

## 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 8<sup>th</sup> 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](http://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 8<sup>th</sup>.

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:

<b>AGENDA ITEM</b>	<b>DOCUMENT DATE</b>	<b>DOCUMENT DESCRIPTION</b>	<b>DOCUMENT NO.</b>
N/A	11/17/04	Metro Policy Advisory Committee Meeting Schedule	111704-MPAC-01
<b>#6 Comments on the Governor's Task Force on Global Warming Report</b>	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
<b>#6 Comments on the Governor's Task Force on Global Warming Report</b>	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
<b>#7 Performance Measure Report Review</b>	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
<b>#7 Performance Measure Report Review</b>	November 2004	Draft 2004 Performance Measures Report	111704-MPAC-05
<b>#8 Goal 5</b>	11/11/04	Memorandum to Metro Councilors from Chris Deffebach re: Local compliance schedule for Goal 5	111704-MPAC-06