BEFORE THE METRO COUNCIL

TO AUTHORIZE GENERAL COUNSEL)   RESOLUTION NO. 94-1967
APPEARANCE IN BEAVERTON/)
PORTLAND URBAN SERVICE)   Introduced by Council Planning
BOUNDARY CASES)   Committee

WHEREAS, Metro attempted formal mediation of the long-standing dispute over an ultimate annexation service boundary between Portland and Beaverton in Fall, 1993; and

WHEREAS, Beaverton and Portland adopted inconsistent service boundaries in unincorporated Washington County near the Washington-Multnomah County boundary line into their comprehensive plans; and

WHEREAS, Washington County amended its comprehensive plan to reflect Beaverton's adopted service boundary; and

WHEREAS, The Land Use Board of Appeals (LUBA) remanded all three comprehensive plan amendments, ruling that Metro action to resolve the inconsistent Beaverton and Portland plans was required before Washington County could amend its plan; and

WHEREAS, Metro Code 2.08.040(e) requires that the General Counsel not appear on behalf of Metro without the mutual consent of the Executive Officer and Council; and
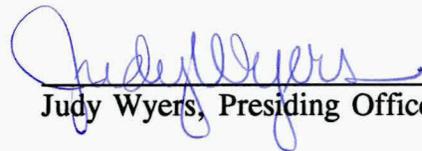
WHEREAS, The Executive Officer consents to Metro appearance as a friend of the court in this case; now, therefore

BE IT RESOLVED,

That the Office of General Counsel is hereby authorized to appear on behalf of Metro before the Court of Appeals of the State of Oregon as a friend of the court in the

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appeal of three LUBA cases contesting Portland-Beaverton urban service boundaries if the case is not resolved so that the appeal is dismissed.

ADOPTED by the Metro Council this 9th day of June, 1994.

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Judy Wyers, Presiding Officer

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PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 94-1967 TO AUTHORIZE GENERAL COUNSEL APPEARANCE IN BEAVERTON/PORTLAND URBAN SERVICE BOUNDARY CASES

Date: June 6, 1994   Presented By: Councilor Moore

Committee Recommendation: At the June 2 meeting, the Planning Committee voted unanimously to recommend Council adoption of Resolution No. 94-1967. Voting in favor: Councilors Kvistad, Gardner, Devlin, Gates, McLain, Monroe, Moore, and Washington.

Committee Issues/Discussion: Larry Shaw, Senior Assistant Counsel, presented the staff report. This resolution allows Metro General Counsel to participate in specific cases before the Court of Appeals as a "friend of the court" through the filling of an amicus brief. The court cases related to three decisions remanded to the Land Use Board of Appeals (LUBA) contesting the Portland-Beaverton urban service boundaries within Washington County. This resolution allows Counsel to file the brief unless the case is resolved in such a way that the appeal is dismissed. The time period for stipulation is 120 days beginning immediately. So far it has been impossible to set a meeting time with all parties because of vacation schedules.

In response to a question from Councilor Moore regarding the lines in question, Mr. Shaw responded that LUBA remanded all three lines (Portland, Beaverton and Washington County) but adopted the Portland line as an interim but not permanent line. The lead party has not yet been identified, but Washington County would be logical. Councilor Moore advocated for strong citizen involvement throughout the process.

There was a brief discussion of whether discussion of this resolution should occur in executive session. Mr. Shaw explained that the decision to file an amicus brief did not necessitate an executive session. Later discussion regarding Metro's strategy, if they become a "friend of the court", will likely need an executive session. Councilor Gardner clarified that this resolution in no way indicates the nature of Metro's representation before the court if the amicus is approved. Mr. Shaw assured the committee that before representing a Metro point of view, there will need to be full discussion and agreement from the Council. This resolution only allows General Counsel to apply to the court for amicus status, it does not indicate the role Metro will take once the status is established.