council intends to develop, and take before the voters for approval, a fish and wildlife property acquisition and restoration bond measure to purchase from willing sellers those properties, or conservation easements on those properties, that are deemed to be of the greatest ecological importance for fish and wildlife habitat, and to fund habitat restoration efforts that could provide even higher quality habitat.

2. Development of Local Program Performance Standards and Timeline for Compliance

The regional fish and wildlife habitat protection and restoration program shall establish local program performance standards to be achieved by the local fish and wildlife habitat protection and restoration efforts adopted by local jurisdictions in the region. Local jurisdictions will be required to show that their programs will meet the local program performance standards, and Metro shall make such local program performance standards as clear and objective as possible to provide local governments with a clear understanding of what programs will be sufficient to meet such standards. For example, such standards could include calculations of the amount of habitat that is protected through public ownership, a tree protection ordinance, regulatory buffers, easements, or other tools, and an assessment of the potential to minimize or mitigate impacts to fish and wildlife habitat through the use of low-impact, habitat friendly design approaches. Local governments will have the option of retaining their existing programs, developing their own new programs, or using a model program approach to be developed by Metro. Local program performance standards will be broad and flexible enough to allow for local programs to take very different approaches, and Metro shall review and give equal credence to all approaches when determining whether local governments are in substantial compliance with those standards. The model program developed by Metro shall be based on the use of best management practices for low-impact, habitat-friendly, environmentally sensitive land development. Local governments shall be required to be in compliance with the local program performance standards no later than June 1, 2012, subject to the provisions of paragraph 4 of this resolution.

3. Regional Outcome Measures and Metro Monitoring of Habitat Conditions

Metro shall develop regional outcome measures to evaluate the region's progress toward meeting the vision of conserving, protecting and restoring fish and wildlife habitat in the region. Upon Metro's adoption of a fish and wildlife habitat protection and restoration program, Metro shall begin immediate implementation of the non-regulatory program components described in paragraph 2, above, and paragraph 5, below. The Chief Operating Officer shall periodically assess the region's progress toward meeting the regional outcome measures. Not later than March 1, 2010, the Chief Operating Officer shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Such report shall include a new analysis of habitat inventory in the region, using the same methodological approaches used to create the habitat inventory adopted by the Metro Council in Resolution No. 02-3218A, but allowing for the use of analytic and data improvements developed in the interim. The Metro Council shall hold at least three public hearings to review and consider the Chief Operating Officer's report. Not later than June 1, 2010, the Metro Council may adopt an ordinance to extend the time by which local governments are required to comply with the local program performance standards if the Metro Council concludes that the region has made substantial progress toward achieving the regional outcome measures described above.

4. Metro Technical Assistance to Local Governments

To help the region meet the regional outcome measures, as Metro implements the non-regulatory approaches described in paragraph 2, above, it shall provide technical assistance to local governments to help them develop and improve their local fish and wildlife habitat protection and restoration programs. Such technical assistance may include providing information about alternative low impact development practices, scientific analysis of local habitat conditions, the collection, organization and use of geographic information system data and mapping technologies, development of educational information and curricula, and review of local land use codes to identify current barriers to development approaches that benefit fish and wildlife habitat and potential modifications to benefit fish and wildlife habitat.

5. This Resolution is Not a Final Action

This resolution is not a final action. The Metro Council's action in this resolution is not a final action on an ESEE analysis, a final action on whether and where to allow, limit, or prohibit conflicting uses on regionally significant habitat and impact areas, or a final action to protect regionally significant habitat through OAR 660-023-0050 (Programs to Achieve Goal 5).

ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

NATURE-FRIENDLY NEIGHBORHOODS PROPOSAL,
AMENDMENT TO RES. NO. 04-3506
INTRODUCED BY COUNCILOR CARL HOSTICKA

Amendment No. 1.

- (a) The title of the resolution shall be amended as follows:

FOR THE PURPOSE OF DIRECTING THE CHIEF OPERATING OFFICER TO DEVELOP A
FISH AND WILDLIFE HABITAT PROTECTION AND RESTORATION PROGRAM

- (b) The following paragraph shall be added to the resolution as the third recital:

WHEREAS, Metro has committed in the Regional Urban Growth Goals and Objectives (RUGGOs) to “manage watersheds to protect and ensure the integrity of streams, wetlands and floodplains, and their multiple biological, physical and social values and that a region-wide system of linked significant wildlife habitats should be preserved, restored and managed to maintain the region’s biodiversity;” and

- (c) The final recital of the resolution shall be amended as follows:

WHEREAS, Metro, local governments, and the citizens of the region should make such a concerted effort to meet the goals of the Vision Statement using a combination of tools and strategies, and our progress toward meeting those goals should be annually measured to improve performance over time through adaptive management; now therefore,

- (d) Paragraph 1(a) of the resolution shall be amended as follows:

Metro’s program shall include citizen education and incentive programs to help the citizens of the region voluntarily make the best choices for the protection and enhancement of fish and wildlife habitat. In addition, existing incentive programs that have not yet been implemented at the local level, such as Oregon’s riparian and wildlife habitat property tax incentive programs that are ready for use by local governments, shall be identified and efforts made to ensure that such programs are available to, and used by, the citizens of the region.

- (e) Paragraph 1(b) of the resolution shall be deleted and replaced with the following:

The Metro Council intends to develop, and take before the voters for approval no later than the general election to be held in November 2006, a fish and wildlife property acquisition and restoration bond measure to purchase from willing sellers those properties, or conservation easements on those properties, that are deemed to be of the greatest ecological importance for fish and wildlife habitat, and to fund habitat restoration efforts that could provide even higher quality habitat. Such a program shall include “local share” amounts dedicated for use by any local government in the region that has adopted its own non-regulatory habitat protection and restoration incentive program. As staff develops the regional habitat property acquisition program it shall further develop and clarify clear and objective standards to determine the types of local non-regulatory incentive-based programs that are sufficient to qualify a local government to receive its local share of the acquisition bond proceeds.

- (f) Paragraph 2 of the resolution shall be amended as follows:

The regional fish and wildlife habitat protection and restoration program shall establish local program performance standards to be achieved by the local fish and wildlife habitat protection and restoration efforts adopted by local jurisdictions in the region. For example, such standards could include calculations of the amount of habitat that is protected through public ownership, a tree protection ordinance, regulatory buffers, easements, or other tools, and an assessment of the potential to minimize or mitigate impacts to fish and wildlife habitat through the use of low-impact, habitat friendly design approaches.

Local jurisdictions will be required to show that their programs will meet the local program performance standards, and Metro shall make such local program performance standards as clear and objective as possible to provide local governments with a clear understanding of what programs will be sufficient to meet such standards. Local program performance standards will be broad and flexible enough to allow for local programs to take very different approaches, and Metro shall review and give equal credence to all approaches when determining whether local governments are in substantial compliance with those standards. The model program developed by Metro shall be based on the use of best management practices for low-impact, habitat-friendly, environmentally sensitive land development. Local governments shall be required to be in compliance with the local program performance standards no later than June 1, 2007 or two years after acknowledgment by the Oregon Land Conservation and Development Commission of Metro's Program to Achieve Goal 5, whichever is the later date.

- (g) Paragraph 3 of the resolution shall be amended as follows:

Metro shall develop regional outcome measures to evaluate the region's progress toward meeting the vision of conserving, protecting and restoring fish and wildlife habitat in the region. The Chief Operating Officer shall annually assess the region's progress toward meeting the regional outcome measures and shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Such report shall include a new analysis of habitat inventory in the region, using the same methodological approaches used to create the habitat inventory adopted by the Metro Council in Resolution No. 02-3218A, but allowing for the use of analytic and data improvements developed in the interim.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DIRECTING THE	)	RESOLUTION NO. 04-3506A
CHIEF OPERATING OFFICER TO DEVELOP A	)	[NATURE-FRIENDLY NEIGHBORHOODS
FISH AND WILDLIFE HABITAT PROTECTION	)	PROPOSAL, AMENDMENT TO RES. NO.
AND RESTORATION PROGRAM	)	04-3506, INTRODUCED BY COUNCILOR
	)	CARL HOSTICKA]
)	
)	

Introduced by Metro President David Bragdon and Metro Councilor Rod Park

WHEREAS, Oregonians have a long tradition of understanding the interdependent values of economic prosperity and environmental quality, both of which constitute important elements of the livability that distinguishes this state and the Portland metropolitan region; and

WHEREAS, citizens of the Metro region value living in a place that, within the built environment, provides access to greenspaces and habitat for fish and wildlife species; and

WHEREAS, Metro has committed in the Regional Urban Growth Goals and Objectives (RUGGOs) to “manage watersheds to protect and ensure the integrity of streams, wetlands and floodplains, and their multiple biological, physical and social values and that a region-wide system of linked significant wildlife habitats should be preserved, restored and managed to maintain the region’s biodiversity;” and

WHEREAS, citizens representing a range of economic and environmental interests have stated that wildlife habitat and water quality need to be more consistently protected and improved across the region, as part of an ongoing regional commitment to planning for the future; and

WHEREAS, the Metro Policy Advisory Committee (MPAC), comprised of elected officials representing the region’s cities and counties, adopted a “Vision Statement” in 2000 to enunciate the region’s commitment to improve the ecological health and functionality of the region’s fish and wildlife habitat; and

WHEREAS, that Vision Statement set an overall goal “to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with the surrounding urban landscape . . . [to be] achieved through conservation, protection and appropriate restoration of streamside corridors through time;” and

WHEREAS, Metro has pursued the development of a regional fish and wildlife habitat and water quality protection program consistent with Statewide Planning Goal 5, one of 19 state land use planning goals, thereby producing a region-wide inventory of habitat comprising over 80,000 acres that has been located and classified for its ecosystem values and mapped to provide an information system for developing the region-wide program; and

WHEREAS, by developing the habitat inventory, Metro now has extensive and comprehensive information on the ecological health of the region's fish and wildlife habitat, and an important role for Metro to play in the future will be to keep the inventory up to date, to continue to monitor the state of habitat in the region, and to share such information with local governments in the region to help them develop effective habitat protection and restoration programs; and

WHEREAS, fish and wildlife habitat depends on healthy functioning watersheds and follows the natural contours of the landscape, while political boundaries frequently split watersheds and divide the natural landscape, and Metro, as a regional government, can play an important role to help ensure a consistent level of habitat protection and restoration across the region's political boundaries, in an ecologically-based manner that respects watersheds and the natural landscape; and

WHEREAS, access to resources for protecting and conserving habitat varies widely among the region's communities and Metro also can provide technical assistance to communities with fewer resources to help them develop protection and conservation approaches that are appropriate for their communities, such as tools to allow and encourage lowest impact development or the conservation of critical wildlife habitat through purchase or the use of creative land-trust instruments; and

WHEREAS, the rights of private property owners and their commitments to community goals and environmental protection should be recognized and honored, and that doing so will help us attain and sustain a high quality of life for both humans and wildlife; and

WHEREAS, the types of actions that affect the quality and quantity of the region's fish and wildlife habitat vary widely, including thousands of small decisions made each day by individuals, such as whether to use pesticides on their lawns, as well as bigger decisions, such as how development of these properties occurs; and

WHEREAS, to produce desired, measurable outcomes of cumulative improvements to fish and wildlife habitat throughout the region, the fish and wildlife habitat protection and restoration program must enlist the broad support of hundreds of thousands of people across the region, making habitat property owners participants in a regional program that includes education and incentives for lowest-impact development practices, restoration initiatives directed by watershed councils, and purchase of the most ecologically valuable habitat areas from willing sellers through the funds generated by a bond measure; and

WHEREAS, by making a concerted effort to provide the region's citizens with additional fish and wildlife habitat education, incentive, restoration and willing-seller property acquisition programs the region can potentially make substantial progress toward improving the quality and quantity of its fish and wildlife habitat; and

WHEREAS, Metro, local governments, and the citizens of the region should make such a concerted effort to meet the goals of the Vision Statement using a combination of tools and strategies, and our progress toward meeting those goals should be annually measured to improve performance over time through adaptive management; now therefore,

BE IT RESOLVED that the Metro Council hereby directs the Chief Operating Officer to develop a fish and wildlife habitat protection and restoration program consistent with the following provisions:

1. Metro's Program Shall Rely Primarily on Education, Incentive, Restoration and Acquisition Programs

Metro, other government agencies and volunteer-based non-governmental organizations across the region already have in place extensive education, restoration and acquisition programs designed to protect and enhance the quality and quantity of well-functioning fish and wildlife habitat. Metro's parks and solid waste and recycling departments and the Oregon Zoo, for example, have already developed education programs to teach individuals about fish and wildlife habitat, water quality, natural gardening, and what we all can do to improve fish and wildlife habitat. Many local governments (e.g. Portland's Bureau of Environmental Services), special districts (e.g. Clean Water Services in the Tualatin Basin), and non-governmental organizations (e.g. Friends of Trees) already engage in extensive natural area restoration programs and neighborhood tree planting programs that improve habitat. Metro, local governments, and non-governmental organizations (e.g. the Wetlands Conservancy) are all engaged in willing-seller land acquisition programs designed to purchase, preserve, and restore the region's highest-quality fish and wildlife habitat. Many of these efforts only take place thanks to the strong support of the region's private businesses and the efforts of many individuals. The region's vision of protecting and restoring a "continuous ecologically viable streamside corridor system" will only be achieved by harnessing the collective power of regional and local governments, non-profits, citizen volunteers, and private business to expand these programs. Such an effort should include:

a. Education and Incentive Programs

Metro's program shall include citizen education and incentive programs to help the citizens of the region voluntarily make the best choices for the protection and enhancement of fish and wildlife habitat. In addition, existing incentive programs that have not yet been implemented at the local level, such as Oregon's riparian and wildlife habitat property tax incentive programs that are ready for use by local governments, shall be identified and efforts made to ensure that such programs are available to, and used by, the citizens of the region.

b. A Regional Habitat Acquisition and Restoration Program

The Metro Council intends to develop, and take before the voters for approval no later than the general election to be held in November 2006, a fish and wildlife property acquisition and restoration bond measure to purchase from willing sellers those properties, or conservation easements on those properties, that are deemed to be of the greatest ecological importance for fish and wildlife habitat, and to fund habitat restoration efforts that could provide even higher quality habitat. Such a program shall include "local share" amounts dedicated for use by any local government in the region that has adopted its own non-regulatory habitat protection and restoration incentive program. As staff develops the regional habitat property acquisition program it shall further develop and clarify clear and objective standards to determine the types of local non-regulatory incentive-based programs that are sufficient to qualify a local government to receive its local share of the acquisition bond proceeds.

2. Development of Local Program Performance Standards and Timeline for Compliance

The regional fish and wildlife habitat protection and restoration program shall establish local program performance standards to be achieved by the local fish and wildlife habitat protection and restoration efforts adopted by local jurisdictions in the region. For example, such standards

could include calculations of the amount of habitat that is protected through public ownership, a tree protection ordinance, regulatory buffers, easements, or other tools, and an assessment of the potential to minimize or mitigate impacts to fish and wildlife habitat through the use of low-impact, habitat friendly design approaches.

Local jurisdictions will be required to show that their programs will meet the local program performance standards, and Metro shall make such local program performance standards as clear and objective as possible to provide local governments with a clear understanding of what programs will be sufficient to meet such standards. Local program performance standards will be broad and flexible enough to allow for local programs to take very different approaches, and Metro shall review and give equal credence to all approaches when determining whether local governments are in substantial compliance with those standards. The model program developed by Metro shall be based on the use of best management practices for low-impact, habitat-friendly, environmentally sensitive land development. Local governments shall be required to be in compliance with the local program performance standards no later than June 1, 2007 or two years after acknowledgment by the Oregon Land Conservation and Development Commission of Metro's Program to Achieve Goal 5, whichever is the later date.

3. Regional Outcome Measures and Metro Monitoring of Habitat Conditions

Metro shall develop regional outcome measures to evaluate the region's progress toward meeting the vision of conserving, protecting and restoring fish and wildlife habitat in the region. The Chief Operating Officer shall annually assess the region's progress toward meeting the regional outcome measures and shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Such report shall include a new analysis of habitat inventory in the region, using the same methodological approaches used to create the habitat inventory adopted by the Metro Council in Resolution No. 02-3218A, but allowing for the use of analytic and data improvements developed in the interim.

4. Metro Technical Assistance to Local Governments

To help the region meet the regional outcome measures, as Metro implements the non-regulatory approaches described in paragraph 2, above, it shall provide technical assistance to local governments to help them develop and improve their local fish and wildlife habitat protection and restoration programs. Such technical assistance may include providing information about alternative low impact development practices, scientific analysis of local habitat conditions, the collection, organization and use of geographic information system data and mapping technologies, development of educational information and curricula, and review of local land use codes to identify current barriers to development approaches that benefit fish and wildlife habitat and potential modifications to benefit fish and wildlife habitat.

5. This Resolution is Not a Final Action

This resolution is not a final action. The Metro Council's action in this resolution is not a final action on an ESEE analysis, a final action on whether and where to allow, limit, or prohibit conflicting uses on regionally significant habitat and impact areas, or a final action to protect regionally significant habitat through OAR 660-023-0050 (Programs to Achieve Goal 5).

ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

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PROPOSED NEWMAN AMENDMENT
Resolution No. 04-3506

Amendment No. 1.

- (a) The title of the resolution shall be amended as follows:

FOR THE PURPOSE OF REVISING METRO'S PRELIMINARY GOAL 5 ALLOW, LIMIT, OR PROHIBIT DECISION; AND DIRECTING THE CHIEF OPERATING OFFICER TO DEVELOP A FISH AND WILDLIFE HABITAT PROTECTION AND RESTORATION PROGRAM THAT RELIES ON A BALANCED REGULATORY AND INCENTIVE-BASED APPROACH

- (b) The following paragraph shall be added to the resolution as the final recital:

WHEREAS, based on further review and consideration of the Draft Phase 2 ESEE Analysis, Metro is now prepared to revise its preliminary decision of where to allow, limit, or prohibit development on regionally significant fish and wildlife habitat lands and impact areas and, based on that revised decision, to develop a Program to Achieve Goal 5;

- (c) The following paragraph shall be added to the resolution as new paragraph 1:

1. Revised Allow-Limit-Prohibit Decision

Based upon and supported by the Metro Council's further review and analysis of the economic, social, environmental, and energy consequences of decisions to allow, limit, or prohibit conflicting uses in identified fish and wildlife habitat resources and impact areas, on the technical and policy advice Metro has received from its advisory committees, and on the public comments received regarding the ESEE analysis, the Metro Council concludes that the preliminary allow, limit, and prohibit decisions described in Exhibit A best reflect the appropriate ESEE tradeoffs for the region. The Council's revised preliminary decision reflects the conclusion that a limit decision is appropriate for Class I and Class II riparian habitat, but that an allow decision is appropriate for all other habitat classes.

- (d) The document attached to this proposed amendment and identified as "Exhibit A to Resolution No. 04-3506A" shall become Exhibit A to the resolution.

- (e) Paragraph 2 of the introduced resolution shall be amended as follows:

2. Direct Staff to Develop Regulatory Program for Class I and II Riparian Habitat

The Metro Council directs staff to develop a regulatory program to protect and restore Class I and II riparian habitat consistent with the revised allow, limit, and prohibit decision described in Exhibit A, with the factors described in Exhibit C to Resolution No. 04-3440A, and with the provisions of this paragraph. Such a program shall establish local program performance standards for the protection and restoration of Class I and II riparian habitat to be achieved by local jurisdictions in the region. Local jurisdictions will be required to show that their programs will meet the local program performance standards, and Metro shall make such local program performance standards as clear and objective as possible to provide local governments with a clear understanding of what programs will be sufficient to meet such standards. For example, such standards could include calculations of the amount of Class I and II riparian habitat that is

protected through public ownership, a tree protection ordinance, regulatory buffers, easements, or other tools, and an assessment of the potential to minimize or mitigate impacts to Class I and II riparian habitat through the use of low-impact, habitat friendly design approaches. Local governments will have the option of retaining their existing programs, developing their own new programs, or using a model program approach to be developed by Metro, provided that the local government can demonstrate that its program will meet the performance standards. Local program performance standards will be broad and flexible enough to allow for local programs to take very different approaches, and Metro shall review and give equal credence to all approaches when determining whether local governments are in substantial compliance with those standards. The model program developed by Metro shall be based on the use of best management practices for low-impact, habitat-friendly, environmentally sensitive land development. Local governments shall be required to be in compliance with the local program performance standards no later than two years after acknowledgment by the Oregon Land Conservation and Development Commission of Metro's Program to Achieve Goal 5.

- (f) Paragraph 1 of the introduced resolution shall be renumbered as paragraph 3 and shall be amended as follows:

3. Direct Staff to Develop Non-Regulatory Program for All Habitat

Metro, other government agencies and volunteer-based non-governmental organizations across the region already have in place extensive education, restoration and acquisition programs designed to protect and enhance the quality and quantity of well-functioning fish and wildlife habitat. Metro's parks and solid waste and recycling departments and the Oregon Zoo, for example, have already developed education programs to teach individuals about fish and wildlife habitat, water quality, natural gardening, and what we all can do to improve fish and wildlife habitat. Many local governments (e.g. Portland's Bureau of Environmental Services), special districts (e.g. Clean Water Services in the Tualatin Basin), and non-governmental organizations (e.g. Friends of Trees) already engage in extensive natural area restoration programs and neighborhood tree planting programs that improve habitat. Metro, local governments, and non-governmental organizations (e.g. the Wetlands Conservancy) are all engaged in willing-seller land acquisition programs designed to purchase, preserve, and restore the region's highest-quality fish and wildlife habitat. Many of these efforts only take place thanks to the strong support of the region's private businesses and the efforts of many individuals. The region's vision of protecting and restoring a "continuous ecologically viable streamside corridor system" will only be achieved by harnessing the collective power of regional and local governments, non-profits, citizen volunteers, and private business to expand these programs.

Such an effort shall be consistent with the factors described in Exhibit D to Resolution No. 04-3440A, shall have a particular focus on non-regulatory actions that can be taken to preserve and restore Class A and B upland wildlife habitat, Class III riparian habitat, habitats of concern, and impact areas, and shall include:

a. Education and Incentive Programs

Metro's program shall focus on creating citizen education and incentive programs to help the citizens of the region voluntarily make the best choices for the protection and enhancement of fish and wildlife habitat. In addition, existing incentive programs that have not yet been implemented at the local level, such as Oregon's riparian and wildlife habitat property tax

incentive programs that are ready for use by local governments, shall be identified and efforts made to ensure that such programs are available to, and used by, the citizens of the region.

b. A Regional Habitat Acquisition and Restoration Program

The Metro Council intends to develop, and take before the voters for approval no later than the general election to be held in November 2006, a fish and wildlife property acquisition and restoration bond measure to purchase from willing sellers those properties, or conservation easements on those properties, that are deemed to be of the greatest ecological importance for fish and wildlife habitat, and to fund habitat restoration efforts that could provide even higher quality habitat. Such a program shall include "local share" amounts dedicated for use by any local government in the region that has adopted its own non-regulatory habitat protection and restoration incentive program. As staff develops the regional habitat property acquisition program it shall further develop and clarify clear and objective standards to determine the types of local non-regulatory incentive-based programs that are sufficient to qualify a local government to receive its local share of the acquisition bond proceeds.

(g) Paragraph 4 of the introduced resolution shall be amended as follows:

To help the region achieve the program's vision "to conserve, protect and restore a continuous ecologically viable streamside corridor system . . . in a manner that is integrated with the surrounding urban landscape," as Metro implements the regulatory and non-regulatory approaches described in this resolution, it shall provide technical assistance to local governments to help them develop and improve their local fish and wildlife habitat protection and restoration programs. Such technical assistance may include providing information about alternative low impact development practices, scientific analysis of local habitat conditions, the collection, organization and use of geographic information system data and mapping technologies, development of educational information and curricula, and review of local land use codes to identify current barriers to development approaches that benefit fish and wildlife habitat and potential modifications to benefit fish and wildlife habitat.

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EXHIBIT A TO RESOLUTION NO. 04-3506A

REGULATORY PROGRAM

Based on the results of the Phase II ESEE analysis, public comments, and technical review, Metro Council recommends that the following allow-limit-prohibit designations form the basis for a regulatory program to protect fish and wildlife habitat.

Fish & wildlife habitat classification	High Urban development value	Medium Urban development value	Low Urban development value	Other areas
		Primary 2040 components, ¹ high employment value, or high land value ⁴	Secondary 2040 components, ² medium employment value, or medium land value ⁴	Tertiary 2040 components, ³ low employment value, or low land value ⁴	Parks and Open Spaces, no design types outside UGB
Class I Riparian/Wildlife	ML / A ⁵	SL	SL	SL / SL+ ⁶
Class II Riparian/Wildlife	LL/ A ⁵	LL	ML	ML / SL+ ⁶
Class III Riparian/Wildlife	A ⁷	A ⁷	A ⁷	A ⁷
Upland Wildlife	A ⁷	A ⁷	A ⁷	A ⁷
Impact Areas	A ⁷	A ⁷	A ⁷	A ⁷

¹Primary 2040 components: Regional Centers, Central City, Town Centers, and Regionally Significant Industrial Areas

²Secondary 2040 components: Main Streets, Station Communities, Other Industrial areas, and Employment Centers

³Tertiary 2040 components: Inner and outer neighborhoods, Corridors

⁴Land value excludes residential lands.

⁵Apply allow treatment to the International Terminal (IT) site because Council finds the site's special economic importance outweighs its resource values and direct staff to determine if there are other similarly situated sites.

⁶Apply more strict protection (SL+) to parks designated as natural areas in Class I and II riparian habitat.

⁷Develop aggressive, non-regulatory, incentive-based programs to preserve and restore Class III riparian habitat, upland habitat, habitats of concern, and impact areas.

Key to abbreviations

SL = strictly limit

ML = moderately limit

LL = lightly limit

A = allow

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REVISING METRO'S	)	RESOLUTION NO. 04-3506A
PRELIMINARY GOAL 5 ALLOW, LIMIT, OR	)	[NEWMAN AMENDMENT]
PROHIBIT DECISION; AND DIRECTING THE)	
CHIEF OPERATING OFFICER TO DEVELOP A)	
FISH AND WILDLIFE HABITAT PROTECTION)	
AND RESTORATION PROGRAM THAT)	
RELIES ON A BALANCED REGULATORY	)	Introduced by Metro President David Bragdon
AND INCENTIVE-BASED APPROACH	)	and Metro Councilor Rod Park

WHEREAS, Oregonians have a long tradition of understanding the interdependent values of economic prosperity and environmental quality, both of which constitute important elements of the livability that distinguishes this state and the Portland metropolitan region; and

WHEREAS, citizens of the Metro region value living in a place that, within the built environment, provides access to greenspaces and habitat for fish and wildlife species; and

WHEREAS, citizens representing a range of economic and environmental interests have stated that wildlife habitat and water quality need to be more consistently protected and improved across the region, as part of an ongoing regional commitment to planning for the future; and

WHEREAS, the Metro Policy Advisory Committee (MPAC), comprised of elected officials representing the region's cities and counties, adopted a "Vision Statement" in 2000 to enunciate the region's commitment to improve the ecological health and functionality of the region's fish and wildlife habitat; and

WHEREAS, that Vision Statement set an overall goal "to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with the surrounding urban landscape . . . [to be] achieved through conservation, protection and appropriate restoration of streamside corridors through time;" and

WHEREAS, Metro has pursued the development of a regional fish and wildlife habitat and water quality protection program consistent with Statewide Planning Goal 5, one of 19 state land use planning goals, thereby producing a region-wide inventory of habitat comprising over 80,000 acres that has been located and classified for its ecosystem values and mapped to provide an information system for developing the region-wide program; and

WHEREAS, by developing the habitat inventory, Metro now has extensive and comprehensive information on the ecological health of the region's fish and wildlife habitat, and an important role for Metro to play in the future will be to keep the inventory up to date, to continue to monitor the state of habitat in the region, and to share such information with local governments in the region to help them develop effective habitat protection and restoration programs; and

WHEREAS, fish and wildlife habitat depends on healthy functioning watersheds and follows the natural contours of the landscape, while political boundaries frequently split watersheds and divide the natural landscape, and Metro, as a regional government, can play an important role to help ensure a

consistent level of habitat protection and restoration across the region's political boundaries, in an ecologically-based manner that respects watersheds and the natural landscape; and

WHEREAS, access to resources for protecting and conserving habitat varies widely among the region's communities and Metro also can provide technical assistance to communities with fewer resources to help them develop protection and conservation approaches that are appropriate for their communities, such as tools to allow and encourage lowest impact development or the conservation of critical wildlife habitat through purchase or the use of creative land-trust instruments; and

WHEREAS, the rights of private property owners and their commitments to community goals and environmental protection should be recognized and honored, and that doing so will help us attain and sustain a high quality of life for both humans and wildlife; and

WHEREAS, the types of actions that affect the quality and quantity of the region's fish and wildlife habitat vary widely, including thousands of small decisions made each day by individuals, such as whether to use pesticides on their lawns, as well as bigger decisions, such as how development of these properties occurs; and

WHEREAS, to produce desired, measurable outcomes of cumulative improvements to fish and wildlife habitat throughout the region, the fish and wildlife habitat protection and restoration program must enlist the broad support of hundreds of thousands of people across the region, making habitat property owners participants in a regional program that includes education and incentives for lowest-impact development practices, restoration initiatives directed by watershed councils, and purchase of the most ecologically valuable habitat areas from willing sellers through the funds generated by a bond measure; and

WHEREAS, by making a concerted effort to provide the region's citizens with additional fish and wildlife habitat education, incentive, restoration and willing-seller property acquisition programs the region can potentially make substantial progress toward improving the quality and quantity of its fish and wildlife habitat; and

WHEREAS, Metro, local governments, and the citizens of the region should make such a concerted effort to meet the goals of the Vision Statement using non-regulatory strategies, and our progress toward meeting those goals should be measured, before local governments are required to comply with any new rules or regulations; and

WHEREAS, based on further review and consideration of the Draft Phase 2 ESEE Analysis, Metro is now prepared to revise its preliminary decision of where to allow, limit, or prohibit development on regionally significant fish and wildlife habitat lands and impact areas and, based on that revised decision, to develop a Program to Achieve Goal 5; now therefore,

BE IT RESOLVED that the Metro Council hereby directs the Chief Operating Officer to develop a fish and wildlife habitat protection and restoration program consistent with the following provisions:

1. Revised Allow-Limit-Prohibit Decision

Based upon and supported by the Metro Council's further review and analysis of the economic, social, environmental, and energy consequences of decisions to allow, limit, or prohibit conflicting uses in identified fish and wildlife habitat resources and impact areas, on the technical and policy advice Metro has received from its advisory committees, and on the public comments received regarding the ESEE analysis, the Metro Council concludes that the preliminary allow,

limit, and prohibit decisions described in Exhibit A best reflect the appropriate ESEE tradeoffs for the region. The Council's revised preliminary decision reflects the conclusion that a limit decision is appropriate for Class I and Class II riparian habitat, but that an allow decision is appropriate for all other habitat classes.

2. Direct Staff to Develop Regulatory Program for Class I and II Riparian Habitat

The Metro Council directs staff to develop a regulatory program to protect and restore Class I and II riparian habitat consistent with the revised allow, limit, and prohibit decision described in Exhibit A, with the factors described in Exhibit C to Resolution No. 04-3440A, and with the provisions of this paragraph. Such a program shall establish local program performance standards for the protection and restoration of Class I and II riparian habitat to be achieved by local jurisdictions in the region. Local jurisdictions will be required to show that their programs will meet the local program performance standards, and Metro shall make such local program performance standards as clear and objective as possible to provide local governments with a clear understanding of what programs will be sufficient to meet such standards. For example, such standards could include calculations of the amount of Class I and II riparian habitat that is protected through public ownership, a tree protection ordinance, regulatory buffers, easements, or other tools, and an assessment of the potential to minimize or mitigate impacts to Class I and II riparian habitat through the use of low-impact, habitat friendly design approaches. Local governments will have the option of retaining their existing programs, developing their own new programs, or using a model program approach to be developed by Metro, provided that the local government can demonstrate that its program will meet the performance standards. Local program performance standards will be broad and flexible enough to allow for local programs to take very different approaches, and Metro shall review and give equal credence to all approaches when determining whether local governments are in substantial compliance with those standards. The model program developed by Metro shall be based on the use of best management practices for low-impact, habitat-friendly, environmentally sensitive land development. Local governments shall be required to be in compliance with the local program performance standards no later than two years after acknowledgment by the Oregon Land Conservation and Development Commission of Metro's Program to Achieve Goal 5.

3. Direct Staff to Develop Non-Regulatory Program for All Habitat

Metro, other government agencies and volunteer-based non-governmental organizations across the region already have in place extensive education, restoration and acquisition programs designed to protect and enhance the quality and quantity of well-functioning fish and wildlife habitat. Metro's parks and solid waste and recycling departments and the Oregon Zoo, for example, have already developed education programs to teach individuals about fish and wildlife habitat, water quality, natural gardening, and what we all can do to improve fish and wildlife habitat. Many local governments (e.g. Portland's Bureau of Environmental Services), special districts (e.g. Clean Water Services in the Tualatin Basin), and non-governmental organizations (e.g. Friends of Trees) already engage in extensive natural area restoration programs and neighborhood tree planting programs that improve habitat. Metro, local governments, and non-governmental organizations (e.g. the Wetlands Conservancy) are all engaged in willing-seller land acquisition programs designed to purchase, preserve, and restore the region's highest-quality fish and wildlife habitat. Many of these efforts only take place thanks to the strong support of the region's private businesses and the efforts of many individuals. The region's vision of protecting and restoring a "continuous ecologically viable streamside corridor system" will only be achieved by harnessing the collective power of regional and local governments, non-profits, citizen volunteers, and private business to expand these programs.

Such an effort shall be consistent with the factors described in Exhibit D to Resolution No. 04-3440A, shall have a particular focus on non-regulatory actions that can be taken to preserve and restore Class A and B upland wildlife habitat, Class III riparian habitat, habitats of concern, and impact areas, and shall include:

a. Education and Incentive Programs

Metro's program shall focus on creating citizen education and incentive programs to help the citizens of the region voluntarily make the best choices for the protection and enhancement of fish and wildlife habitat. In addition, existing incentive programs that have not yet been implemented at the local level, such as Oregon's riparian and wildlife habitat property tax incentive programs that are ready for use by local governments, shall be identified and efforts made to ensure that such programs are available to, and used by, the citizens of the region.

b. A Regional Habitat Acquisition and Restoration Program

The Metro Council intends to develop, and take before the voters for approval no later than the general election to be held in November 2006, a fish and wildlife property acquisition and restoration bond measure to purchase from willing sellers those properties, or conservation easements on those properties, that are deemed to be of the greatest ecological importance for fish and wildlife habitat, and to fund habitat restoration efforts that could provide even higher quality habitat. Such a program shall include "local share" amounts dedicated for use by any local government in the region that has adopted its own non-regulatory habitat protection and restoration incentive program. As staff develops the regional habitat property acquisition program it shall further develop and clarify clear and objective standards to determine the types of local non-regulatory incentive-based programs that are sufficient to qualify a local government to receive its local share of the acquisition bond proceeds.

4. Metro Technical Assistance to Local Governments

To help the region achieve the program's vision "to conserve, protect and restore a continuous ecologically viable streamside corridor system . . . in a manner that is integrated with the surrounding urban landscape," as Metro implements the regulatory and non-regulatory approaches described in this resolution, it shall provide technical assistance to local governments to help them develop and improve their local fish and wildlife habitat protection and restoration programs. Such technical assistance may include providing information about alternative low impact development practices, scientific analysis of local habitat conditions, the collection, organization and use of geographic information system data and mapping technologies, development of educational information and curricula, and review of local land use codes to identify current barriers to development approaches that benefit fish and wildlife habitat and potential modifications to benefit fish and wildlife habitat.

5. This Resolution is Not a Final Action

This resolution is not a final action. The Metro Council's action in this resolution is not a final action on an ESEE analysis, a final action on whether and where to allow, limit, or prohibit conflicting uses on regionally significant habitat and impact areas, or a final action to protect regionally significant habitat through OAR 660-023-0050 (Programs to Achieve Goal 5).

ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

EXHIBIT A TO RESOLUTION NO. 04-3506A

REGULATORY PROGRAM

Based on the results of the Phase II ESEE analysis, public comments, and technical review, Metro Council recommends that the following allow-limit-prohibit designations form the basis for a regulatory program to protect fish and wildlife habitat.

Fish & wildlife habitat classification	High Urban development value	Medium Urban development value	Low Urban development value	Other areas
	Primary 2040 components, ¹ high employment value, or high land value ⁴	Secondary 2040 components, ² medium employment value, or medium land value ⁴	Tertiary 2040 components, ³ low employment value, or low land value ⁴	Parks and Open Spaces, no design types outside UGB
Class I Riparian/Wildlife	ML / A ⁵	SL	SL	SL / SL+ ⁶
Class II Riparian/Wildlife	LL/ A ⁵	LL	ML	ML / SL+ ⁶
Class III Riparian/Wildlife	A ⁷	A ⁷	A ⁷	A ⁷
Upland Wildlife	A ⁷	A ⁷	A ⁷	A ⁷
Impact Areas	A ⁷	A ⁷	A ⁷	A ⁷

¹Primary 2040 components: Regional Centers, Central City, Town Centers, and Regionally Significant Industrial Areas

²Secondary 2040 components: Main Streets, Station Communities, Other Industrial areas, and Employment Centers

³Tertiary 2040 components: Inner and outer neighborhoods, Corridors

⁴Land value excludes residential lands.

⁵Apply allow treatment to the International Terminal (IT) site because Council finds the site's special economic importance outweighs its resource values and direct staff to determine if there are other similarly situated sites.

⁶Apply more strict protection (SL+) to parks designated as natural areas in Class I and II riparian habitat.

⁷Develop aggressive, non-regulatory, incentive-based programs to preserve and restore Class III riparian habitat, upland habitat, habitats of concern, and impact areas.

Key to abbreviations

SL = strictly limit

ML = moderately limit

LL = lightly limit

A = allow

PROPOSED BURKHOLDER AMENDMENTS
Resolution No. 04-3506

Amendment No. 1.

- (a) Paragraph 1(b) of the resolution shall be amended as follows:

The Metro Council shall develop, and take before the voters for approval no later than the general election to be held in November 2006, a fish and wildlife property acquisition and restoration bond measure to purchase from willing sellers those properties, or conservation easements on those properties, that are deemed to be of the greatest ecological importance for fish and wildlife habitat, and to fund habitat restoration efforts that could provide even higher quality habitat.

- (b) Paragraph 2 of the resolution shall be amended as follows:

The regional fish and wildlife habitat protection and restoration program shall establish local program performance standards to be achieved by the local fish and wildlife habitat protection and restoration efforts adopted by local jurisdictions in the region. Local jurisdictions will be required to show that their programs will meet the local program performance standards, and Metro shall make such local program performance standards as clear and objective as possible to provide local governments with a clear understanding of what programs will be sufficient to meet such standards. For example, such standards could include calculations of the amount of habitat that is protected through public ownership, a tree protection ordinance, regulatory buffers, easements, or other tools, and an assessment of the potential to minimize or mitigate impacts to fish and wildlife habitat through the use of low-impact, habitat friendly design approaches. Local governments will have the option of retaining their existing programs, developing their own new programs, or using a model program approach to be developed by Metro. Local program performance standards will be broad and flexible enough to allow for local programs to take very different approaches, and Metro shall review and give equal credence to all approaches when determining whether local governments are in substantial compliance with those standards. The model program developed by Metro shall be based on the use of best management practices for low-impact, habitat-friendly, environmentally sensitive land development. If the fish and wildlife property acquisition and restoration bond measure described in paragraph 1(b) of this resolution is approved by the voters of the region, then local governments shall be required to be in compliance with the local program performance standards no later than June 1, 2012, subject to the provisions of paragraph 3(a) of this resolution. If the fish and wildlife property acquisition and restoration bond measure described in paragraph 1(b) of this resolution is not approved by the voters of the region, or if it is not put on the ballot for voter approval by November 2006, then local governments shall be required to be in compliance with the local program performance standards no later than June 1, 2010, subject to the provisions of paragraph 3(b) of this resolution.

- (c) Paragraph 3 of the resolution shall be amended as follows:

Metro shall develop regional outcome measures to evaluate the region's progress toward meeting the vision of conserving, protecting and restoring fish and wildlife habitat in the region. Upon Metro's adoption of a fish and wildlife habitat protection and restoration program, Metro shall begin immediate implementation of the non-regulatory program components described in paragraph 2, above, and paragraph 5, below. If the fish and wildlife property acquisition and restoration bond measure described in paragraph 1(b) of this resolution is approved by the voters of the region, then the provisions of paragraph 3(a) of this resolution shall be effective. If the fish and wildlife property acquisition and restoration bond measure described in paragraph 1(b) of this

resolution is not approved by the voters of the region, or if it is not put on the ballot for voter approval by November 2006, then the provisions of paragraph 3(b) of this resolution shall be effective.

a. Not later than the second anniversary of the effective date of Metro's Program to Achieve Goal 5, and each anniversary thereafter until, and including, such anniversary in 2009, the Chief Operating Officer shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Not later than March 1, 2010, the Chief Operating Officer also shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Such report shall include a new analysis of habitat inventory in the region, using the same methodological approaches used to create the habitat inventory adopted by the Metro Council in Resolution No. 02-3218A, but allowing for the use of analytic and data improvements developed in the interim. The Metro Council shall hold at least three public hearings to review and consider the Chief Operating Officer's 2010 report. Not later than June 1, 2010, the Metro Council may adopt an ordinance to extend the time by which local governments are required to comply with the local program performance standards if the Metro Council concludes that the region has made substantial progress toward achieving the regional outcome measures described above.

b. Not later than the second anniversary of the effective date of Metro's Program to Achieve Goal 5, and each anniversary thereafter until, and including, such anniversary in 2007, the Chief Operating Officer shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Not later than March 1, 2008, the Chief Operating Officer also shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Such report shall include a new analysis of habitat inventory in the region, using the same methodological approaches used to create the habitat inventory adopted by the Metro Council in Resolution No. 02-3218A, but allowing for the use of analytic and data improvements developed in the interim. The Metro Council shall hold at least three public hearings to review and consider the Chief Operating Officer's 2008 report. Not later than June 1, 2008, the Metro Council may adopt an ordinance to extend the time by which local governments are required to comply with the local program performance standards if the Metro Council concludes that the region has made substantial progress toward achieving the regional outcome measures described above.

Amendment No. 1a. [To be considered only if Amendment No. 1 is not adopted.]

Paragraph 3 of the resolution shall be amended as follows:

Metro shall develop regional outcome measures to evaluate the region's progress toward meeting the vision of conserving, protecting and restoring fish and wildlife habitat in the region. Upon Metro's adoption of a fish and wildlife habitat protection and restoration program, Metro shall begin immediate implementation of the non-regulatory program components described in paragraph 2, above, and paragraph 5, below. Not later than the second anniversary of the effective date of Metro's Program to Achieve Goal 5, and each anniversary thereafter until, and including, such anniversary in 2009, the Chief Operating Officer shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Not later than March 1, 2010, the Chief Operating Officer also shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Such report shall include a new analysis of habitat inventory in the region, using the same methodological approaches used to create the habitat inventory adopted by the Metro Council in Resolution No. 02-3218A, but allowing for the use of analytic and data

improvements developed in the interim. The Metro Council shall hold at least three public hearings to review and consider the Chief Operating Officer's 2010 report. Not later than June 1, 2010, the Metro Council may adopt an ordinance to extend the time by which local governments are required to comply with the local program performance standards if the Metro Council concludes that the region has made substantial progress toward achieving the regional outcome measures described above.

Amendment No. 2.

- (a) The following language shall be inserted as paragraph 4 of the resolution and the subsequent paragraphs shall be renumbered accordingly:

“4. Local Governments to Prepare Plans to Meet Regional Outcome Measures

Local governments shall prepare plans demonstrating how they will meet the regional outcome measures described in paragraph 3 of this resolution. Not later than the second anniversary of the effective date of Metro's Program to Achieve Goal 5, local governments shall submit such plans to Metro for review.”

- (b) Former paragraph 4 of the resolution (renumbered paragraph 5 pursuant to section (a) of this amendment) shall be amended as follows:

To help the region meet the regional outcome measures, as Metro implements the non-regulatory approaches described in paragraph 2, above, and as local governments develop plans to demonstrate how they will meet the regional outcome measures as described in paragraph 4, above, Metro shall provide technical assistance to local governments to help them develop and improve their local fish and wildlife habitat protection and restoration programs. Such technical assistance may include providing information about alternative low impact development practices, scientific analysis of local habitat conditions, the collection, organization and use of geographic information system data and mapping technologies, development of educational information and curricula, and review of local land use codes to identify current barriers to development approaches that benefit fish and wildlife habitat and potential modifications to benefit fish and wildlife habitat.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DIRECTING THE	)	RESOLUTION NO. 04-3506A
CHIEF OPERATING OFFICER TO DEVELOP A	)	[BURKHOLDER AMENDMENTS]
FISH AND WILDLIFE HABITAT PROGRAM)	
THAT RELIES ON A NON-REGULATORY)	
EFFORT TO IMPROVE HABITAT PRIOR TO)	
ANY IMPLEMENTATION OF NEW REGIONAL,	)	Introduced by Metro President David Bragdon
PERFORMANCE-BASED REGULATIONS	)	and Metro Councilor Rod Park

WHEREAS, Oregonians have a long tradition of understanding the interdependent values of economic prosperity and environmental quality, both of which constitute important elements of the livability that distinguishes this state and the Portland metropolitan region; and

WHEREAS, citizens of the Metro region value living in a place that, within the built environment, provides access to greenspaces and habitat for fish and wildlife species; and

WHEREAS, citizens representing a range of economic and environmental interests have stated that wildlife habitat and water quality need to be more consistently protected and improved across the region, as part of an ongoing regional commitment to planning for the future; and

WHEREAS, the Metro Policy Advisory Committee (MPAC), comprised of elected officials representing the region’s cities and counties, adopted a “Vision Statement” in 2000 to enunciate the region’s commitment to improve the ecological health and functionality of the region’s fish and wildlife habitat; and

WHEREAS, that Vision Statement set an overall goal “to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with the surrounding urban landscape . . . [to be] achieved through conservation, protection and appropriate restoration of streamside corridors through time;” and

WHEREAS, Metro has pursued the development of a regional fish and wildlife habitat and water quality protection program consistent with Statewide Planning Goal 5, one of 19 state land use planning goals, thereby producing a region-wide inventory of habitat comprising over 80,000 acres that has been located and classified for its ecosystem values and mapped to provide an information system for developing the region-wide program; and

WHEREAS, by developing the habitat inventory, Metro now has extensive and comprehensive information on the ecological health of the region’s fish and wildlife habitat, and an important role for Metro to play in the future will be to keep the inventory up to date, to continue to monitor the state of habitat in the region, and to share such information with local governments in the region to help them develop effective habitat protection and restoration programs; and

WHEREAS, fish and wildlife habitat depends on healthy functioning watersheds and follows the natural contours of the landscape, while political boundaries frequently split watersheds and divide the natural landscape, and Metro, as a regional government, can play an important role to help ensure a

consistent level of habitat protection and restoration across the region's political boundaries, in an ecologically-based manner that respects watersheds and the natural landscape; and

WHEREAS, access to resources for protecting and conserving habitat varies widely among the region's communities and Metro also can provide technical assistance to communities with fewer resources to help them develop protection and conservation approaches that are appropriate for their communities, such as tools to allow and encourage lowest impact development or the conservation of critical wildlife habitat through purchase or the use of creative land-trust instruments; and

WHEREAS, the rights of private property owners and their commitments to community goals and environmental protection should be recognized and honored, and that doing so will help us attain and sustain a high quality of life for both humans and wildlife; and

WHEREAS, the types of actions that affect the quality and quantity of the region's fish and wildlife habitat vary widely, including thousands of small decisions made each day by individuals, such as whether to use pesticides on their lawns, as well as bigger decisions, such as how development of these properties occurs; and

WHEREAS, to produce desired, measurable outcomes of cumulative improvements to fish and wildlife habitat throughout the region, the fish and wildlife habitat protection and restoration program must enlist the broad support of hundreds of thousands of people across the region, making habitat property owners participants in a regional program that includes education and incentives for lowest-impact development practices, restoration initiatives directed by watershed councils, and purchase of the most ecologically valuable habitat areas from willing sellers through the funds generated by a bond measure; and

WHEREAS, by making a concerted effort to provide the region's citizens with additional fish and wildlife habitat education, incentive, restoration and willing-seller property acquisition programs the region can potentially make substantial progress toward improving the quality and quantity of its fish and wildlife habitat; and

WHEREAS, Metro, local governments, and the citizens of the region should make such a concerted effort to meet the goals of the Vision Statement using non-regulatory strategies, and our progress toward meeting those goals should be measured, before local governments are required to comply with any new rules or regulations; now therefore,

BE IT RESOLVED that the Metro Council hereby directs the Chief Operating Officer to develop a fish and wildlife habitat protection and restoration program consistent with the following provisions:

1. Metro's Program Shall Rely Primarily on Education, Incentive, Restoration and Acquisition Programs

Metro, other government agencies and volunteer-based non-governmental organizations across the region already have in place extensive education, restoration and acquisition programs designed to protect and enhance the quality and quantity of well-functioning fish and wildlife habitat. Metro's parks and solid waste and recycling departments and the Oregon Zoo, for example, have already developed education programs to teach individuals about fish and wildlife habitat, water quality, natural gardening, and what we all can do to improve fish and wildlife habitat. Many local governments (e.g. Portland's Bureau of Environmental Services), special districts (e.g. Clean Water Services in the Tualatin Basin), and non-governmental organizations (e.g. Friends of Trees) already engage in extensive natural area restoration programs and

neighborhood tree planting programs that improve habitat. Metro, local governments, and non-governmental organizations (e.g. the Wetlands Conservancy) are all engaged in willing-seller land acquisition programs designed to purchase, preserve, and restore the region's highest-quality fish and wildlife habitat. Many of these efforts only take place thanks to the strong support of the region's private businesses and the efforts of many individuals. The region's vision of protecting and restoring a "continuous ecologically viable streamside corridor system" will only be achieved by harnessing the collective power of regional and local governments, non-profits, citizen volunteers, and private business to expand these programs. Such an effort should include:

a. Education and Incentive Programs

Metro's program shall be focused, first and foremost, on creating citizen education and incentive programs to help the citizens of the region voluntarily make the best choices for the protection and enhancement of fish and wildlife habitat. In addition, existing incentive programs that have not yet been implemented at the local level, such as Oregon's riparian and wildlife habitat property tax incentive programs that are ready for use by local governments, shall be identified and efforts made to ensure that such programs are available to, and used by, the citizens of the region.

b. A Regional Habitat Acquisition and Restoration Program

The Metro Council shall develop, and take before the voters for approval no later than the general election to be held in November 2006, a fish and wildlife property acquisition and restoration bond measure to purchase from willing sellers those properties, or conservation easements on those properties, that are deemed to be of the greatest ecological importance for fish and wildlife habitat, and to fund habitat restoration efforts that could provide even higher quality habitat.

2. Development of Local Program Performance Standards and Timeline for Compliance

The regional fish and wildlife habitat protection and restoration program shall establish local program performance standards to be achieved by the local fish and wildlife habitat protection and restoration efforts adopted by local jurisdictions in the region. Local jurisdictions will be required to show that their programs will meet the local program performance standards, and Metro shall make such local program performance standards as clear and objective as possible to provide local governments with a clear understanding of what programs will be sufficient to meet such standards. For example, such standards could include calculations of the amount of habitat that is protected through public ownership, a tree protection ordinance, regulatory buffers, easements, or other tools, and an assessment of the potential to minimize or mitigate impacts to fish and wildlife habitat through the use of low-impact, habitat friendly design approaches. Local governments will have the option of retaining their existing programs, developing their own new programs, or using a model program approach to be developed by Metro. Local program performance standards will be broad and flexible enough to allow for local programs to take very different approaches, and Metro shall review and give equal credence to all approaches when determining whether local governments are in substantial compliance with those standards. The model program developed by Metro shall be based on the use of best management practices for low-impact, habitat-friendly, environmentally sensitive land development. If the fish and wildlife property acquisition and restoration bond measure described in paragraph 1(b) of this resolution is approved by the voters of the region, then local governments shall be required to be in compliance with the local program performance standards no later than June 1, 2012, subject to the provisions of paragraph 3(a) of this resolution. If the fish and wildlife property acquisition

and restoration bond measure described in paragraph 1(b) of this resolution is not approved by the voters of the region, or if it is not put on the ballot for voter approval by November 2006, then local governments shall be required to be in compliance with the local program performance standards no later than June 1, 2010, subject to the provisions of paragraph 3(b) of this resolution.

3. Regional Outcome Measures and Metro Monitoring of Habitat Conditions

Metro shall develop regional outcome measures to evaluate the region's progress toward meeting the vision of conserving, protecting and restoring fish and wildlife habitat in the region. Upon Metro's adoption of a fish and wildlife habitat protection and restoration program, Metro shall begin immediate implementation of the non-regulatory program components described in paragraph 2, above, and paragraph 5, below. If the fish and wildlife property acquisition and restoration bond measure described in paragraph 1(b) of this resolution is approved by the voters of the region, then the provisions of paragraph 3(a) of this resolution shall be effective. If the fish and wildlife property acquisition and restoration bond measure described in paragraph 1(b) of this resolution is not approved by the voters of the region, or if it is not put on the ballot for voter approval by November 2006, then the provisions of paragraph 3(b) of this resolution shall be effective.

a. Not later than the second anniversary of the effective date of Metro's Program to Achieve Goal 5, and each anniversary thereafter until, and including, such anniversary in 2009, the Chief Operating Officer shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Not later than March 1, 2010, the Chief Operating Officer also shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Such report shall include a new analysis of habitat inventory in the region, using the same methodological approaches used to create the habitat inventory adopted by the Metro Council in Resolution No. 02-3218A, but allowing for the use of analytic and data improvements developed in the interim. The Metro Council shall hold at least three public hearings to review and consider the Chief Operating Officer's 2010 report. Not later than June 1, 2010, the Metro Council may adopt an ordinance to extend the time by which local governments are required to comply with the local program performance standards if the Metro Council concludes that the region has made substantial progress toward achieving the regional outcome measures described above.

b. Not later than the second anniversary of the effective date of Metro's Program to Achieve Goal 5, and each anniversary thereafter until, and including, such anniversary in 2007, the Chief Operating Officer shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Not later than March 1, 2008, the Chief Operating Officer also shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Such report shall include a new analysis of habitat inventory in the region, using the same methodological approaches used to create the habitat inventory adopted by the Metro Council in Resolution No. 02-3218A, but allowing for the use of analytic and data improvements developed in the interim. The Metro Council shall hold at least three public hearings to review and consider the Chief Operating Officer's 2008 report. Not later than June 1, 2008, the Metro Council may adopt an ordinance to extend the time by which local governments are required to comply with the local program performance standards if the Metro Council concludes that the region has made substantial progress toward achieving the regional outcome measures described above.

4. Local Governments to Prepare Plans to Meet Regional Outcome Measures

Local governments shall prepare plans demonstrating how they will meet the regional outcome measures described in paragraph 3 of this resolution. Not later than the second anniversary of the effective date of Metro's Program to Achieve Goal 5, local governments shall submit such plans to Metro for review.

5. Metro Technical Assistance to Local Governments

To help the region meet the regional outcome measures, as Metro implements the non-regulatory approaches described in paragraph (2), above, and as local governments develop plans to demonstrate how they will meet the regional outcome measures as described in paragraph (4), above, Metro shall provide technical assistance to local governments to help them develop and improve their local fish and wildlife habitat protection and restoration programs. Such technical assistance may include providing information about alternative low impact development practices, scientific analysis of local habitat conditions, the collection, organization and use of geographic information system data and mapping technologies, development of educational information and curricula, and review of local land use codes to identify current barriers to development approaches that benefit fish and wildlife habitat and potential modifications to benefit fish and wildlife habitat.

6. This Resolution is Not a Final Action

This resolution is not a final action. The Metro Council's action in this resolution is not a final action on an ESEE analysis, a final action on whether and where to allow, limit, or prohibit conflicting uses on regionally significant habitat and impact areas, or a final action to protect regionally significant habitat through OAR 660-023-0050 (Programs to Achieve Goal 5).

ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney