

METRO POLICY ADVISORY COMMITTEE MEETING RECORD

April 27, 2005 – 5:00 p.m.

Metro Regional Center, Council Chambers

Committee Members Present: Charles Becker, Nathalie Darcy, Rob Drake, Andy Duyck, Dave Fuller, John Hartsock, Jack Hoffman, Tom Hughes, Richard Kidd, Charlotte Lehan, Deanna Mueller-Crispin, Alice Norris, Wilda Parks, Tom Potter, Martha Schrader, Ted Wheeler

Alternates Present: Larry Cooper, David Ripma

Also Present: Hal Bergsma, City of Beaverton; Bev Bookin, CREEC; Ron Bunch, Bob Clay, City of Portland; City of Gresham; Sarah Cleek, THPRD; Debbie Collard, Ball Janik, LLP; Valerie Counts, City of Hillsboro; Danielle Cowan, City of Wilsonville; Brent Curtis, Washington County; Meg Fernekees, DLCD; Barbara Fryer, City of Beaverton; Carol Chesarek, Citizen; Mary Gibson, Multnomah County Drainage District; Kim Gilmer, GPAC; Steve Greagor, City of Hillsboro; Stacy Hopkins, DLCD; Mike Houck, Urban Greenspaces Inst.; Jim Jacks, City of Tualatin; Gil Kelley, City of Portland; Steve Kelley, Washington County; Jim Labbe, Audubon Society of Portland; Susie Lahsene, Port of Portland; Stephan Lashbrook, City of Lake Oswego; Jim Laubenthal, Port of Portland; Irene Marvich, League of Women Voters; Doug McClain, Clackamas County; Mike Ragsdale, GPAC; Pat Ribellia, City of Hillsboro; Jonathan Schlueter, Westside Economic Alliance; Andrea Vannelli, Washington County; David Zagel, TriMet; Jim Zehren, GPAC

Metro Elected Officials Present: Liaisons – Carl Hosticka, Council District 3; Susan McLain, Council District 4; Robert Liberty, Council District 6 others:

Metro Staff Present: Kim Bardes, Dan Cooper, Andy Cotugno, Paul Garrahan, Paul Ketcham

Chair Hoffman called to the meeting to order at 5:10 p.m., made several announcements, and explained the agenda for the evening.

1. GOAL 9 (ECONOMIC DEVELOPMENT) COMMENTS

Andy Cotugno, Metro Planning Director, reviewed the Goal 9 materials that were included in the packet.

Tom Hughes, Mayor of Hillsboro, said that the coordination piece would be dealt with according to what LCDC had set during the second phase. He said that he was trying to think of a way to resolve that issue without having language that would give coordination authority to a regional body that would coordinate how the jurisdictions approach economic develop. If that issue was resolved in the first series of negotiations, what then would be left to negotiate in the second series?

Mr. Cotugno said that the letter did not suggest resolving that issue now, as part of this series, because until they handled all the other requirements it would be difficult to nail down the coordination issue.

Mayor Hughes said that in some respects it didn't even call into question the ability to separate the whole coordination from the other issue. He said it was very difficult to talk about short-term land supply. He said he had a concern with the definition of short-term land supply. He said he was sympathetic to including brown fields in short-term land supply, but did that then mean they needed to identify the definition of short-term? If a brown field would take as long and require as much infrastructure investment to become shovel-ready as a site that didn't have infrastructure, was it really short-term?

Mr. Cotugno said that the reason for suggesting additional language on brown-field was so that local government could be proactive on getting both green-fields and brown-fields ready for development. The local government could be proactive in getting sites cleaned up and by providing infrastructure. He said that the staff was not saying designate brown-fields as short-term because if you can't turn dirt in a year, then it is not short-term. If, however, they take action to clean up a site so that it could become short-term, that was a good thing to do and was better than writing a rule that instructed jurisdictions to only prepare green-fields for development.

Mayor Hughes said he agreed with that point. He said he just wanted to make sure they weren't making any changes to the definition of "short-term."

2. GREENSPACES POLICY ADVISORY COMMITTEE VISION STATEMENT

Councilor Susan McLain introduced Mike Ragsdale, Greenspaces Policy Advisory Committee (GPAC) Chair, and gave a brief overview of the history of the Greenspaces Program and Policy Advisory Committee.

Mr. Ragsdale, Chair of GPAC, reviewed the materials included in the packet and the handout, which is attached and forms part of the record. Mr. Ragsdale introduced members of the committee that were present and gave an overview of the committee vision and goals.

Ted Wheeler, Citizen – Multnomah County, asked if they intended the advisory committee to continue when the groundwork was completed. He wanted to know what their long-term goals were.

Mr. Ragsdale said that he was not certain yet. He said that one of the task forces would provide guidance for that.

Rob Drake, Mayor of Beaverton, asked GPAC not to penalize the Tualatin Basin program under a Greenspaces program and he wanted to know if money would still be disbursed somewhat equally?

Mr. Ragsdale said that the committee had not gotten that far, but that the task forces would be addressing those issues. He said they certainly hoped to help the "have-nots" while not penalizing the "haves."

Mayor Drake said that as a region they needed to get as much protection as they could before it went away.

Mr. Ragsdale said that one area strong in resources could still be lacking in some way; they would be looking at public plazas and the whole gamut of parks and recreation.

Deanna Mueller-Crispin, Washington County Special Districts, asked what role or relationship the GPAC committee would be expected to have in developing a potential ballot measure.

Mr. Ragsdale said that the Metro Council had specifically requested that GPAC take that issue up as an agenda item and to provide advice on what might be included in the ballot measure. He said that they would be working on that in the task forces.

Charlotte Lehan, Mayor of Wilsonville, asked what role GPAC would play with the Nature in Neighborhoods, Goal 5 program.

Mr. Ragsdale said that they would be working with that program but that GPAC was not the entity that would be shaping the program. He said that GPAC would like to benefit from existing programs.

Mr. Wheeler asked if that information would be on the Metro website.

Jim Desmond, Metro Parks and Greenspaces Director, said that it was not on the website yet, but that it would be soon.

3. NATURE IN NEIGHBORHOODS

Chair Hoffman gave some context of where the Nature in Neighborhoods had reached and then introduced Chris Deffebach, Long Range Policy Planning Manager.

Ms. Deffebach reviewed the timeline for the two resolutions and the ordinance. She then highlighted the major points of the staff recommendations in the draft legislation. She also reviewed the Metro Technical Advisory Committee (MTAC) comments, which she distributed, and which are attached and form part of the record. All the basic materials were included in the packet and therefore form part of the record. There was a handout for the Tualatin Basin Approach, which is attached and forms part of the record.

Chair Hoffman asked Gil Kelley, City of Portland, and Doug McClain, Clackamas County, both also members of MTAC, to comment on what MTAC had discussed at the last meeting.

Mr. Kelley said that there were more unresolved issues than issues that had been resolved at MTAC. He said that they would continue work on that at the next meeting. He said that there had been general agreement about removing all reference to Measure 37. He said that the definition to “practicable” still included part of Measure 37 and that needed to come out. He said there was general acknowledgement of “avoid, minimize, and mitigate” applying across the region in the discretionary process, but there would be nuances about how that got applied. There was also general acceptance about relaxing residential densities to implement the program. He said that they all agreed that they needed more time to implement the program. He said that the issues outlined in Chair Hoffman’s index seemed to be on target. He said that MTAC had not taken a position on the Tualatin Basin Approach.

Mr. McClain said that MTAC was not much further along than MPAC on evaluating the program. He said that they also had a lot of work to do.

Mayor Drake said he had nagging concerns about Measure 37. He wondered how much discussion MTAC had on how the legislature would define things as a result of Measure 37. He wondered if there had been discussion at MTAC about whether waiting for further definition from state legislature would provide a roadmap about where they could or couldn’t go with some of the issues.

Mr. Kelley said that was one of the variables they had discussed along with what the Department of Environmental Quality (DEQ) might determine and the Total Maximum Daily Load (TMDL) requirement and whether or not that would affect the program; whether there was an insulating effect from Measure 37 claims. He said there was a general feeling that they should remain silent on Measure 37. He said that MTAC had proposed that there was a claim process for Measure 37, and it was up to each jurisdiction to make a judgment on the detail of their own rules. He said it had not seemed necessary for MTAC to try to pre-judge what should be in the ordinance about possible Measure 37 impacts. He said that there was just too much unknown about the effects of Measure 37.

Mr. McClain said that they had thought perhaps to place a note qualifying that Measure 37 still had not been resolved and that it would have to be revisited after the state made a ruling.

Councilor Robert Liberty said that everyone handicapped the legislature in his or her own way. He said that based on what had transpired since Measure 7 passed, he estimated the probability of the legislature passing something that significantly modified Measure 37 at above 50%. He said that speaking as only one member of the Metro Council, he felt that when Metro asked local governments to do something that might increase their liability for Measure 37 claims, then Metro had the responsibility to address those claims. He said that he thought trying to frame the content of Measure 37 in language right now was a mistake because how they determined value, or reduction of value, etc. would be sorted out over time. He said that Metro staff had started to develop a claims process and that would apply to any claim made against Metro whether it was Measure 37, or any other title.

Mayor Hughes said it was hard to write an ordinance right now when they didn't know what the outcome regarding Measure 37 would actually be after the legislature made it's decision.

Councilor Carl Hosticka pointed out that Metro Council had adopted a time frame that they would not officially adopt the resolution until the state had made a decision on Measure 37, which was estimated to be in September 2005.

Mayor Drake said that he had thought the responsibility was more on the cities and not on Metro.

Mayor Lehan said that she did not think they were taking advantage of the exemptions that Measure 37 offered by tying into the federal regulations of the water quality act and the endangered species act. She said that the essence of riparian protection was water quality. She said that while it would not offer a guarantee against a Measure 37 claim, it would put the burden on the claimant to prove that a site was not essential to compliance with the regulation.

Mayor Alice Norris, City of Oregon City, asked if MPAC was going to develop a consensus on some issues by the end of the evening.

Chair Hoffman said that was his hope. He said that they would also include comments for staff.

Motion #1:	Alice Norris, City of Oregon City, with a second from Martha Schrader, Clackamas County, proposed that staff eliminate language in the draft plan related to Measure 37 and use a footnote approach instead.
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Vote on Motion #1:	The motion passed unanimously.
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Councilor Liberty said that Measure 37 included another exemption for pollution control. He said he wanted to reference that the state laws did not necessarily set a minimum. He said that he felt that Measure 37 was a law that all of them would implement, but the Nature in Neighborhoods plan had a lot of pollution control benefits, and those ought to be acknowledged and recognized. That would be one way to achieve wildlife and habitat protection: by protecting water quality. He said that those goals were the same and expressing that as part of a pollution control agenda, as well as a federal mandate, made sense.

Motion #2:	Mayor Lehan, City of Wilsonville, with a second from Mayor Norris, City of Oregon City, moved to recommend to Metro Council to beef up the intent language to incorporate references to the clean water act and the endangered species act, more than what was currently in the draft, and fold in the pollution aspect of Measure 37.
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Mayor Drake asked if DEQ had validated the Goal 5 process.

Councilor McLain said that if they included those connections then they would have to show how those connected items of clean water, pollution control, and endangered species were being addressed by specifics in the program. She said that they had been waiting to hear from those agencies on what they would agree to in regards to specific coverage.

Mayor Drake asked if that was a flaw in the motion.

Mr. Cotugno said that they had good information in the science report that was part of the overall package and that established that connection. He said that he did not foresee a problem in making that connection.

After some discussion on this issue Mayor Richard Kidd, City of Forest Grove, suggested that if MPAC chose to include Motion #2 in the plan then DEQ would have something to validate or dispute if it was necessary.

Vote on Motion #2:	The motion passed unanimously.
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Mr. Wheeler suggested that they should discuss consistency of standards. He suggested that they should apply consistent standards across the region regarding avoid, minimize and mitigate in all habitat conservation areas.

There was discussion on this and about the definition of “practicable.”

Motion #3:	Ted Wheeler, Citizen – Multnomah County, moved to support a regional standard that would include avoid, minimize, and mitigate, and provide regional standards across jurisdictions which supported the language in the current functional plan.
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Mayor Drake said that Washington County’s recommendation had in some instances taken a different viewpoint re: Tualatin Basin Resolution. He asked if Brent Curtis, Washington County, should talk about this issue. There was discussion about how the motion should be worded and an amendment to the motion was made.

Amendment to Motion #3:	Ted Wheeler, Citizen – Multnomah County, moved to support a regional standard that would include avoid, minimize, and mitigate, and provide regional standards across jurisdictions which supported the language in the current functional plan, but did not take action related to the Tualatin Basin motion.
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Chair Hoffman asked to hold off on the Tualatin Basin approach for the next meeting. There was discussion about avoid, minimize, and mitigate for the functional plan for class 1 and 2 riparian habitat and the Tualatin Basin plan on the west side of the region versus what would/could apply on the east side of the region. Due to the concerns over how the Tualatin Basin plan would affect the decision, Chair Hoffman asked the members to table motion #3 with regards to the Tualatin Basin plan, and instead

amend the motion to approve the avoid, minimize, and mitigate for all class 1 and 2 that was currently in the functional plan to apply everywhere.

Second Amendment to Motion #3:	Chair Hoffman moved to support a regional standard that would include avoid, minimize, and mitigate, and for all class 1 and 2 that was currently in the functional plan to apply everywhere.
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Councilor Hosticka said that he thought it would work in the following order: 1) adopt the functional plan that would apply everywhere, and 2) then consider the Tualatin Basin approach.

Mr. Wheeler withdrew the motion in its entirety as it was agreed that there was need for more discussion.

Vote on last amendment to Motion #3:	The motion failed as it was withdrawn by Mr. Wheeler, and due to a desire by the members to discuss in more depth the Tualatin Basin plan and its relation to the Metro staff plan.
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Martha Schrader, Clackamas County, asked to discuss the timing of implementation or rollout for the plan. She requested a longer time-line than two years for implementation as she did not feel that would be enough time to roll out the functional plan in an effective manner. She requested a 4-year timeline.

There was discussion about the merits of 2-years, versus 3-years, versus 4-years for implementation. There was also discussion about adding or implementing an "extension" process.

Motion #4:	Richard Kidd, Mayor of Forest Grove, with a second from Charlotte Lehan, Mayor of Wilsonville, moved to keep the current language of the functional plan which laid out a 2-year time line for implementation, but to add an extension process as outlined in Title 8.
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Vote on Motion #4:	The motion passed unanimously.
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Chair Hoffman said that the proposed functional language would require every jurisdiction in the region to remove barriers to habitat friendly practices in all the blue and green areas outlined on the displayed map. If there was a barrier to habitat friendly development practices in uplands, woodlands, forests, or forested canopies, they would have to remove those barriers to allow a developer to use habitat friendly development. That meant that they would have to use environmentally friendly materials in the development. All jurisdictions would be required to eliminate those barriers that prohibit or impede cluster development in those areas on the map (green or blue areas).

Mayor Drake expressed concern over shifting densities, especially to radically shifting and increasing densities, and he suggested that they should use the phrase "consider" rather than "mandate." He wanted to avoid shifting the burden from an existing neighborhood to save it, and he wanted it to be saved, but at the same time if you were living in that neighborhood and suddenly had a new ordinance that you hadn't anticipated then there would be competing interests.

Ms. Deffebach said that there had been a lot of discussion on which word or phrase to use and she said it was an important issue. She explained that the functional plan proposed several approaches: 1) encourage, 2) provide incentives by reducing the barriers, and 3) use requirements where possible or where it was

technically feasible and practical to use them. The current proposal had the middle step, which was more than encourage, but in class 1 and 2 riparian areas take the extra step and require them to be used if they were technically feasible and practical. There was discussion about these three approaches.

Mayor Norris asked if a new science would automatically be added to the list and if it would apply?

Ms. Deffebach said that the list was neither exhaustive nor static. She said that the intent was to do better now and in the future than they had done in the past, and to make it as flexible as possible for that purpose.

Chair Hoffman asked if they wanted to meet on May 4 as well as May 11th?

It was decided that they would meet on May 11 but that Nature in Neighborhoods would be the only agenda item.

There being no further business, Chair Hoffman adjourned the meeting at 7:03 p.m.

Respectfully submitted,



Kim Bardes
MPAC Coordinator

ATTACHMENTS TO THE RECORD FOR APRIL 27, 2005

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

AGENDA ITEM	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NO.
#1 Goal 9	4/21/05	Memorandum to Jack Hoffman from Andy Cotugno re: Summary of Comments on Goal 9	042705-MPAC-01
#1 Goal 9	4/21/05	Letter to Steve Santos from Metro Staff re: Proposed Amendments to Goal 9 Rule, Draft 5	042705-MPAC-02
#1 Goal 9	3/31/05	Draft 5, March 31, 2005, Attachment A, Department of Land Conservation and Development, Division 009 Economic Development red-lined copy	042705-MPAC-03
#3 Nature in Neighborhoods	2/27/05	Memorandum to MPAC from Andy Cotugno re: MTAC comments on Ordinance No. 05-1077	042705-MPAC-04
#3 Nature in Neighborhoods	4/27/05 revised	Comparison of Metro Title 3 and 2004 CWS Standards (Revised 4/27/05)	042705-MPAC-05

#3 Nature in Neighborhoods	4/25/05	Memorandum to MPAC and MTAC from Alan Yeakley and Connie Ozawa re: Updated Research Results and Response to the April 20, 2005 Memo from Valerie Counts et al	042705-MPAC-06
#3 Nature in Neighborhoods	4/26/05	Letter from Jim Labbe, Sue Marshall, Tom Wolf to MPAC and MTAC re: Response to April 20 memo Washington County Planners regarding proposed Tualatin Basin Goal 5 Program	042705-MPAC-07
#3 Nature in Neighborhoods	4/26/05	Letter from the City of Portland, Tom Potter and Dan Saltzman to MPAC, MTAC re: Nature in Neighborhoods Policy Issues	042705-MPAC-08
#3 Nature in Neighborhoods	4/26/05	Email from Chair Jack Hoffman to MPAC, MTAC re: index to the policy issues regarding Nature in Neighborhoods	042705-MPAC-09
#3 Nature in Neighborhoods	4/27/05	Letter from City of Portland, Tom Potter, Dan Saltzman re: Nature in Neighborhoods Policy Clarifications	042705-MPAC-10
#3 Nature in Neighborhoods	04/27/05	Letter from City of Wilsonville, Charlotte Lehan to MPAC and Chair Jack Hoffman re: Nature in Neighborhoods	042705-MPAC-11
#3 Nature in Neighborhoods	4/27/05	Letter to Metro Council and MPAC from Ball Janik, Dana Krawczuk, re: Nature in Neighborhoods – Ordinance no. 05-1077, Resolution No. 05-3577, and Resolution No. 05-3574	042705-MPAC-12
#3 Nature in Neighborhoods	8/9/04	Letter to Tualatin Basin Natural Resource Coordinating Committee from Ball Janik, Dana Krawczuk, re: Testimony for Tualatin Basin Goal 5 Program	042705-MPAC-13
#3 Nature in Neighborhoods	4/27/05	Letter to MPAC from Ball Janik, Christen White and Kristin Udvari, re: Regionally Significant Educational or Medical Facilities	042705-MPAC-14
#3 Nature in Neighborhoods	4/27/05	Memorandum from Ken Allen and Bill Wyatt with the Port of Portland, to Jack Hoffman re: Metro's Nature in Neighborhoods program	042705-MPAC-15
#3 Nature in Neighborhoods	4/27/05	Letter from Bob Sallinger, Audubon Society re: Airport Exemptions	042705-MPAC-16
Misc.	3/18/05	Letter from City of Tualatin, Lou Ogden, to David Bragdon re: Affordable Housing	042705-MPAC-17

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Misc.	4/25/05	Letter from Tom Hughes to Jack Hoffman and David Bragdon re: Title 7: Affordable Housing	042705-MPAC-18
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