

MINUTES OF THE METRO COUNCIL WORK SESSION MEETING

Thursday, March 3, 2005
Metro Council Annex

Councilors Present: Rex Burkholder (Deputy Council President), Susan McLain, Carl Hosticka, Robert Liberty, Rod Park

Councilors Absent: Brian Newman, David Bragdon

Deputy Council President Burkholder convened the Metro Council Work Session Meeting at 3:50 p.m.

1. GOAL 5 FUNCTIONAL PLAN DISCUSSION

Councilor Hosticka suggested starting with the list of eleven key issues (a copy of which is included in the meeting record). Chris Deffebach, Planning Department, said they took the list of key policy issues, changed it and reprioritized them. She would walk the Council through the first five issues. This would be the first draft of a staff report. Next Tuesday, she would bring a better version of this memo and field out the other six issues. Councilor Liberty said there were a lot of drafts. He had some questions about policy directions. Ms. Deffebach ran through the top ten to eleven issues.

The proposal called for two elements. She detailed those elements. She asked, with the avoid mitigate revised standard, were they coming in at the right place? How much should they push the friendly development? The third was the new Urban Growth Boundary (UGB) areas. There were policy issues. She spoke to the fourth issue, proposing lower densities. The fifth one had to do with Measure 37. There were a lot of people who had expressed concerns. The sixth was the role of performance standards. The seventh one had to do with how much did they want to protect trees in areas that were not in the development process? Was there some protection of trees in the Class 1 and 2 areas? She then talked about the map verification process. This tied back to the policy question about major institutions such as hospitals and universities. There was also compliance questions and how they best structure this. How much creativity did they want to encourage? The tenth issue had to do with direction about the encourage language. How do they best message this? The last one was the reasonable time and consistent compliance timeline.

Councilor Liberty raised this issue about water quality and how that tied into federal regulations. Councilor McLain talked about clean water in Goals 6 and 7 and their relation to Goal 5. They had to make sure they weren't amending Title 3 versus putting it in the wrong place. Councilor Liberty said the Council had been through State planning issues. They had new science. He suggested thinking about this. Paul Garrahan, Assistant Attorney, said if they wanted to include measuring water quality, they could add this based on additional science that they had. They would have to add findings to Goal 6. Deputy Council President Burkholder suggested adding this as the twelfth issue. Councilor McLain said how they called out the goal of water quality was going to be an important part of this document. Metro Policy Advisory Committee (MPAC) had some differences of opinion on this. They hoped it covered all of the federal, state, and local issues.

Deputy Council President Burkholder asked if they wanted to prioritize this list of issues. Ms. Deffebach said she had tried to prioritize these issues. Councilor Liberty asked about what they had received at this work session and the similarities to what they had received previously.

Councilor Park said he thought the Council had made policy choices but didn't know what that choice was. The decision had been made. Deputy Council President Burkholder asked if there were more issues than the twelve. Councilor Liberty asked about a watershed approach. Was it included in #6? Ms. Deffebach said they had some research and language on the watershed approach.

Councilor Liberty asked about habitat friendly development practices requirement, would the city need to do something to incent restoration? How did you use the development process to get better habitat? Deputy Council President Burkholder said habitat friendly development practices should be included in all areas. It sounded as if they had their list. He suggested starting with #1. Councilor Park talked about the water quality issue, #12. He suggested getting a legal definition as to where we were on the water quality issue. Before we spend time on this, lets find out where we were today. Were there any openings within that? He talked about the lawsuit after Title 3 was adopted. He thought they had finished Title 3 water quality. They needed more information.

Chris Deffebach talked about #1, the appropriate level of protection for Class 1 and 2 areas. She spoke to their proposal to protect up and down the stream. Was it the right level of protection? She provided what protection they had proposed in each of the areas. She spoke to comments that they had received on this issue. There should be a higher standard. There was concern that avoiding it was too much and mitigation was too expensive. The point was, was it a good enough basic measure or was it too checker board? She said there was a question of revisiting the policy direction that the Council had laid out. Councilor Liberty suggested saying mitigate only on centers. Mr. Garrahan said you could require mitigation as a condition if they were going to develop property. He wasn't sure it was terminology. You had to call it mitigation if you were tying it to a development permit. What was the appropriate level of mitigation? Deputy Council President Burkholder said one of the issues that came up was Terminal 4. The question was, was there an exemption? What happened if they needed to repair their dock? Ms. Deffebach said they needed to get back to Council about similarly situated areas. Paul Ketcham, Planning Department, talked about the Portland harbor and their exemptions. Councilor Hosticka asked about the Ashe Creek wetland by Washington Square. Mr. Ketcham said that Clean Water Services and the State of Oregon would regulate the Ashe Creek wetland. He talked about what Title 3 did. For the Ashe Creek wetland there will be a required buffer. He wasn't sure we wanted to add a layer of regulation to wetlands.

Councilor Liberty asked about a town center with a stream running through it. Staff gave examples such as Milwaukie and Tualatin. Deputy Council President Burkholder asked how this would apply? Ms. Deffebach explained what would happen. Mr. Ketcham said the Functional Plan recognized that Title 3 would continue to apply. He explained where Title 3 applied. Title 3 was already in the Functional Plan. This would add additional areas of protection. They talked about the City of Milwaukie and how this effected that area. Councilor Park wondered what if we got the pins knocked out of us with Title 3. They had an active case in Beaverton. What was the fall back plan? There was a clean water issue. Mr. Garrahan responded that there were two scenarios. He thought that we would be in a different position and also a stronger position if we were specified as a Designated Management Agency and we submitted this plan. It was not a guarantee. Councilor Hosticka asked if Mr. Garrahan would explain the last paragraph "clear and objective". Mr. Garrahan said they had addressed this. It was to send it though to the city. It would be a standard that was set, a specific number. Councilor Hosticka asked about the local plan and who made the call if that plan was in compliance. Mr. Garrahan said Metro staff did. Councilor Hosticka stated that as long as they allowed any development, they were saying that habitat would be degraded.

Deputy Council President Burkholder suggested Council give staff a sense as to whether to make the floor level lower or higher. Did Council want to continue going that way? Councilor Hosticka asked what practicable meant? Mr. Garrahan said it depended on the context. He gave an example. What it meant in the “avoid standard” was available and capable of being done after taking into consideration a variety of factors such as cost. The question that overrode this was Measure 37. Councilor Hosticka said if people were allowed to take in economic consideration then he wanted to avoid everywhere. The Economic, Social Environmental and Energy (ESEE) analysis was already built into the decision. Councilor Liberty talked about the greatest economic pressure. He wanted strict language. Councilor McLain concurred with Councilors Hosticka and Liberty.

Deputy Council President Burkholder said they needed to see what was the effect on the ground. Councilor Liberty said they needed to know what the words meant and how did they play out on the ground. Mr. Garrahan talked about ESEE analysis. Mr. Jordan talked about balancing the factors. Councilors suggested exploring some on the ground examples. Mr. Jordan said the word practicable was put into the ESEE analysis. Deputy Council President Burkholder said what he was hearing was the decision was to look at the smaller subset of the area. They would like to see what that meant. It was not a decision of the Council. Ms. Deffebach said they had hired design consultants to look at some of the sites.

Councilor Liberty said the outcome was not uniform. Mr. Garrahan talked about the clear and objective approach. Ms. Deffebach said the clear and objective standard went after Title 6.

Ms. Deffebach talked about #2. Deputy Council President Burkholder asked about required to allow. Ms. Deffebach said the question was did you want to allow and encourage. Councilor Park talked about regulations on citizens versus requirement on cities. He thought they were on firm ground with the cities. Councilors talked about fair market value. Mr. Garrahan said there wasn't a specific definition in Measure 37. Councilor Park said it was not an either or it was yes you do both. Councilor Hosticka asked about the Measure 37 language and what it said about fair market value. He was trying to determine if they were distinguishing between just the land or the land and what was built on it.

Deputy Council President Burkholder talked about habitat friendly development practices. Councilor Liberty suggested requiring in Class 1 and 2 and allowing everywhere. Councilors supported the language. Councilor Hosticka talked about the word allow. Did where practicable mean allow every place? Could you make that argument? Mr. Jordan said he assumed they were still working under the Council's direction. No piece of property was undevelopable. Ms. Deffebach suggested technical feasible as substitute language. Councilor Liberty said the word practicable had been litigated. Councilors suggested what would be helpful for staff to prepare for the next meeting.

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:10 p.m.

Prepared by,

Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF MARCH 3,
2005

Item	Topic	Doc Date	Document Description	Doc. Number
1	Memo	3/2/05	To Metro Council From: Andy Cotugno, Planning Director Re: Nature in the Neighborhoods	030305cw-01