

MINUTES OF THE METRO COUNCIL MEETING

Thursday, December 9, 2004
Metro Council Chamber

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

Councilors Absent:

Council President Bragdon convened the Regular Council Meeting at 2:02 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

There were none.

3. GFOA ACCOUNTING AWARD

Bill Stringer, Chief Financial Officer, said for the 12th year in a row, the Government Finance Office of Accounting has recognized the Metro Accounting Department for its outstanding efforts. He presented the award to Don Cox and Karla Lenox

4. CONSENT AGENDA

4.1 Consideration of minutes of the December 2, 2004 Regular Council Meetings.

Motion:

Councilor Hosticka moved to adopt the meeting minutes of the December 2, 2004 Regular Metro Council.
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Vote:

Councilors Burkholder, Monroe, Park, Newman, and Hosticka voted in support of the motion. The vote was 5 aye, the motion passed with Council McLain absent from the vote and Council President Bragdon abstaining from the vote.
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5. ORDINANCES – SECOND READING

5.1 **Ordinance No. 04-1064**, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule Recognizing the Transfer of \$504,000 From Metro's General Fund Tourism Opportunity and Competitiveness Account to MERC Pooled Capital Fund, Capital Outlay and Transferring \$150,000 From MERC Pooled Capital Fund Contingency to MERC Pool Capital Fund, Capital Outlay; and Declaring an Emergency.

Motion:	Councilor Park moved to adopt Ordinance No. 04-1064.
Seconded:	Councilor Hosticka seconded the motion

Councilor Park said the purpose of this ordinance was to take the necessary budgetary action to implement the MERC Commission’s recommendation for use of the Metro General Fund Tourism and Opportunity Contingency Fund (MTOCA), as represented in Exhibit C of the ordinance. The MERC Commission was recommending that these funds be used to obtain official green building (LEED) certification for the Oregon Convention Center. LEED certification would enhance the marketability of the convention center. The complete project was expected to cost \$1,378,000, broken down as follows: \$504,000 from MTOCA, \$150,000 from MERC pooled capital contingency (reimbursed by Business Energy Tax Credits) and \$850,000 in intra fund loan from Expo’s fund balance.

Council President Bragdon opened a public hearing on Ordinance No. 04-1064. No one came forward. Council President Bragdon closed the public hearing.

Vote:

Councilors Park, Hosticka, Burkholder, Monroe, Newman and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed with Councilor McLain absent from the vote.

5.2 **Ordinance No. 04-1065**, For the Purpose of Amending Chapter 2.04 of the Metro Code Relating to Public Contracting.

Motion:	Councilor Monroe moved to adopt Ordinance No. 04-1065.
Seconded:	Councilor Newman seconded the motion

Councilor Monroe said the 2003 Oregon Legislature enacted a major revision to public contracting law, which will take effect March 1, 2005. The Office of Metro Attorney and Metro Contracts Manager reviewed Metro Code and prepared this ordinance to bring Metro Code into legal symmetry with State law and to adapt to Metro business changes in the last nine years

There were five major changes: The proposal continued the current policy choice of opting out of state contracting rules, the new law substantially changed the dollar thresholds for informal quotations and formal bids (changed threshold for formal bid requirement from \$50,000 to \$150,000). On November 16, 2004 Council informally agreed to set the Metro level at \$100,000, if an agency used prequalification in bidding, the Contract Review Board could hear appeals from disqualified vendors, it incorporated state law purchasing changes relating to procurement of recycled goods, and Metro Contract Review Board had the power to grant “exemptions” for specific procurements that were not required to be procured through competitive bids or proposals. He spoke to budget impacts: there was possible annual budgetary savings of up to \$35,000 by eliminating staff time and processing costs for procurements less than \$100,000. He urged support.

Motion to amend:	Councilor Monroe moved to include an emergency clause for Ordinance No. 04-1065.
Seconded:	Councilor Hosticka seconded the motion

Councilor Monroe explained the need for an emergency clause.

Vote to amend:

Councilors Park, Hosticka, Burkholder, Monroe, McLain, Newman and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

Council President Bragdon opened a public hearing on Ordinance No. 04-1065. No one came forward. Council President Bragdon closed the public hearing.

Vote on the main motion:

Councilors Park, Hosticka, Burkholder, Monroe, McLain, Newman and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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5.3 **Ordinance No. 04-1066**, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule Transferring \$62,280 From the General Fund Contingency to the Zoo Operating Fund Materials and Services For Completion of Capital Maintenance Projects; and Declaring an Emergency.

Motion:	Councilor Monroe moved to adopt Ordinance No. 04-1066.
Seconded:	Councilor McLain seconded the motion

Councilor Monroe said the Oregon Zoo received accreditation from the Aquarium and Zoological Association in September 2004. During this process, the Oregon Zoo was required to develop a plan for improvements to some of the older exhibits. The required improvements would cost \$65,950. In June 2004 the Council approved an amendment providing the opportunity for Council consideration of funding for Zoo capital maintenance or renewal and replacement projects to be paid for by a transfer from the General Fund, using excise tax proceeds generated from the Winged Wonders exhibit and the Simulator attraction. The amount of excise tax proceeds from these two attractions collected in FY 2003-04 were \$62,280, so that was the amount that this ordinance would authorize to transfer.

Councilor McLain supported this budget amendment. She indicated we needed to take care of maintenance issues. She appreciated staff working on this issue.

Council President Bragdon opened a public hearing on Ordinance No. 04-1066. No one came forward. Council President Bragdon closed the public hearing.

Councilor Monroe spoke to tapping additional excise taxes. This revenue came from that fund. He urged support.

Vote:

Councilors Park, Hosticka, Burkholder, Monroe, McLain, Newman and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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5.4 Removed from the agenda.

5.5 **Ordinance No. 04-1068**, For the Purpose of Amending the FY 2004-05 Budget and Appropriations Schedule, Recognizing \$200,000 in Grant Funds and Increasing Capital Outlay in the Zoo Operating Fund, Amending the FY 2004-05 Through FY 2008-09 Capital Improvement Plan For Completion of Storm Water Handling Projects; and Declaring an Emergency.

Motion:	Councilor Monroe moved to adopt Ordinance No. 04-1068.
Seconded:	Councilor Newman seconded the motion

Councilor Monroe said the Oregon Zoo staff was working with the City of Portland Bureau of Environmental Services (BES) to identify innovative storm water handling projects to be constructed at the Zoo. The projects would be completely funded through a \$200,000 grant from the Environmental Protection Agency with pass-through funds to BES. Projects selected included installation of bioswales in the Washington Park Parking Lot, installation of a storm water treatment facility near the concert lawn, disconnecting downspouts on the viewing kiosks adjacent to the elephant front yard. If funds permitted, possible projects in the Kongo ranger station and Sankuru Trader areas would also be explored. He urged support.

Council President Bragdon opened a public hearing on Ordinance No. 04-1068. No one came forward. Council President Bragdon closed the public hearing.

Vote:

Councilors Park, Newman, Hosticka, Burkholder, McLain, Monroe and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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6. RESOLUTIONS

6.1 **Resolution No. 04-3512**, For the Purpose of Providing Direction to Metro Concerning Bills before the 2005 Oregon Legislature.

Motion:	Councilor Hosticka moved to adopt Resolution No. 04-3512.
Seconded:	Councilor Newman seconded the motion

Councilor Hosticka introduced Resolution No. 04-3512.

Motion:	Councilor Hosticka moved to amend Resolution No. 04-3512 by striking the annexation language.
Seconded:	Councilor Monroe seconded the motion

Councilor Hosticka explained his amendment. Councilor Newman said he would not support this amendment and explained his reason. Councilor McLain said she felt that there needed to be as many tools as possible. She did want to honor Councilor Hosticka's request. She suggested a work session on this issue. She would vote in favor of the resolution but not the amendment.

Vote to amend:

Councilors Park, Newman, Burkholder, McLain, Monroe and Council President Bragdon voted against the motion, Councilor Hosticka voted in support of the motion. The vote was 6 aye/1 nay, the motion failed.

Vote:

Councilors Park, Newman, Burkholder, McLain, Monroe and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed with Councilor Hosticka abstaining from the vote.

6.2 **Resolution No. 04-3514**, For the Purpose of Authorizing the Chief Operating Officer to Issue a Non-System License to AGG Enterprises, Inc. for Delivery Of Source Separated Pre-Consumer Food Waste to the Nature's Needs Facility for Composting.

Motion:	Councilor Monroe moved to adopt Resolution No. 04-3514.
Seconded:	Councilor Hosticka seconded the motion

Councilor Monroe introduced the resolution and said this resolution would grant AGG authority to take up to 15,000 tons of source-separated vegetative food waste (i.e., pre-consumer) to Nature’s Needs for composting. AGG had already been doing this for a couple of years. Changes to Metro Code in October 2003 clarified that this type of material needed a non-system license (NSL) if it were going out of the region for processing. Because this material was being composted and not disposed of in a landfill, it did not count against Metro’s obligation under the disposal contract to direct 90% of putrescible solid wastes to a Waste Management landfill. He recommended approval of this resolution.

Councilor McLain said this facility was in the area she represented. She had visited the facility and felt they were doing a very good job. She supported the license.

Vote:

Councilors Park, Newman, Hosticka, Burkholder, McLain, Monroe and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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6.3 Resolution No. 04-3518, For the Purpose of Directing Staff to Facilitate the Completion of Concept Planning For Area 93 By Resolving Outstanding Issues of Governance, Provision of Services and Cooperation Between Affected Parties.

Motion:	Councilor Monroe moved to adopt Resolution No. 04-3518.
Seconded:	Councilor McLain seconded the motion

Councilor Monroe said a portion of study Area 93 was included in the 2002 Urban Growth Boundary (UGB) expansion with a requirement that Title 11 planning be completed by March 2005. Multnomah County had raised concerns about Title 11 planning due to the fact that the remaining portion of the study area (the eastern portion, 224 net acres) impacted how Area 93 would be planned and services would be provided. The eastern portion of Area 93 left out of the UGB created a gap for the City of Portland, who would most likely annex and urbanize this area – it was not contiguous to the City’s jurisdictional boundary. In response to his request that Multnomah County complete the Title 11 concept planning within the 2 year period, the Multnomah County Board of Commissioners requested that Metro: expand the UGB to include the eastern portion of Area 93, resolve governance issues prior to planning, and convene the interested parties of Multnomah County, City of Portland, City of Beaverton, and Washington County. Inclusion of the eastern portion of Area 93 would have a negligible impact on the overall supply of residential land in the UGB and would resolve the governance and servicing issues that were impeding urbanization of the site. This resolution instructed staff to prepare the ordinance and complete the work to bring this area into the UGB. He urged support. He noted Lydia Neill’s involvement. Council President Bragdon said this was direction to staff to prepare an ordinance. He asked about the remand. Dan Cooper, Metro Attorney, advised that this did respond to the industrial land remand. As a submission to Land Conservation and Development Commission, it should go to them as a separate vehicle. He suggested keeping it on the same timeline.

Council President Bragdon opened a public hearing.

James Crawford, 44133 NW Cedar Canyon Banks OR 97106 said he spearheaded bringing this area into the Urban Growth Boundary (UGB) when it was up for consideration. Area 93 was a high priority for Metro staff to bring into the UGB. Metro wisely decided to follow state law and include it in the UGB. He spoke to governance issues. He felt the area had been an orphan from Multnomah County. Doing this UGB expansion was the best way to go but suggested the need for some intergovernmental agreement (IGA). He spoke to his own acreage and supporting his neighbors. He urged Metro to get this area planned.

Gerold Harris, 12020 NW Laidlaw Rd Portland OR 97229 urged Metro Council to follow through on its original intent to get the planning completed. He talked about services.

Richard Reese, 12301 NW Laidlaw Portland OR 97229 said they had lived in the area for 37 years. The area fit the mission of Metro. They had watched prime farmland being committed to housing. He spoke to the parcels he owned and the possibility of buildable lots. He said Multnomah County had indicated they had no interest in planning this area and had recommended taking this area out of the UGB. He talked about the City of Portland and their initial objection to bringing this area in. He was pleased that Metro was getting involved in the situation. He spoke to timing.

Ed Abrahamson 1600 SE 190th Portland OR 97233 read a letter into the record (a copy of which is included in the meeting packet from Multnomah County as an attachment to the resolution).

Councilor Hosticka asked Mr. Abrahamson about the two additional steps he had referred to in the letter. He asked if Multnomah County was going to do the other two steps. Mr. Abrahamson said this area was an island. They had no ability to provide services in the area. Councilor Hosticka said there was a lot of urbanized area. Council President Bragdon clarified Mr. Abrahamson's comment about the area being an island.

Alan Deharpport, 6155 SW Chestnut Ave Beaverton OR 97005 said he was in support of the resolution. He felt IGAs could be formed but felt that the area should be master planned. He asked about the average acreage to be master planned. He asked about Metro's law suit and which court was hearing the suit from the City of West Linn. He also asked how much influence would the owners have in master planning. Council President Bragdon said Lydia Neill was the lead staff person on this issue. He believed the IGA would be with the City of Portland. Councilor Monroe clarified that Metro did not do zoning. The master plan would be conducted by the City of Portland. He explained what the master plan would do. Mr. Deharpport asked how much involvement would the landowners have? Councilor Monroe said citizen input was always solicited in terms of the planning. Mr. Cooper said the Oregon Court of Appeals had scheduled oral arguments for March. There was motion to expedite the process. At this point it would be heard no later than March.

Council President Bragdon closed the public hearing.

Councilor Hosticka spoke to the resolution and issues around concept planning. Councilor Newman said he shared Councilor Monroe frustration with the lack of concept planning in several areas. He suggested a conversation with MPAC. He would support the resolution. He said this did not necessarily mean he would support an ordinance. Councilor McLain explained why she was supporting the resolution. It was important to have this process go forward. She explained why they had originally not brought in the "green" area (she was referring to a map provided by staff). Councilor Park said he would be supporting the resolution but suggested that he may not support the ordinance. He said the one entity they had not heard from was the City of

Portland. He talked about Site 92. The Council looked at the most productive piece of this area in 2002. Councilor Monroe appreciated the fact that Multnomah County was willing to meet with him as a way of getting something started. He also appreciated the fact that the City of Portland also attended the meeting. He was concerned that two years ago by unanimous vote Area 93 was brought in, it was important that we do something. Metro could provide that vehicle.

Vote:

Councilors Park, Newman, Hosticka, Burkholder, McLain, Monroe and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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6.4 **Resolution No. 04-3519**, For the Purpose of Amending an Easement Granted To Miramont Pointe For Non-Park Use through Property Owned By Metro And the North Clackamas Parks and Recreation District on Mt. Talbert.

Motion:	Councilor Newman moved to adopt Resolution No. 04-3519.
Seconded:	Councilor Hosticka seconded the motion

Councilor Newman said Mt. Talbert was one of the original gems of the open space bond measure. North Clackamas Parks and Recreation had also chipped in and would help operate that area. He spoke to the easement amendment request. It was a technical amendment and allowed Metro to go forward with our plans. Councilor Burkholder asked for a better description of access to the property. Jim Desmond, Metro Parks and Greenspaces Director, said Miramonte was building a driveway and parking lot. The parking lot would also serve as parking to our property. There would also be additional access to the trailhead. Councilor Burkholder asked about parking lot access to our land. Mr. Desmond responded to his question. Councilor Newman urged support for the resolution.

Vote:

Councilors Park, Newman, Hosticka, Burkholder, McLain, Monroe and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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6.5 **Resolution No. 04-3506**, For the Purpose of Directing the 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, Performance-Based Regulations.

Councilor Park reintroduced the item. Citizens of the Metro region valued living in a place that provided green spaces for people and for fish and wildlife habitat. For over eight years Metro had engaged the public and our local partners in an extensive effort to protect the natural habitat in our region but we had been unable to adopt measures to provide certainty that habitat would actually be protected.

Council President David Bragdon and he co-sponsored this resolution to move us in a new and much needed direction. The adoption by voters of Measure 37 in November provided even greater reason to redefine our approach to habitat protection by utilizing tools that were effective and feasible for local jurisdictions and the region.

The region's fixation on how to stop bad things from happening to fish and wildlife habitat needed to change to how to inspire good things to happen to fish and wildlife habitat. A program leading with regulations did not inspire, it only kept the region divided. A program that regulated

the activities of the few did not inspire the many to help. A program that did not lead would not achieve the desired outcomes of our region. 1) Resolution 04-3506 acknowledged the good faith and efforts of Oregonians in environmental protections. The very fact that our region was having this debate on how not whether to protect and restore the wildlife habitat areas should be applauded. 2) we recognized the hard work and efforts of our local partners in their separate labors for habitat protections. This resolution leveraged those labors by providing the overarching framework of a region wide cohesive effort and to provide model programs for local communities to adopt if so desired or needed to achieve equivalence. 3) The relationship between a regional body and local jurisdictions was at its best when it was a partnership instead of that of a regulator and those regulated. As such, this resolution intentionally repositions Metro as a partner to local governments and not a regulator to the region. 4) The resolution also expressed our intent to sponsor a ballot measure to enable acquisitions of valuable habitat areas from willing sellers, one of several tools for habitat protection. Metro had proven to be a good steward of public investment, returning over 8000 acres of green space from the 1995 bond measure – over 2000 more acres than promised. 5) Instead of relying on imposing new region-wide regulations, our intent would be to favor performance standards and a range of best management practices that local governments would have latitude in meeting. 6) This resolution also recognized the immediacy of voluntary programs and the limitation of regulations that by their very nature required a delayed and perhaps uneven implementation. Metro, as part of this resolution adopted, would immediately begin plans to meet the regional outcome measures in the form of technical assistance and providing information to local governments to help them develop and improve their local fish and wildlife habitat 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.

This did not mean rules were not a necessary part of any habitat program. Regulations had played an important role as one tool of environmental protection. We recognized the strides that had been made in some localities during the many years that this matter had been pending before the Metro Council. Should local regulations and enhanced non-regulatory measures fail to meet regional performance standards, this resolution reserved the option for regulations. Metro would periodically assess the region's progress and if outcomes were not achieved by 2010, we would impose regional regulatory measures by 2012. This "regulatory backstop" would provide added impetus for governments and the development industry to make voluntary approaches and locally adopted regulatory programs a success.

He urged the passage of this resolution to move the region to a new day, a fresh start and to inspire the citizens of the region to start working immediately on ways to improve fish and wildlife habitat. He noted an amendment that he would be moving concerning Ballot Measure 37.

Council President Bragdon said Metro Policy Advisory Committee (MPAC) had met last night and made recommendations to the resolution.

Andy Cotugno, Planning Director, explained the MPAC recommendation and amendments (a copy of the recommendation is included in the meeting record). Council President Bragdon clarified an issue on future boundary extension. Mr. Cotugno responded to his request for clarification.

Motion to amend:	Councilor Newman moved to amend Resolution No. 04-3506 with the MPAC amendments (a copy is included in the record).
Seconded:	Councilor McLain seconded the motion

Councilor Newman said he appreciated the MPAC discussion. They also praised Councilor Park and Council President Bragdon for their initial effort. They were looking for common ground. There were concerns about Class 1 and 2 riparian areas. They also wanted to get the job done. The main direction was to move forward with the program in Class 1 and 2 riparian areas. It changed the Allow Limit and Protect (ALP) classification. He clarified that this was a comprehensive approach focusing on Class 1 and 2 regulatory approaches but using a non-regulatory approach for other areas. It also spelled out a specific date for a Metro acquisition bond measure. It would be the intent of this Council to have a local share as well. Those dollars would be held until the jurisdiction had implemented their Goal 5 program. The MPAC vote was a decisive vote. He urged approval of the MPAC amendments. Councilor Burkholder asked if this was a substitution or an amendment. Council President Bragdon clarified the amendment. Councilor Burkholder suggested leaving both the resolution as drafted as well as the amended resolution on the table. Council President Bragdon explained why he was proceeding. Councilor Burkholder said he would be voting against the amendments because he had not had time to review the changes. Councilor McLain said she would be voting in favor of the amendment. She felt they had thoroughly discussed the issues in the amendments. Councilor Park understood Councilor Burkholder's concerns. He explained the original resolution. He felt the amendments lost the flavor of a non-regulatory approach. He wouldn't be supporting the amendment. Councilor Hosticka said the intent of the amendment was to limit a regulatory program to the highest value areas.

Council Newman stated what his preference was. He said he would be open to any alternatives that would achieve the same method.

Councilor Hosticka reiterated that this would not be a final action.

Dan Cooper clarified that this was not the final decision. It came when the Council adopted a regulatory program and submitted it to DLC. Councilor Hosticka said he wanted to be sure when they voted that they were clear on the intent. Council President Bragdon said he felt that the last three discussions at MPAC had been about the path needing to change. He felt that there were parts of Councilor Newman's amendment that he agreed with but felt there were other ways to achieve that amendment. He spoke to the change in direction. He felt Councilor Newman's amendment was a further change in direction. A couple of the changes that this amendment made related to the inventory. In effect, this amendment shrank the acreage being protected. It changed the ALP. It may also shrink staffing requirements. He explained the three difference of this amendment to the original resolution. He felt this contemplated a change in the role of Metro. In summary he would be voting against the amendment.

Councilor Newman clarified that this amendment changed the treatment but didn't reduce the acreage. Councilor Monroe said when Council President Bragdon and Councilor Park brought forward the resolution he felt it was a breath of fresh air. He felt Measure 37 changed everything. Local governments wanted to have the Goal 5 issue completed. He heard from the business community that they wanted certainty. He was concerned that original resolution continued uncertainty. MPAC's proposal urged getting the job done. He wanted to get it right.

Councilor Park asked Councilor Hosticka about other ways. Councilor Hosticka said the issue of

the ALP decision was a question of looking at a matrix that had areas defined as strictly, lightly limit and ...tape 2 side A, 8 minutes into tape.

Motion to amend:	Councilor Burkholder moved to amend the amendment.
Seconded:	Councilor Park seconded the motion

Councilor Burkholder explained his amendment to the amendment. Mr. Cooper said as a technicality he should also be amending footnote 8. Councilor Burkholder accepted the amended language from Mr. Cooper. Councilor Hosticka said if they started amending the amendment it got confusing. He suggested a better process.

Council President Bragdon asked if Councilor Burkholder would withdraw his amendment. Councilor Burkholder clarified why he made the amendment. Council President Bragdon said he agreed with Councilor Hosticka in dealing with the MPAC amendment. Councilor Newman agreed with Councilors Hosticka and Council President Bragdon. He spoke to the conversations at MPAC. He said he would be voting no on the amendment. Councilor McLain said she would be voting no on the amendment but felt that Councilor Burkholder's concerns should be addressed in the program stage. Councilor Park said the trouble they were having was that they had three measures out there. There were two distinct approaches on the table. He thought they should entertain the public hearing at this point. Council President Bragdon suggested confining this debate to the amendment to the amendment. Councilor Monroe clarified the parliamentary procedures for amending the amendment. Councilor Newman said this was not an attempt to closing any doors.

Vote to amend the amendment:

Councilors Newman, Hosticka, McLain, Monroe and Council President Bragdon voted against the motion. The vote was 5 aye/1 nay/1 abstain, the motion failed with Councilor Burkholder voting in support and Councilor Park abstaining from the vote.
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Councilor Newman said MPAC wanted to find some solution. There was Goal 5 fatigue. This had been going on for a long time. MPAC felt this got the job done. He urged support.

Vote to amend:

Councilors Newman, Hosticka, McLain, and Monroe voted in support of the motion. The vote was 4 aye/3 nay, the motion passed with Councilors Burkholder, Park and Council President Bragdon voting against the amendment.
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Motion to amend:	Councilor Bragdon moved to amend Resolution No. 04-3506A concerning Measure 37.
Seconded:	Councilor Park seconded the motion

Council President Bragdon explained the amendment. Mr. Cooper suggested a friendly amendment to Council President Bragdon's amendment. Councilor McLain wanted clarification on this amendment. Mr. Cooper responded to her question. Council President Bragdon said this made an important statement about Measure 37. Councilor Hosticka said he would be supporting the amendment because it recognized the intent of the public. Council President Bragdon said it provided direction to staff.

Vote to amend:

Councilors Park, Newman, Hosticka, Burkholder, McLain, Monroe and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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Council President Bragdon opened a public hearing on Resolution No. 04-3506 as amended.

Jim Labbe, Audubon Society of Portland, 5151 NW Cornell Rd Portland OR 97217 pointed out where this started. He spoke to the history of the conservation of wildlife. He reminded that Metro was their representative government. He respected the time they had put into this. He believed the amendments that would move us forward most positively were the Hosticka amendment, the Nature Friendly Neighborhood amendment. He felt a lot had been achieved with this program. He felt this was going to be difficult to come up with an ordinance by this spring. He suggested taking more time.

Loren Albert, MSID, 3203 SE Woodstock Blvd. Portland OR 97202, read her testimony into the record (a copy of which is included in the record). She did indicate that the amended resolution was better. She asked students to standup in support of the environment (6 students stood up).

Tom Herman, 14110 SE Linden Lane, Milwaukie OR 97267 said he had a piece of property that they had in their family for 80 years. He said the county had taken the property away from them. He suggested not putting a green space over people's property. He spoke to the value of trees. The land was worth more with trees on it but what Council did may make a difference down the road.

Jon Biemer, 7521 SE Woodward St Portland OR said he thought regulation had good and bad sides to it. He said there was agreement on protection but not on incentives. In order for incentives to work you needed leadership, a plan to put that together. He felt Council was rushing. He urged taking the time it took to get this room to support the program. He provided his testimony (a copy of which is included in the record).

Stephen Kafoury, Oregon Chapter of the Wildlife Society, 1207 SW 6th Portland OR 97204 summarized a letter from Richard Schmitz, President of the Society (a copy of which is included in the meeting record).

Sue Marshall, Tualatin Riverkeepers, 16507 SW Roy Rodgers, Sherwood, OR 97140 summarized her letter (a copy of which is included in the meeting record). They supported Councilor Hosticka's Nature Friendly Neighborhood amendment. She spoke to the other amendments. She urged Council to amend the Newman amendment to include the uplands. They appreciated elevating the acquisition bond measure.

Jonathan Schlueter, Westside Economic Alliance 10200 SW Nimbus Ave, Portland OR 97223 spoke about those he represented. They had clear interest in environmental livability of region. They had voiced their support of Resolution No. 04-3506. He spoke to the challenges that faced their community. He felt that acquisition was a positive move. They had lost an opportunity by the amended resolution. Councilor Newman reminded him that the local jurisdictions in Mr. Schlueter's area had supported the amendment.

William Bannes, PO Box 2373 Hillsboro OR 97124, said the question was which areas we were going to protect and which areas were we not going to protect. He said the important thing was livability. He thanked Councilor Newman for his amendment. His amendment represented MPAC's and local jurisdiction's input. This amendment would get us further down the road.

Zephyr Moore, 13665 SW Larch Place Beaverton OR 97007 included a copy of a letter to state legislators. He urged helping the planet live better. He felt we needed as much vegetation as possible. It was a good idea to preserve the land. He suggested getting rid of English Ivy. He talked about proposing removing ivy before people could sell their land. Councilor McLain said Metro Council couldn't make a policy to mandate removal of land. Mr. Moore asked what action should he take? Council President Bragdon suggested the state legislature.

Wendy Stevens, 731 N. Dekum St. Portland OR 97217 provided a copy of her talking points (a copy of which is included in the record).

Lise Glancy Port of Portland 121 NW Everett Portland OR said she came here today to support Councilor Park and Council President Bragdon's resolution. She felt the current direction gave them pause. They had done an analysis of Councilor Newman's amended resolution. They were concerned about the Port of Portland's properties. Their analysis showed an additional 450 acres would be impacted. Councilor Newman said the amendment shrank the amount of acreage. Ms. Glancy said they were committed to working with Metro.

Carl Axelson, 11405 SW 33rd Portland OR 97219 provided a letter. He spoke to the amended resolution. He revised the fundamental goal, which was to protect habitat. It was not to avoid risk or reduce claims. The goal was to improve and protect habitat. He urged Council to continue to listen. He suggested directing staff to leave regulation on the table and design these regulations so that they were regionally appropriate.

Margaret Jennings, 3106 SW Gale Ave Portland OR 97239 opposed environmental regulation. Bringing regulation into her life caused her to react in a way that she had never reacted before. She said people were afraid of any kind of regulation. She said Measure 37 signaled us about the changing times. A great majority of the voters spoke to that signal. She felt further regulation created fear. She wondered if the benefit would be worth the resistance. She urged considering democracy and fairness.

Carolyn Krebs, 16925 Denney Ct., Lake Oswego, OR 97035 read her letter into the record (a copy of which is included in the meeting record).

Sabrina Gogol, 3641 SE Nehalem, Portland OR 97202 thanked Council for the opportunity to speak. She came with a prepared statement. She spoke to the impact of Measure 37. She argued that we could find common ground on these issues. There was not a direct tradeoff between regulation and democracy. She felt the public didn't have a full understanding of Measure 37. She urged Council to continue their regional mission to be a governing body to protect fish and wildlife habitat. She felt Measure 37 did not tie people's hands. She urged Council to continue with their mission. She supported Councilor Newman's amendment and Councilor Hosticka's proposal.

Mike Houck, Urban Greenspaces Institute, 2433 NW Quimby Portland OR 97210 provided his testimony. He said he felt Councilor Newman's amendment was an improvement.

Ann Gardner, Portland Business Alliance, 3200 NW Yeon, Portland OR 97296 did not testify

Teresa Huntsinger, CLF, 310 SW 4th Suite 612, Portland OR 97204 provided a letter but did not testify.

Gil Kelley, City of Portland, Bureau of Planning, 1900 SW 4th Ave Suite 4100 Portland OR 97201 said they had received a letter from Mayor Katz, which proceeded the amended proposal that was in front of us. It was consistent with the Goal5TAC recommendation. He felt the Council's pain but he reminded Metro of the good work the agency had done. He spoke to the history of Title 3, the inventory, and ESEE process. He felt where they got bogged down was in the program. They liked the performance-based program. He urged phasing. Focus on the Class 1 and 2 riparian in the first phase and then revisit the upland Class 3 areas in a future phase. He felt the upland habitat in some cases were just as significant as Class 1 and 2. He felt Class 1 and 2 would be compromised if they didn't take care of Class 3. He urged carrying the Class 3 area along. A regulatory backstop was important. It was also important to have local flexibility. He felt that Title 3 protected a large percentage of Class 1 and 2 areas. He encouraged reshaping the program into a phased program. As we were elevating the non-regulatory program asked staff to look at feasibility study of non-regulatory tools.

Tom Wolf, Trout Unlimited, 22875 NW Chestnut, Hillsboro OR 97124 did not testify.

Jane Leo, Portland Metro Association of Realtors, 5331 SW Macadam Ave Portland OR 97239 did not testify.

Susanna Wegner, 3203 SE Woodstock Portland OR 97202 did not testify.

Jessica Thompson, 3203 SE Woodstock Portland OR 97202 said she was a college student who studied biology. She supported Councilor Hosticka's amendment. She felt this was the best option. She said we should require local government to implement their Goal 5 programs by 2006. She also supported an acquisition bond measure. She shared some of her personal experiences living in California. She talked about a lake at Reed College. We needed more conservation. She thanked Council for the work they had already done. She was 19 and the Council was deciding her future. The world she was growing up in was scaring with global warming. She urged protecting all they could.

Travis Williams, Willamette Riverkeepers, 49 SE Clay Street Portland OR 97214 said he was a river keeper. The entire proposal had been a concern to them. He supported Mike Houck's comments. He had met with Councilors Park and Bragdon. He was concerned that landowners didn't understand the program. He said they all supported clean water and habitat. He had seen the change in the region. He supported Councilor Hosticka's effort with the nature friendly neighborhood proposal. They did have to deal with the uplands.

Craig Chisholm, 473 Second Lake Oswego 97034 read his testimony into the record.

Cindy Catto, AGC, 9450 SW Commercial Circle Wilsonville OR 97070 said the amended resolution was a mixed blessing. The business community liked certainty. She knew that her constituents would be disappointed. She was concerned about having regulations by 2007. They hoped that what had been established by local jurisdiction were regulations supported.

Councilor Newman clarified that 2007 had been eliminated.

Council President Bragdon closed the public hearing.

Councilor McLain thanked the public for sticking with them. These issues were always complicated. The work was never done. They were on to the next piece of work, which was the program piece. She had been at all of the MPAC discussions. They had had Metro Technical

Advisory Committee (MTAC) report to MPAC. She thanked City of Portland for their comments. Their MPAC partners looked at some of those recommendations and didn't agree with some. She felt all of the tools were still on the table. They had given direction to staff. They still had an opportunity to make refinements. She felt that the amended resolution had been touched by many of the councilors. She felt it really allowed for flexibility and allowed the local jurisdictions to continue with their program development. She acknowledged Clackamas County's efforts in bringing this forward. It allowed looking at outcomes. She would be working diligently to make sure they had the budget to allow staff to do the work. She would support the resolution as amended.

Councilor Hosticka said the timing of today's event was a lesson in how public policy was made. He said they hadn't reached consensus but a compromise. This was not the end but it was a step. Regardless of what happened to the resolution it had served a useful purpose. He spoke to fears. He had learned that everything looked bigger in the dark. When you let fear take over you will get more and more afraid. To get rid of the fear, you had to turn on the lights. Council did their work out in the open. It allowed everyone to see what was at stake, listen to the arguments and see how things move forward. You had to be willing to work to take what was possible to move a step forward.

Councilor Burkholder said he felt they had limited their ability to act. He felt the easy way out was taking the ALP out. He was intrigued by Councilors Park and Bragdon's resolution. It was a brave action to look at. The first fatal flaw was the elimination of ALP. He strongly supported scientific recommendations. The second fatal flaw was the removal of their intent to try to protect the areas they had been brought into the UGB in 2002. He understood that MPAC supported this but felt it was because it was the easy thing to do.

Councilor Newman said this was a political process. This got the process moving forward. The Council and MPAC were divided. This was an attempt to bring forward a compromise. Their job was to meld those thoughts.

Councilor Monroe said three months ago he met with the Board of Mt. Hood Community College because they were in the process of selling lands. They also had lands they wanted to develop. There was great uncertainty as to whether they could use this land to develop. This land became very important. The board wanted to know if they could use the land for industrial processes. He was unable to tell them. He felt with the action they were taking today provided certainty. He thanked Councilors Park and Bragdon for their initial recommendation. He especially thanked Councilor Newman who had shown real statesmanship. He felt it was an outstanding effort. It got us a long way down the road to economic certainty.

Council President Bragdon said he would also be voting yes. This did redirect the program. The program was in need of redirection. It also started to address some of the flaws in the original approach. They valued environment and economic. The question for him was what was the best way a regional body could guide the region. He felt this resolution had a lot of merit. The inventory of land shrank. It changed the ALP designation. If they adopted this, there would be an allow designation. Institutionally, internally, the dates provided certainty. This gave them a chance to move on to the things that they could do. This was an important part of managing the direction of the program. He thanked the Council for their debate.

Councilor Park said he appreciated the hard work by all of the councilors, local governments and the environmental community. He felt that what we had now was a non-regulatory approach. He felt this was going to create uncertainty. Two years ago he had suggested keeping voluntary

programs in the mix. He had also suggested doing regulation on the new areas that were coming into the UGB and non-regulation on the areas that were already inside the UGB. He felt we had lost an opportunity for the public to create something different. They were on a path to tell people what they couldn't do. People will support the right things for the right reasons. How you get there was the main point. He wouldn't be supporting this resolution and explained why.

Vote:

Councilors Newman, Hosticka, McLain, Monroe and Council President Bragdon voted in support of the motion. The vote was 5 aye/2 nay, the motion passed with Councilor Burkholder and Park opposing the resolution.

7. CHIEF OPERATING OFFICER COMMUNICATION

There was none.

8. COUNCILOR COMMUNICATION

Councilor Burkholder talked about the Springwater trail and its success. Councilor Park reminded that December 16th they would have a reception for the new Damascus City Council as well as the first presentation on the city on that day.

9. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:45 p.m.

Prepared by

Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF DECEMBER 9, 2004

Item	Topic	Doc Date	Document Description	Doc. Number
6.3	Letter	12/9/04	To: Metro Council From: Multnomah County Commissioners Re: Resolution No. 04-3518	120904c-01
6.5	Letter	12/9/04	To: Metro Council From: Sue Marshall, Executive Director, Tualatin Riverkeepers Re: comments on Resolution No. 04-3506, Fish and Wildlife Protection and Nature Friendly Neighborhood amendment	120904c-02
6.5	Testimony	12/9/04	To: Metro Council From: Jon Biemer Re: Resolution No. 04-3506, Fish and Wildlife Protection and Newman Amendment	120904c-03
6.5	Testimony	12/9/04	To: Metro Council From: Loren Albert Re: Resolution No. 04-3506, Fish and Wildlife Protection	120904c-04
6.5	Testimony	12/9/04	To: Metro Council From: Carl Axelsen Re: Resolution No 04-3506, Fish and Wildlife Protection	120904c-05
6.5	Testimony	12/9/04	To: Metro Council From: Wendy Stevens Re: Resolution No. 04-3506. Fish and Wildlife Protection and Hosticka's Nature Friendly Neighborhood amendment	120904c-06
6.5	Letter	12/6/04	To: Metro Council From: Richard Schmitz, The Wildlife Society Oregon Chapter Re: Resolution No. 04-3506, Fish and Wildlife Protection	120904c-07
6.5	Examples	11/26/04	To: Metro Council From: Jim Labbe, Audubon Society of Portland Re: Examples of Habitat Degradation and Loss from Urban Development	120904c-08
6.5	Letter	12/9/04	To: Metro Council From: Mike Houck, Executive Director Urban Greenspaces Institute Re: Resolution No. 04-3506 and Nature Friendly Neighborhood amendment	120904c-09
6.5	Testimony	12/9/04	To: Metro Council From: Teresa Huntsinger, Program Director Coalition for a Livable Future Re: Regional Fish and Wildlife Protection Program	120904c-10
6.5	Memo and proposed MPAC amendments	12/9/04	To: Metro Council From: Andy Cotugno, Planning Director Re: MPAC Recommendations on Resolution No. 04-3506	120904c-11