

METRO POLICY ADVISORY COMMITTEE MEETING RECORD

December 8, 2004 – 5:00 p.m.

Metro Regional Center, Council Chambers

**Committee Members Present:** Charles Becker, Nathalie Darcy, Rob Drake, Andy Duyck, Dave Fuller, Bernie Giusto, Judie Hammerstad, John Hartsock, Tom Imeson, Richard Kidd, Charlotte Lehan, Deanna Mueller-Crispin, Lisa Naito, Doug Neeley, Alice Norris, Wilda Parks, Larry Smith, Ted Wheeler

**Alternates Present:** Jack Hoffman, Laura Hudson, Bill Kennemer, Karen McKinney

**Also Present:** Bev Bookin, CREEC; Hal Bergsma, City of Beaverton; Ron Bunch, City of Gresham; Danielle Cowan, City of Wilsonville; Dan Drentlaw, City of Oregon City; Cindy Catto, AGC; Craig Dye, Clean Water Services; Meg Fernekees, DLCD; Gil Kelley, City of Portland; Jim Labbe, Audubon Society; Stephan Lashbrook, City of Lake Oswego; Irene Marvich, League of Women Voters; Leanne MacColl, League of Women Voters; Doug McClain, Clackamas County Planning; Greg Miller, AGC; Pat Ribellia, City of Hillsboro; Barbara Sach, City of Portland; Jonathan Schlueter, Westside Economic Alliance; Varner Seaman, SEIU; David Zagel, TriMet

**Metro Elected Officials Present:** Liaisons – David Bragdon, Council President; Carl Hosticka, Council District 3; Susan McLain, Council District 4; others: Rod Park, Council District 1; Brian Newman, Council District 2

**Metro Staff Present:** Kim Bardes, Dan Cooper, Andy Cotugno, Chris Deffebach, Paul Garrahan, Linnea Nelson, Gerry Uba

**1. INTRODUCTIONS**

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

**2. ANNOUNCEMENTS**

Judie Hammerstad resigned her member position on MPAC. She said that she would be the alternate to Jack Hoffman, City of Lake Oswego.

Bernie Giusto said that in the previous meeting there had been questions about rider-ship: rail versus bus. He provided a TriMet Status Report to the members, which he said he hoped would answer all their questions.

**3. CITIZEN COMMUNICATIONS**

There were none.

**4. CONSENT AGENDA**

Meeting Summary for November 10 & 17, 2004.

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| Motion: | Nathalie Darcy, Washington County Citizen, 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 there were several upcoming items for the Council agenda: 1) the LCDC remand on industrials lands, 2) the Performance Measures work was to go before Council by the end of 2004, 3) Measure 37 discussion, and 4) Metro's GIS functionality.

**6. NOMINATIONS OF OFFICERS FOR 2005 BRIEFING**

Chair Becker asked Dan Cooper to explain how MPAC should proceed with nominations since Gene Grant would not be chair in 2005.

Dan Cooper explained the process. He advised that all three positions would require an election in the January meeting.

Chair Becker asked Rob Drake to serve on the nominations committee with Lisa Naito and Tom Hughes.

Rob Drake said that they would be nominating Jack Hoffman as chair and Mayor Richard Kidd for 1<sup>st</sup> Vice Chair. He advised that they had not nominated anyone for 2<sup>nd</sup> Vice Chair as yet.

Chair Becker asked Lisa Naito to meet with him offline to discuss the nominations.

David Bragdon invited the MPAC members to the Metro swearing-in ceremony on January 6<sup>th</sup> at 4 p.m. at the convention center.

**7. HOUSING TECHNICAL ADVISORY COMMITTEE CHARGE**

Councilor Rex Burkholder reviewed the materials included in the packet and then gave a PowerPoint presentation with the help of Gerry Uba.

Rob Drake asked if they had better information now to work with than they had back in 1998 when they took the first stab at affordable housing.

Rex Burkholder said that they had received information in terms of compliance with the Title 7 recommendations, and that they were analyzing information from the 2000 census data. He said he thought they would find that things had not changed considerably in the affordable housing piece since that time.

Gerry Uba said that they had 3-years worth of reporting on performance, which would help with the analysis.

Rex Burkholder said that the reports were on the status of examining those voluntary changes in code that would facilitate affordable housing. The reports did not include actual numbers on the number of houses built. He anticipated that the census data would help with understanding those issues.

Richard Kidd wanted to know how many jurisdictions reported each year.

Gerry Uba said that in the first year there were 20 reports submitted, followed by 17 in the second year, and 8 reported in the third year.

Richard Kidd asked if all the cities were supposed to report.

Gerry Uba said that that was the hope and the requirement of Title 7.

Rex Burkholder said that part of the work for the reconstituted group was to look specifically to a response for that initiative – which was looking for changes in zoning codes and other city ordinance to facilitate affordable housing and make a decision on what should be done in terms of that. He said that prior to his involvement there had been a debate on whether they should require cities and counties to make those changes or to just leave them voluntary.

Karen McKinney said that the City of Hillsboro would be submitting their second and third reports soon. She said that the issue of non-mandatory versus mandatory would be of concern to Hillsboro. She wondered if Metro had the authority to implement based on the report.

Rex Burkholder said that they had data and results pertaining to that data and the question was more about how far they wanted to go with that information. He said that he did not know if Metro had the authority to implement issues uncovered by the report.

Andy Cotugno said that in the last HTAC process they spent a lot of time defining the extent of Metro's authority. As a result there were various strategies that Metro could implement: some that Metro had the authority to require and some that were recommended tools. The lawyers from the jurisdictions had convened to research that issue and reached agreement on what authority actually existed. He thought that would be repeated for this issue and the new overlay of Ballot Measure 37 would have to be incorporated in that assessment.

Dan Cooper said that when they had started this in 1996/97 the focus was on Metro exercising authority over planning zoning of local jurisdictions to deal with affordable housing issues. Metro had authority to do that but what came out of the arguments over authority became an issue of what the real problem was with a recognition that planning and zoning wouldn't deal with affordable housing because the affordable housing problem was much bigger than planning and zoning problems. It was primarily a budgetary problem as well as a supply and demand mix of things over which Metro did not have control. A large majority of solutions that HTAC proposed were not things that Metro had authority over. Therefore they would have to be voluntary actions from cities and counties to implement anything at all. He said that he did not think this was a problem that could be solved with a regulatory effort. Most of the problems and solutions would be via non-land use planning regulations.

Lisa Naito said the issue was not so much if Metro had authority to move forward with regulatory options but more about the status of the legality overall and how it would fare in courts.

Dan Cooper said that for that particular tool of inclusionary zoning requirement the legislature had intervened and limited authority in that area. Therefore it was not even on the table in the same form as it might have been 7 or 8 years ago.

Rex Burkholder said that he hoped they would focus on possible barriers. He said that affordable housing was a budgetary issue. Metro was participating with the Blue Ribbon Committee looking at resources of

funding. He said he hoped to look at how local governments reduced barriers instead of creating more barriers.

Dee Walsh, Executive Director of REACH Community Development Corporation, said that she had been working on the team that encourages and builds affordable housing. They would really like to take a close look at the impediments and examine possible new tools. She said it would be beneficial to showcase some best practices on projects that people could learn from.

## **8. RESOLUTION 04-3506, FISH & WILDLIFE PROTECTION PROGRAM AND PROPOSED AMENDMENTS**

Andy Cotugno referred the members to the packet and specifically to the comparison of the proposals. He reviewed the comparison included in the packet. Those materials form part of the record.

Mayor Becker said that it might be a good idea to do a bond measure to purchase easements on natural resource areas, which would keep ownership in private enterprise and provide an opportunity to have some control over natural resource areas. He had to leave and asked Mayor Kidd to step-in as chair for the remainder of the meeting.

Andy Cotugno continued with a briefing on the comments from MTAC.

Councilor Hosticka reviewed the materials in the packet from Goal 5 TAC/WRPAC.

Rod Park distributed a proposed amendment for the Bragdon/Park resolution for the members to review. That amendment is attached and forms part of the record. He reviewed the amendment.

Gil Kelley, City of Portland, summarized the letter that was emailed to the members earlier in the day, and placed at the back of the room, from the City of Portland. That letter is attached and forms part of the record.

Doug Neeley distributed a draft amendment to Resolution 04-3506A from the City of Oregon City. He reviewed the amendment, which is attached and forms part of the record.

Rob Drake expressed concern about moving forward with a Goal 5 plan since Measure 37 had passed and things were so uncertain. He said that he supported good habitat protection and keeping the environment green. He suggested that they put the Goal 5 program on hold for a short time until they could determine what the effects of Measure 37 would be on the region. He also said that the Newman amendment was the most appealing of the submitted amendments.

Doug Neeley said that they would all be trying to find ways to deal with Measure 37 and he said he thought one tool could be to use conditioned annexations.

Charlotte Lehan said that the consensus in the Clackamas County group was in support of Newman's amendment because of the strength of going forward with class 1, and 2 and being able to tie it to federal regulations. She said that what left everyone anxious was that it had no protection or backstop for uplands. She said that MTAC and Goal 5 TAC seemed to have the same concerns. In response to Measure 37 and regulation versus non-regulation – they needed to have a combination or bag of tools. If they were to go forward with some level of regulation, and they were sincere about the incentive piece, then they would be pushing people to do the right thing from two directions.

John Hartsock said that he had understood that the reason for needing a decision now was that staff needed to have a direction in order to meet the mayday that they were working towards. He wondered if that due date could be moved back in order for staff to look at and develop performance measures. This would also allow some time to see what the effects of Measure 37 would be.

David Bragdon said that there had been a tremendous amount of resources devoted to this issue in the last 7 or 8 years. He said that it was a valid question to ask what have they accomplished in that time and whether they felt they needed to continue. He said that he felt the council needed to provide better direction to the staff. The planning department needed a more definitive direction in a post Measure 37 environment. While Measure 37 made the issues less clear, Metro still did have things that they could accomplish. He wanted to get the staff focused on the things that they knew they could accomplish and he said that he personally felt that prolonging the process would not be effective.

Karen McKinney said that if they had to make a decision tonight then the City of Hillsboro would support the Newman amendment.

Jack Hoffman said that he supported Newman's approach and had concern with the Bragdon/Park approach because it delayed the implementation until 2012. He said that he would like to see some class 1 and class 2 regulations. He said his concern was for the uplands wildlife impact areas. He wondered if it was possible to have a lightly-limit, non-regulatory program.

Brian Newman said that his amendment did apply a regulatory program immediately for class 1 and class 2 riparian. He said that he did not want Mr. Hoffman to think that there was no program at all for class 3 or uplands. He said that he did envision a program for those areas but that they would not be regulated or mandated by Metro. He said that he did not think that lightly-limit was the same as non-regulatory.

Andy Cotugno said that they had not yet defined what a lightly-limit treatment would call for in a regulatory program. It could call for education programs, incentives, and all the usual non-regulatory type tools.

Charlotte Lehan said that regardless of what type of program they ended up with in terms of uplands and riparian areas inside the urban growth boundary (UGB), Doug Neeley's amendment would provide the ability to regulate those in a different way. She said that she viewed what was in the UGB versus what was not in the UGB as two separate categories.

Tom Imeson said that the Port of Portland had concern with some of the features of Newman's amendment. They had concern that it would bring back additional overlays of regulation. He referred to the letter submitted by the Home Builders Association of Metro Portland, the Associated General Contractors, the Portland Metropolitan Association of Realtors, the Portland Business Alliance, the Columbia Corridor Association, the Westside Economic Alliance, and the Port of Portland. That letter is attached and forms part of the record.

Doug Neeley said that his impression was that the kinds of restrictions described in the May 2004 "allow, limit, and prohibit" work developed the degree to which these lines would apply to commercial, industrial, and residential land. Different levels of restrictions would apply depending on the ability of the land to support that development.

Susan McLain said that there was still the program phase to complete. She said that the implementation or application phases were still ahead of them. Those phases would answer a lot of the questions raised during the meeting.

Karen McKinney asked if Brian Newman would view the Tualatin Basin approach as viable under his amendment.

Brian Newman said yes.

Andy Cotugno said that the Newman proposal went back to the May 2004 decision and removed some of the "lightly-limit" territories and made them "allow."

Carl Hosticka said that there was nothing that required the Tualatin basin to adhere to Metro's ESEE analysis. The Tualatin basin would be consistent with the Newman approach.

Lisa Naito said that the Newman proposal provided balance and alignment with federal laws. She said that Multnomah County would probably support the uplands proposal from Clackamas County and also the additional views from MTAC.

Ted Wheeler said that he liked what Doug Neeley had submitted regarding uplands protection and would like to see something like that included in the recommendation to Council. He said that he liked the voluntary approach, and the recommendations from MTAC staff. He said he would like to see MTAC/MPAC develop some consistent benchmarks.

Nathalie Darcy said that she would support Newman's amendment with the friendly amendment from Hosticka.

Brian Newman clarified that she was referring to the Chief Operating Officer reports and the ongoing monitoring.

Nathalie Darcy said that she would also support Neeley's amendment.

Dave Fuller said that Measure 37 was something new that they would have to deal with. He said that trying to set goals for 2006 for voter approval and implementation by 2007 was not very sensitive to what the voters just did by passing Measure 37. He suggested that MPAC should spend more time and get a better understanding of the related issues and garner support of the people.

Gil Kelley said that rather than revisit the ALP decision and reopen that discussion, the City of Portland would rather see all the previously identified lands class 1-3 should remain in the program. Now was not the time to say that they were either regulatory or not. He said it would be better to focus on performance measures. He said they should have a clear statement that jurisdictions would have flexibility in how they apply the inventory and significance.

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| Motion: | Doug Neeley, City of Oregon City, moved with a second from Lisa Naito, Multnomah County, for acceptance of Councilor Brian Newman's amendment in terms of existing city jurisdiction boundaries and the current Urban Growth Boundary (UGB), with full regulations in terms of future urban growth boundaries as submitted by Doug Neeley, and acceptance of the reporting requirements and outcome measures put forward by Councilor Carl Hosticka, and to include the non-rollback "whereas" language suggested by MTAC. |
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John Hartsock asked about the 2007 date remaining in or asking for staff to suggest a better date.

Brian Newman said that the recommendation/amendment included the June 2007 deadline with the carrot of local share dollars from the bond measure, should it pass. He suggested that they could use the intervening time to come up with a better date. He suggested that they would keep the June 2007 date in the amendment, and then revisit it to make that change during the program stage.

Doug Neeley said he would rather not specify a date.

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| Friendly Amendment to the Motion: | Wilda Parks, with a second from Lisa Naito, Multnomah County, moved to include the phrase from the letter from the City of Portland, "timely, uniform, and reasonable compliance timeline."   |
| Vote:                             | The motion passed with 13 yeas: Darcy, Drake, Hartsock, Hoffman, Kennemer, Kidd, Lehan, McKinney, Mueller-Crispin, Naito, Neeley, Parks, and Wheeler. There were 3 nays: Fuller, Giusto, Duyck. Absent: Becker, Hammerstad, Hudson, Imeson, Norris, Smith |

There being no further business, Chair Becker adjourned the meeting at 7:10 p.m.

Respectfully submitted,

Kim Bardes  
 MPAC Coordinator

ATTACHMENTS TO THE RECORD FOR DECEMBER 8, 2004

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

| AGENDA ITEM                                    | DOCUMENT DATE | DOCUMENT DESCRIPTION  | DOCUMENT NO.   |
|--|---------------|---|----------------|
| #7 Housing Technical Advisory Committee Charge | 12/8/04       | Copies of slides from PowerPoint presentation: Charge for the new HTAC (Regional Housing Technical Advisory Committee)  | 120804-MPAC-01 |
| #8 Resolution 04-3506A                         | 12/03/04      | Proposed Park Amendments to Resolution 04-3506  | 120804-MPAC-02 |
| #8 Resolution 04-3506A                         | 12/7/04       | Letter to David Bragdon and Metro Councilors from City of Portland  | 120804-MPAC-03 |
| #8 Resolution 04-3506A                         | December 2004 | Draft Amendment to Resolution 04-3506A from City of Oregon City   | 120804-MPAC-04 |
| #8 Resolution 04-3506A                         | 12/6/04       | Letter to David Bragdon from Home Builders Assoc., Associated General Contractors, Portland Metropolitan Assoc. of Realtors, Portland Business Alliance, and Port of Portland | 120804-MPAC-05 |

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