

## **MINUTES OF THE METRO COUNCIL WORK SESSION MEETING**

Tuesday, January 18, 2005  
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Susan McLain, Rod Park, Robert Liberty, Rex Burkholder, Brian Newman

Councilors Absent: Carl Hosticka.

Council President Bragdon convened the Metro Council Work Session Meeting at 2:05 p.m.

### **1. DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, JANUARY 20, 2005/ ADMINISTRATIVE/CHIEF OPERATING OFFICER AND CITIZEN COMMUNICATIONS**

Council President Bragdon reviewed the January 13, 2005 Council agenda.

### **2. GROWTH MANAGEMENT VIDEOS FROM OTHER REGIONS**

Council President Bragdon presented videos from Birmingham, Alabama and Salt Lake City, Utah, on regional economic growth management. There was discussion about both videos. Councilor Burkholder spoke to the November 18, 2004 Business Symposium and how some of the issues raised in the videos had partly been addressed at that symposium. Council President Bragdon spoke to the equity issue and how to involve the nonprofit sector, and how to address business climate rather than just the development sector. He said the audience at the November 18, 2004 symposium was too narrow.

### **3. GET CENTERED KICK OFF UPDATE**

Kelley Webb, Regional Transportation Planner, said that invitations were going out in the mail that day. She said 77 people were already registered. She said the mix of people included architects, representatives from the real estate community, banks, developers and elected officials. She outlined the key themes to be promoted throughout the campaign. She said the kickoff was on February 3, 2005 with Mark Edlen as the keynote speaker. She explained how there would be stations in areas of the region that had good examples of Centers projects. She listed the sponsors who had signed on thus far.

Karen Kane spoke to the Business Journal's sponsorship of the campaign. She said it would include large advertisements and stories – she said it amounted to \$5000 per event in in-kind coverage.

Ms. Webb explained the basic format for the events, which included relevant speakers and tours, followed by refreshments. She said they would be promoting a subsequent greenbuilding conference to campaign attendees.

### **4. DEVELOPING POLICY OPTIONS FOR DEVELOPING METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM 100% LIST**

Councilor Burkholder said Ted Leybold, Planning Department would be presenting information on narrowing the Metropolitan Transportation Improvement Program (MTIP) list. He said

Transportation Policy Advisory Committee (TPAC) recommendation would be made the next Thursday. Mr. Leybold distributed a 2005 Calendar of Activities, a copy of which is included as part of this record. Councilor Burkholder spoke to the items on the calendar. He said Mr. Leybold would address the TPAC recommendations on the criteria and give the Council the opportunity to make changes or suggestions.

Mr. Leybold reviewed the process and policy direction in soliciting fund applications. He said staff used technical rankings and qualitative factors to make the first cut on the comment list. He said one of the issues for staff regarding how to narrow down the proposal for a final cut list to be evaluated by JPACT and the Council was how to emphasize those category priorities, and when should they bring projects not in those categories, such as road and bridge projects, into their list of recommendations. He said the TPAC recommendation focused on providing additional clarity on how to bring recommendations back to Council.

He said staff was still emphasizing economic development in land-use areas as the overarching goal of the program, and that in the staff report would describe specific economic development objectives in terms of how each project recommendation would address those. He said economic development would be defined by the three bullet points listed under the first option in the Worksession packet. He spoke to the bullet points. He spoke to the second option listed in the Worksession packet.

Councilor Liberty asked about where the point system applied. Mr. Leybold said the technical scoring system addressed four general areas and he explained how points were distributed. Councilor Liberty asked whether the point system was consistent with the Framework Plan. Councilor Burkholder said that related to another strategy, which was how to help direct all transportation expenditures in a way that helped realize the 2040 concept. He said that was really through the Regional Transportation Plan (RTP), but the question of how to define the RTP process was different from this process.

Councilor Newman asked how the item C of option 2 would work. Andy Cotugno, Planning Director used the Sellwood Bridge as an example, and that its repairs could not be funded through MTIP. He said the criteria reading was aimed at going beyond the emphasis areas into the road categories, and that especially applied towards really expensive projects. Councilor Newman asked if that item would complicate trail projects or other projects if it were being said that funds for project development would preclude funds for project construction. Mr. Cotugno responded that the illustrated financial strategy isn't a commitment of strategy to complete the construction; it did not rely on large future allocations from the MTIP.

Councilor Liberty asked how the 4% context related to regional spending. Mr. Cotugno replied that the context that had been done showed a big chunk of money for dedicated highway-related sources from the state and federal government and dedicated transit-related sources from state tax measures and federal funds. Generally speaking, you could characterize how much money had been spent and staff could provide that context so far. Councilor Liberty said it would be interesting to retroactively score capital improvements against the framework plan text.

Councilor McLain said it was important not to be too parochial regarding district projects. She agreed that it would be interesting to compare everything to the major goal and see how it shook out.

Councilor Park said he wasn't as concerned about the RTP as he was about the State Transportation Improvement Program (STIP) upon which the Council couldn't have direct influence.

Mr. Leybold spoke to option number 3. He said bonus points were given to road-related projects that incorporated Green Street elements. He explained recommendations for further ways to emphasize Green Street principles.

He spoke to option number 4, whether or not any changes to how implementing Metro functional plan compliance requirement. He said no changes were recommended. He summarized what was done to date.

There was a discussion about compliance by Metro and other jurisdictions. Mr. Leybold said it was a matter of the new deadlines. Councilor Burkholder said Metro was in compliance as of June 30, 2004.

Ms. Leybold reminded the Council that the funds were for 2008-09. He said staff did do a list of conditions that were adopted along with the list. He said a condition could easily be added to the effect of "as per your intent to comply then funds will follow through." Councilor McLain said that was a good interim solution. But she said that the Council would have to make some decisions that it was serious about the functional plan. Councilor Burkholder said the issue could be raised with JPACT.

There was some discussion about Title 7 and achieving voluntary goals.

Mr. Cotugno said a compliance discussion was being proposed for the next Worksession.

Mr. Leybold spoke to the draft STIP comment letter included in the Worksession packet, and councilors to pass concerns along to Councilor Burkholder.

## **6. FISH AND WILDLIFE PROTECTION PROGRAM RECOMMENDATIONS**

Chris Deffebach, Planning Department, said she would give an update on the program and how Resolution 04-3506 had been incorporated into the work. She said they would be back in February to discuss outcome measures and specific examples of targets to be set. She spoke to the range of regulatory and non-regulatory elements that had been presented in previous meetings. She said one of the biggest elements was the direction for a bond measure included in Resolution 04-3506A.

She said the day's discussion would focus on regulatory elements for Class 1 and 2 riparian areas. She said the Council had some really important decisions to make about how the program should be structured. She explained what constituted a Class 1 or 2 riparian area.

She said staff was still following the matrix of high, medium and low development value. She said the Class 1 areas were all strictly limit and that the Class 2 areas were all moderately or lightly limit. She said staff was proposing an expansion of the existing water quality resource area protections currently in place for Title 3, to include class 1 and 2 riparian areas, with variations to reflect the different Environmental Social Economic Energy (ESEE) development value. She said there were several opportunities for Title 3 adjustments.

Councilor Newman asked if expanding Title 3 would have been the vehicle prior to the December decision. Ms. Deffebach said that expanding Title 3 was in response to the Council's direction for May 2005 to look at something that used the principles of avoiding, minimizing and mitigating, and Title 3 used those principles. She said the other element they were proposing was to require green development practices in those areas closest to the streams.

Mr. Cotugno said that when Title 3 was adopted, there was a specific set of requirements associated with water quality and called for the development of another set of requirements to address fish and wildlife habitat and Goal 5. He said these were placeholders to fill in the fish and wildlife part.

Councilor Liberty reviewed ways this proposal could be perceived consistent with Measure 37. Ms. Deffebach said Measure 37 would be factored into future discussions about the program.

She said an overall program strategy was in the works, and the working group would be reviewing a draft in the next week and delivering their comments. She said staff was developing what elements would be put into the functional plan. She said they were working on the model ordinance to be made available for other jurisdictions. She said a question for discussion was what to say in the functional plan to encourage jurisdictions to take on voluntary efforts.

Councilor Park said one of the proposed methods was to expand the Current Title 3 water quality to include these broader areas. He asked, regarding litigation after the original Title 3, which Metro won, how whether this expansion would open up that litigation again. Mr. Cotugno said exactly where changes were made to the functional plan, they could still make strategic decisions. He said staff was trying to draft a framework that could act as a stand-alone and not be part of Title 3. President Bragdon clarified that Title 3 was not for water quality purposes. He said Title 3 had erroneously become known as shorthand for water quality, but it was not literally true. Ms. Deffebach said that it also included flood management. President Bragdon said Title 3 was the vehicle in Metro's functional plan by which State Goal 5 would be implemented. Councilor Park cautioned the group to be careful in the future to keep that clear and prevent further confusion.

Councilor McLain referred to communications to the Tualatin Basin regarding Metro's program. She relayed the Tualatin Basin's concerns regarding healthy streams and Measure 37.

Paul Ketcham, Planning Department, distributed a fish and wildlife program outline, a copy of which is included as part of this record. He said there was a strategic question whether to amend existing Title 3 or to create a new title entirely. He said the outline was structured with sections, as modeled after a functional plan.

He reviewed the Section 1. He said a question was where to incorporate the vision statement that was recommended by MPAC in 2000. Councilor McLain recommended incorporating the vision statement since MPAC had an investment in it.

He spoke to Section 2, which was an official recognition of the Metro Council's adoption of the fish and wildlife habitat inventory map. Section B was to include the allow limit prohibit ESEE decision map, which would show limit treatments for only Class 1 and 2 resources. He said "habitat" was a placeholder for strictly, moderately or lightly limit. Instead of focusing on limits to development, it would say focuses on habitat emphasis. He referred to that morning's discussion by Goal 5 Technical Advisory Committee (TAC) and the Water Resources Policy Advisory Committee (WRPAC) which suggested that "habitat" was too exclusive of a term because it did not include other functions related to water quality.

There was some discussion about terminology.

Mr. Ketcham said that in Section 2, the Council would have to make a decision whether to carry over the flood areas and the water quality areas that were exempted under Title 3 into the fish and wildlife program. If those were carried over, it would be indicated on the habitat emphasis maps.

Councilor Burkholder said that he would like to refine the direction of the resolution, especially when looking at upland areas and parks. He cited the example of parks and open spaces that were originally "limit", but because of the nature of the resolution they became "allow", because they weren't Class 1 or 2. He said that was an oversight that should be revisited. Councilor Newman said he wouldn't mind making a technical correction. He said he didn't want to revisit the larger designation that had been made in December 2004.

Councilor McLain asked what "parks" referred to. Ms. Deffebach replied that there was a category on the visual chart of other areas that were parks and open spaces and those that were rural-zoned land. Those had "strictly limit" in upland areas. She said that now that those areas were "allow". She said it would be a revision to the ESEE and the "allow limit prohibit" (ALP). Council President Bragdon said he wouldn't support reopening the ALP because there would be a huge reaction from MPAC. He said that just because it was "allow" on the Council chart, it didn't mean it would be "allow" on local governments' charts. He said if staff conducted a risk assessment, the danger of development in parks was almost nil. He knew of no jurisdictions that would sell their parkland for development. Councilor Burkholder said they would still be able to destroy the habitat.

Councilor McLain suggested using a different strategy to get to what Rex wanted to do. She said she originally supported the change he was asking for. Councilor Burkholder said that discussions about upland area as valuable habitat and that the current chart showed those areas had no regional interest, and he thought those areas did have regional interest. Councilor Newman said that it wasn't a case of there being no regional interest, but that Council would leave the regional level incentive-based models to those areas. He said if it was related just to public land and there was a technical problem, he was fine with a fix. But if it was a larger policy debate about the ALP, he was hesitant to pursue it. Council President Bragdon said reopening ALP meant another year or so of discussion.

Councilor Park asked that if Gresham did have a piece of property that had been bought for a greenspace or a park, and they declared it as a surplus property and sold it to be developed, how would the Council decision prior to and after Resolution 04-3560A integrate with that? He asked how these areas would be evaluated in light of the performance measures. He asked once a community bought space for open space use, how would the Council keep them from reneging on it. Councilor McLain said her understanding was if they bought the land with Metro's local money and sold it, then they'd have to buy more natural space. She said Metro could do the same thing. She said that that issue should be considered in light of the new bond measure.

Mr. Ketcham spoke to section 3, which was the vision statement broken down into six objectives, to which staff would tie targets. He said this was where the Council would decide numerically to what degree they saw streamside connectivity should be preserved, enhanced or lost. He said the objective statements were really more measurable ways of looking at the achievement of the region's vision statement. He said some were more measurable than others. He said staff would collect data on some indicators to understand how monitor achievement of those objectives. The Council would be in the position of establishing where we wanted to be in the future with

streamside connectivity or retention of large habitat patches. He said it related to the Resolution 04-3506 outcome measures.

Councilor Liberty how streamside connectivity was reflected on the maps. Mr. Ketcham explained how information could be extracted or derived from the maps. Councilor Liberty whether staff expected Council to get to the point of asking for a certain percentage of stream connectivity, and to go beyond that and identify where it was wanted. Ms. Deffebach said that was possible. She said that particularly for the wildlife corridors that staff might aim for, could also serve as starting points for targets of priorities for the bond measure.

Councilor Newman said Resolution 04-3506A called for monitoring over time and recording on an annual basis. It didn't call for setting targets. Councilor Burkholder said it called for outcomes. Councilor Newman said trends could be measured as an outcome, but he didn't remember having a conversation about the Council setting targets for particular areas. He said he remembered discussing measuring progress over time, but not looking at acreage and wildlife coverage in particular areas and setting specific targets. Mr. Ketcham said it would greatly simplify staff's job if targets weren't required. The indicators they had set up would measure progress toward this objective. Setting the target would mean establishing the goal for streamside connectivity over time, rather than just measuring status in time. He suggested that in 2008, Council could do another analysis of vegetation at 50 feet, and could see a loss and where it was occurring. Then it was really a question of the status of the habitat, and it would be a Council decision whether or not the tools were adequate and whether Title 3 was doing its job. Councilor Newman said the Council did want to monitor what's going on over time, and did want those kinds of reports. He said it was a question of whether the Council perceived that it would be setting targets in relation to the six objectives.

Mr. Cotugno said the question of targets was brought up often, when Councilor Hosticka brought in charts and asked whether staff expected to have resources continued to decline until some point in time when regulations kick in, and then have the resources come back to where it was or better than it was. He said all those permutations were represented by that chart. Council President Bragdon said that process would put the Council into the same political dynamic as the RTP, where people tended to oversimplify. He said people would question why the Council would adopt a target saying that things would get worse.

Ms. Deffebach said how the vision was articulated didn't have to be quantitative, it could be general. Councilor McLain said it went back to before Title 3, where the discussion used to be whether the goal was the amount of mileage of streams vs. the goal of improved streams regardless of the mileage. She said she didn't want it to look like they didn't want a progressive look at their vision, but if it didn't look like there was any specificity for what they were trying for, then it couldn't be measured. Maybe the conversation wasn't about targets but about something different.

Mr. Cotugno said there were three parts to that discussion. The first part was to identify the measures. The second part was to indicate direction: how much should be allowed to deteriorate or how could another one up be brought up to a certain level. The third step was to set a target. Paul Garrahan, Assistant Attorney, said that the program could be a measuring stick for a jurisdiction that wanted to go outside of the box with its program.

Councilor McLain said the intergovernmental agreement with Washington County would make sure that all watersheds in their program would improve, and then the county would define in their program what that meant.

Mr. Ketcham spoke to section 4. He said the alternatives would range beginning with a local government adopting Metro's model ordinance and maps carte blanche. The other end of the spectrum, as just described by Mr. Garrahan, would be a local government that met the Council's objectives. The Tualatin Basin's implementation plan would be recognized in this section. The section would also require local governments to provide and clear an objective approach to habitat protection, and that they would either use the model ordinance or an alternative approach to achieve that standard of the Goal 5 rule.

He spoke to Section 5, and said these performance standards applied only to the portions of the habitat that received an ALP decision under 04-3506A. Item A addressed performance standards applied to all Class 1 and 2 areas.

Councilor Liberty asked if Green Development Practices were optional. Mr. Ketcham said this section would list the number of Green Development Practices assembled by the working group and would include a table into the functional plan. He said these were redevelopment practices that local government codes must allow. He said Metro couldn't mandate that they all be used because they weren't applicable in all development circumstances. He said the practices would be allowed or encouraged, but not required. Ms. Deffebach said it was a policy decision to say how far to go. Councilor Burkholder asked if 3b answered that question. Mr. Ketcham said it was a placeholder for stormwater management issues.

Councilor Park asked how they had embarked on slippery slope of stormwater management. Ms. Deffebach said a big part of where Metro could have an effect was how development would occur. She said the techniques didn't just apply to stormwater management, but also techniques such as addressing lot lines. Councilor Park said stormwater wasn't a large emphasis before and he was concerned about increasing focus on it. Councilor Burkholder said they were looking at the impact of stormwater pollution on habitat. He said it was still habitat protection within a habitat emphasis area.

Councilor Park said there was a policy statement to generate no more stormwater than what existed prior to development. Councilor McLain said it was already part of the RTP on streets. She said this was about habitat emphasis area and they were looking for as many tools as possible to protect those emphasis areas. She saw stormwater as an integrated tool.

Councilor Liberty said he thought that what was in section 5 should maybe belong under section 3. Mr. Ketcham said performance standards were written in total to provide protection to Class 1 and 2 areas. Council President Bragdon asked if performance standards were the same as best practices. Mr. Ketcham said not necessarily.

Councilor Liberty said he thought there would be more of a watershed outcome. Ms. Deffebach said that was represented in Sections 3 and 7.

Mr. Garrahan said Section 5 was modeled after Title 3 water quality resource area performance standards. He said if the local code was structured to include these things, it would achieve the outcome Metro wanted. He said there could be another section that addressed the outcome-measured goals as an alternative way for local jurisdictions to show they were going to comply. He said this was almost in between that and the model ordinance, where the model ordinance was the strict language to be incorporated, and the performance standards would be the guidelines of the type of program or outcome-based goals.

Mr. Ketcham spoke to Section 5 Item A2, and its placeholder. He said Title 3 might require additional protections to the resource. That statement tied to Section 5 Item B, which was taking the Title 3 standard performance to first avoid adverse impacts to the resource and then, if that couldn't be avoided, to minimize or mitigate those impacts. The areas under Section 5 Item D were high habitat emphasis areas, which were strictly limit areas such as Class 1 riparian areas and moderate, low and other urban development categories. Class 1 riparian areas within those emphasis areas would be subject to avoid, minimize and mitigate. This meant a lateral extension of the areas covered by that performance test and a longitudinal extension of those protections because they were adding new streams to the Class 1 riparian domain through the habitat inventory update. In Item B areas, development would not be prohibited, but the test would be for avoid, minimize and mitigate. Item C would apply to areas designated for moderately limit, and development there would need to show that they'd minimized and mitigated adverse affects. Item D would apply to lightly limit areas and that they'd mitigated for adverse effect. He said this was an attempt to build off of existing Title 3 performance standard language to: facilitate implementation of this program by local governments, be consistent with the ESEE decision, and receive adequate protection of the resource.

He said the other sections dealt with exceptions to performance standards, with Item E referring to residential properties. Councilor Liberty asked how much acreage that represented. Mr. Ketcham answered the question. He said this section was intended to implement Council's resolution. He spoke to Sections F and G.

Councilor Newman asked if this became a separate title, then he'd understood that sections in this represented in this new title could be struck from Title 3. He asked, regarding Measure 37, if the date of implementation would change. Mr. Garrahan said they weren't talking about striking any substantive portions of Title 3, but just the portions where there were placeholders for this program. Mr. Ketcham said that the language in Section 5 was intended to say that current Title 3 areas would be left as they were, but that they might need supplemental conditional standards for protection. He said it provided more tools but didn't change the standard.

Councilor Park said Section 5 Item A2 needed to be run by public affairs and legal staff because it was potentially confusing. He spoke to Measure 37 and asked if staff had conducted research on what part of the current Title 3 water quality was covered. Dan Cooper, Metro attorney, said no.

Mr. Ketcham said Section 6 was a placeholder for programs to be encouraged by Metro, relating back to Resolution 04-3506. He said it referenced the tools that could be used for non-regulatory programs, which could include redevelopment practices that would apply to other habitat categories, cluster development that could be encouraged in wildlife areas that were not covered by the Class 1 or 2 riparian areas. He said there was a whole menu of non-regulatory incentive-based programs that the working group was looking including.

He spoke to Section 7, which would be the elements Metro would undertake to follow the regional progress for meeting objectives and the indicators Metro had for those objectives.

He spoke to Section 8, and said there was a placeholder – Resolution 04-3506 envisioned potential regulatory elements for Class A & B wildlife habitats and Class 3 riparian areas that came into the urban growth boundary. The placeholder would be for either saying Metro would develop those approaches or they would be in the program.



Councilor Liberty asked where large-scale redevelopment would fit. Mr. Ketcham said the functional plan would cover both new development and redevelopment. If a property owner wanted a development right next to a stream and were applying to tear down a building to replace it, they would have to comply with the new water quality resource standards.

Council President Bragdon said his main concern was how and where Council was getting its advice. Ms. Deffebach said to take it outside of the building. She said staff had been before MTAC and would go back to them, followed by MPAC. She didn't think all advice should come from standing committees, but that other groups should also be solicited.

Councilor McLain said the Tualatin Basin group was very interested in keeping abreast of Metro's work.

Mr. Deffebach said they were on a schedule to draft the functional plan language, figure out what the riparian element could be, bring in all the work done on non-regulatory side, then address the targets and outcomes piece in February. She felt they were on track to do that. She said March would be for more outside communications, draft an ordinance and put together the whole package. They were aiming for outreach in April and Council consideration in May.

There was discussion about how to effectively receive and pass on communication from the outside. Mr. Ketcham said larger groups could be an opportunity for a councilor to attend with staff. Staff could visit with smaller groups, then communicate their concerns back to Council. Councilor Park said closing the loop was how groups could hear each other.

Councilor McLain said it was important to package together not just for outreach, but also to garner support for the ordinance and the program. Councilor Burkholder said to follow what the numbers were and how much was protected in terms of real acreage.

There was discussion about the upcoming bond measure.

## **7. GOAL 9 AND 12 RULE**

Council President Bragdon postponed this item until the Metro Council meeting on January 20, 2005.

He said Ms. Deffebach would attend the Portland Progress Board on the Metro Council's behalf.

## **8. COUNCIL BRIEFINGS/COMMUNICATIONS**

There were none.

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:15 p.m.

Prepared by,

Cary Stacey  
Executive Assistant to the Metro Council President

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JANUARY 18,**  
**2005**

Item	Topic	Doc Date	Document Description	Doc. Number
1	Developing Policy Options for Developing Metropolitan Transportation Improvement Program 100% List	1-14-05	2006-09 Transportation Priorities 2005 Calendar of Activities	011805c-01
2	Fish and Wildlife Protection Program Recommendations	1/11/05	Fish and Wildlife Program Outline	011805c-02