

MINUTES OF THE METRO COUNCIL MEETING

October 15, 1998

Council Chamber

Councilors Present: Jon Kvistad (Presiding Officer) Ruth McFarland, Ed Washington, Don Morissette, Patricia McCaig, Susan McLain, Rod Monroe

Councilors Absent:

Presiding Officer Kvistad convened the Regular Council Meeting at 2:04 p.m.

1. INTRODUCTIONS

Presiding Officer Kvistad announced an award to Andrew Thaler for his commitment and efforts for Metro.

Councilor Morissette and **Mr. Bruce Warner** presented the award to Mr. Thaler.

Councilor McFarland acknowledged Mr. Thaler's commitment and service to the Rate Review Committee.

2. CITIZEN COMMUNICATION

Art Lewellan, 3205 SE 8th, Portland OR, reviewed his latest development of the LOTI design. He noted his design included an eastbank lightrail alignment. He reviewed the engineering difference between his design and the proposed South North alignment. He felt the engineering processes were much simpler in his design, cost less and included streetcar and electric bus system connectivity to the lightrail.

Councilor McFarland thought the City of Portland would be involved in the decisions for lightrail downtown and asked if he had presented his plan to the City of Portland. She asked if he would rather have a lightrail or no transit at all.

Mr. Lewellan responded he had presented before the city. He said he was a big supporter of lightrail, he was, however, opposed to the downtown portion of the lightrail plan.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. AUDITOR COMMUNICATIONS

Alexis Dow, Metro Auditor, reviewed her latest audit. She said the primary purpose of the survey was to identify remote locations and their methods for collecting and accounting for cash receipts. Some of her recommendations for improving those methods were to make sure each location had written policies and procedures for dealing with cash. She also recommended establishing monitoring procedures for contractors who collected a lot of cash on Metro facilities. She said accounts receivable from regular collection of individuals or companies should be handled by Metro's accounting division. She reported that in some instances that was being

handled within the departments and since it was a recurring accounting function it should be handled by the accounting division. She said Mr. Burton had reviewed the report and concurred with her observations. She noted his response was included in the report. She concluded by saying that she appreciated the effort and support from the individual departments and was amazed and proud of the commitment Metro employees had to doing a good job.

5. MPAC COMMUNICATION

Councilor McLain said she and Councilor Monroe had attended the MPAC meeting where the Productivity Study was reviewed. They had discussion about the basic process and distributed the schedule for the upcoming major decisions. She said overall it was a working meeting and there were no decisions made to report to the Council.

6. CONSENT AGENDA

6.1 Consideration meeting minutes of the October 8, 1998 Regular Council Meeting.

Motion: **Councilor McFarland** moved to adopt the meeting minutes of October 8, 1998 Regular Council Meeting.

Seconded: **Councilor Monroe** seconded the motion.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7. ORDINANCES - FIRST READING - QUASI-JUDICIAL PROCEEDINGS

7.1 **Ordinance No. 98-777**, For the Purpose of Approving the Urban Growth Boundary Locational Adjustment Case 98-2: Dennis Derby and adopting the findings and conclusions.

Mr. Larry Shaw, Legal Counsel, reviewed the findings for the Council. He said Metro staff had interpreted the maximum efficiency standard in a different way than Council and it had been changed to be consistent with Council's discussion from last time. The second difference was in the "similarly situated land" criterion. These findings were interpreted in a manner consistent with Council's discussion and action last time. He said these findings were prepared consistent with the criteria for locational adjustment and were the basis for Ordinance 98-777 which was up for approval of the locational adjustment of 14.8 acres south of Lake Oswego.

Councilor McLain asked if it would remain as Ordinance No. 98-777 or would it be an "A" version.

Mr. Shaw said except for the portions of Exhibit B that had been changed it was the same.

8. ORDINANCES - SECOND READING

8.1 **Ordinance No. 98-771**, For the Purpose of Granting a Yard Debris Processing Facility License to Northwest Environmental and Recycling Inc., to Operate a Yard Debris Processing Facility and Declaring an Emergency.

Motion: **Councilor Washington** moved to adopt Ordinance No. 98-771.

Seconded: **Councilor Morissette** seconded the motion.

Councilor Washington said this facility would process about 30,000 cubic yards of material a year from commercial and general public sources.

Councilor Morissette added that this would give a recycling facility in an area currently without one and would encourage the goals toward recycling.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-771. No one came forward. Presiding Officer Kvistad closed the public hearing.

Councilor Washington added they had not received notice of any potential complaints regarding this facility. He urged an aye vote.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

9. RESOLUTIONS - QUASI-JUDICIAL PROCEEDINGS

9.1 **Resolution No. 98-2714**, Denying Urban Growth Boundary Locational Adjustment Case 98-8: Evergreen Christian Center and adopting the hearings officer's report including findings and conclusions.

Mr. Shaw, Legal Counsel, reviewed the rules for the quasi-judicial proceedings.

Mr. Glen Bolen, Growth Management Department, said the Evergreen Christian Center had requested an addition of 15.25 acres to the UGB for the purpose of further expanding their church site. He reported that a public hearing had been held with a hearings officer. He noted the Evergreen Christian Center had filed an exception to the hearings officer's recommendation as per Metro Code and had asked to be heard. He introduced the hearings officer for her report.

Ms. Pam J. Beery, Hearings Officer, presented the reasoning for her decision for denial of this locational adjustment. She said while the applicants presented a very sympathetic situation with sewage disposal problems and a desire to expand what was clearly a popular Christian center, she was unable to find that all 9 criteria had been satisfied. She explained that the way the code was structured the overall findings needed to conclude that the applicant's proposed new boundary was superior to the former UGB. The criteria required efficiency of public services and the potential for development of those lands to be improved by the new boundary. She said she was unable to make a finding that that would occur based on the evidence in this case. She reported no negative impacts of a transportation nature. She found, in regard to public facilities, that only storm water was problematic. She reported that the City of Hillsboro was ready, willing and able to serve this property. She said her decision finally came from a finding that the proposed boundary would not be superior to the existing urban growth boundary because it would not facilitate services or development to lands already within the boundary.

Councilor McFarland asked if this was within the City of Hillsboro proper.

Ms. Beery responded that the city was ready to annex it, apply zoning and provide services but it was not now in the city limits.

Presiding Officer Kvistad asked Mr. Shaw to review the procedure.

Mr. Shaw responded that the procedure allowing for exceptions to the hearings officer's recommendations to be filed in a timely manner had been followed and the exceptions were the only basis for hearing argument at this time. He said the exceptions to the hearings officer's decision must be based on the evidence in that record and should not be new evidence or documentation. He said it was not technically testimony but argument and could only be made by those who filed the exception.

Presiding Officer Kvistad opened a public hearing and called the 3 citizens who had turned in testimony cards.

Mr. Shaw said Mr. Willey was the one who had filed the exception and while he could have help from the others, it would have to be his arguments heard today as the filer of the exception.

Councilor McLain said that at a previous council meeting where they had taken exception testimony, Mr. Cooper had indicated it would be appropriate for the Presiding Officer to allow anyone to come forward with their testimony because it was the public's right to testify at a public hearing. She said he had indicated that anything they heard had to be filtered by the hearings officer report but he did allow people other than the filers to speak. She asked for consistency.

Mr. Shaw said technically the process allowed argument from the exception filers only. He said a public hearing for general input should be separate.

Presiding Officer Kvistad said he was under the impression, since all 3 citizens had the same affiliation, that they were all going to participate.

Mr. Jerry Willey, 16514 NW Pebble Beach Way, Beaverton, OR 97006, said he had represented the Evergreen Christian Center in this petition from the beginning. He said they had been encouraged to apply for a locational adjustment and told it would be a relatively straightforward and simple process to comply with the rules. They were also told there probably would not be much resistance but they had found from the beginning that was not the case. They believed they would win because what they wanted was good for everyone in the community. He said they were frustrated at the lack of knowledge and the inconsistency of application of the rules by the involved agencies and the effort and time it took to go through all the governmental agency hoops only to have a hearings officer make an independent decision in the end. He said they had spent 15 months and \$15,000 to get to this point and an extra \$600 to spend 15 minutes with Council today. He said he expected the Council, as Metro representatives, to work for them and not against them to help the Evergreen Christian Center accomplish their goals and stay in bounds with the land use rules. He touched on some of the aspects of the hearings officer's report: he wondered what applicable criteria she meant when she stated that the petitioner had the burden of showing the locational adjustment met all of the applicable criteria. He said they firmly believed some of the criteria was not applicable. He said in regard to the hearings officer's conclusion for denial being based on their inability to substantially have evidence to show they met the criteria, that nowhere in the code section did it say "substantial". He noted it only said they had to "meet" it. He said there was a huge gap between the two and felt her conclusions were based on "substantial" which was not used in the code. He said the most important aspect of the criteria was the "superior urban growth boundary". He disagreed with the finding that the locational adjustment would not be advantageous to the property inside the boundary. He pointed out the services already available on the map. He quoted from a letter from Washington County that concluded "public facilities and services with adequate capacity are available to serve the site. A net improvement in efficiency would result if existing and planned surplus capacity was utilized.

Based on this criteria staff concluded that although there were improvements that the applicant must make to provide sewer service to this site, there would be a net improvement in the efficiency of service provision relative to the existing and planned capacity because there was excess capacity to serve the site and the cost for providing the service would be borne by the applicant". He said the church had been there for 25 years without impacting the agricultural activities around them. He asked the Council to override the recommendation of the hearings officer and to approve the petition because he firmly believed they met the criteria and it was the right thing to do.

Ms. Beery clarified that she used the "substantial evidence" standard because it was Oregon's land use standard and this was a land use decision. She pointed out evidence she found persuasive against Mr. Willey's arguments: 1) a letter from the Oregon Department of Agriculture (Exhibit 11) indicating they did not believe there was a showing of acceptable impact to nearby agricultural activities based on a proposed expansion of the facility. 2) She said she relied heavily on the Unified Sewerage Agency's testimony (Exhibit 18) that they could not find that they could serve this expanded use if it were brought into the UGB because no long range planning had been done in this area. 3) Regarding the issue of septic contamination there was testimony from Mr. Willey and others that they were concerned contamination might occur. The record disclosed that in the church's application their architect had noted the septic system was functioning and could be expanded on-site to accommodate the expansion of the facility without an urban growth boundary adjustment. She noted the letter from Mr. Curtis in the record (Exhibit 24) and said even in response to this letter Washington County's board had expressed no comment on the position.

Mr. Willey said he did not interpret the USA report in the same way that Ms. Beery had. He felt it said they had not done a study but needed to do so but it did not say they could not service the church's property. He agreed that the architect said a septic system could be built but said the report did not address the contamination issue, only the feasibility of building it. They also said the septic system would be considerably cheaper to build.

Councilor McFarland asked Mr. Willey about his presumption that a properly engineered and installed septic tank constituted an automatic pollution of surface water and streams.

Mr. Willey responded that there were several factors including the center's long range plans for the property which would add several more buildings to the property and in turn would require more parking and a significantly larger drain field. Based on information from the Washington County Commissioner regarding his church's problems with groundwater contamination after such a septic tank project, they were trying to anticipate future needs and felt the solution was only 135' away at the sewer.

Councilor McFarland said that was not part of her question. She asked again if the assumption was automatic that putting in a septic tank would eventually pollute the surrounding surface water and stream water. She said the answer she heard from Mr. Willey was yes.

Councilor Monroe asked Ms. Beery if it was in the evidence whether or not this property was in an urban reserve.

Ms. Beery said it was in the staff report that the property was not in an urban reserve.

Councilor McLain noted that the hearings officer's major conclusion for denial of this application was the superior boundary issue and not any future health issues with the septic system.

Ms. Beery said that was correct. She was unclear as to where the potential problem was and found no evidence of a threat to the groundwater in this area at this time. She said the only criterion that might apply would be if somehow the groundwater contamination affected lands inside the UGB, one could argue that it didn't facilitate their development. She said it was a marginally applicable piece of evidence at best. She agreed that the superiority of the UGB was in turn defined by the other criteria and several of those had not been met.

Councilor McLain said the extra-territorial extension he had spoken of as a remedy to future sewer problems was not something that would be handled by Metro but by Washington County and/or USA. She had heard of a recent extra-territorial extension that was quite successful and had happened easily without an urban growth boundary decision. She did not find anything in the report where this was discussed nor did she see where it related to those reports.

Ms. Beery said Councilor McLain was correct. She had discussed the extra-territorial extension with staff and they had discussed it with the applicant. She said that option was still available.

Mr. Willey noted that letters from 1000 Friends and the Department of Agriculture both said the existing buildings could hook up to the sewer but he wondered about the buildings they wanted to start construction on in the next 12-18 months. They would have both a septic system and a sewer system which was not very efficient so they would have to ask for permission to have the sewer hook-up added for the new building. He said it was a process fraught with complications.

Councilor Morissette said the church had been a good neighbor for 26 years and he believed they would continue to be good neighbors with the expansion. He thought a "grandfather clause" would be applicable here and felt their use of the land fit perfectly within Metro's designation. He was hopeful that Council would remand back to staff and find in favor of the locational adjustment.

Presiding Officer Kvistad said Council's options were to approve the hearings officer's report and deny the application, to remand back to staff for it to return to Council with a motion to approve, or to continue.

Mr. Shaw said those were the three options under the code. He said a public hearing was not in the code but was always an option.

Councilor Monroe asked when the appropriate time would be to comment on what the council had heard.

Presiding Officer Kvistad set aside the public hearing on items that had not been presented by the hearings officer and Mr. Willey so Council could deal with the issues presented by the appellant. He felt the issues had been well made by their attorney.

Councilor McLain said the individuals left to testify did not have an attorney. She indicated that they had provided an opportunity for others to contribute public testimony on these kinds of issues. She said council understood the rules and knew what they could or could not use to make their decision and some of the people had traveled from Hillsboro to comment in front of the council. She felt they should be allowed to do so.

Presiding Officer Kvistad said he was not making the decision to set aside the public testimony out of discourtesy but was trying to balance the discussion from Hillsboro when Mr. Cooper cautioned them about moving forward with public testimony. He recalled that while Mr. Cooper did not say they couldn't do it, he said it was not the normal course of action. He said there was someone at this meeting representing the interests of the petitioner.

Mr. Willey reiterated that the woman who said nobody was representing her was a neighbor of the property and Mr. Stanton was the pastor at Evergreen Christian Center.

Presiding Officer Kvistad said he would open a public testimony out of courtesy and allow each person 3 minutes. He noted Council would have to follow their strict guidelines for hearing and using evidence

Councilor Monroe asked for direction on which testimony to ignore.

Presiding Officer Kvistad clarified that Mr. Shaw would give an outline of what was and was not appropriate. He said they could not consider items that were not in the record or items that were newly brought up and not previously submitted. He said this testimony was a courtesy because of a councilor request and there were legal exceptions to what they could hear because of the nature of the body. He said Council would need to discuss this for the future.

Presiding Officer Kvistad opened a public hearing.

Ms. Sharon Cornish, 30265 NW Evergreen, Hillsboro, OR 97123, a neighbor of the church, asked for a definition of "agriculture" in Metro's criteria. She said she was a rural residential person with a septic tank, her own well and surface water, but was certainly not an agriculturist. She said until such time as they could all be brought into the UGB at the same time Metro would be creating problems for them by including the church property. She said they would change the natural flow of the surface water with their plans to blacktop part of the property. She commented that Washington County had no surface water management as shown by their removal of the drainage ditch along her property. She said she had to take them in front of the County Council to get it back. She also noted a flood plain near the church which the Army Corps of Engineers said would become a flood hazard if the ditch was not maintained. She said not denying this locational adjustment and leaving everyone else out of the UGB was showing favoritism to the church.

Mr. Shaw suggested that the hearings officer tell how much of the stormwater evidence was in the record.

Ms. Beery said there were other neighboring residents who testified about stormwater pooling and collecting on the church property, and some issues related to the physical proximity of their residences, but she did not recall the other information being in the record.

Pastor Ed Stanton, 4400 NW Glencoe Rd, Hillsboro OR, 97124, thanked the Council for letting them present their case today and appreciated the work of the council even though their decisions were not always popular. He said that the church's beginning goal was to develop their 25 year old site in a way conducive to serving the people of western Washington County. He said they had met with two major problems in trying to expand their church, 1) the City of Hillsboro would not extend sewer to their site because they were outside the UGB. He said they were alarmed by this because they were so close McKay Creek which fed into the Tualatin River and to several neighbors who used well water for drinking purposes, and 2) they were informed they would not

be able to build a Christian school onsite unless 70% of the enrolled students came from rural addresses since they were outside the UGB, regardless of the fact that 90% of their constituency came from the city. He said Washington County had informed them of a reasonable process they could use to petition Metro to allow them to be included in the UGB. They were told up to 100 acres could be annexed each year but found the process to be arduous and very expensive. They discovered that non-profit organizations were doomed to denial from the outset because the criteria used for a locational adjustment was biased against non-profit organizations. Of the 9 qualifications used to establish a superior UGB, 2 dealt with economic net improvements. He said when they asked for interpretation of that term, they were given ambiguous answers at best. He said the reason for their existence was not to turn dirt into dollars but into a place committed to serving and helping people. He mentioned several programs and classes they had available to help people. He noted the likelihood of violence and other social deviances were higher in more densely populated areas and given the current policy of urban growth management toward an intense concentration of housing he felt greater social problems would occur in the years to come. He said they served families from planned housing developments where the children played in the streets because they had no backyards or parks. He said they had dedicated some acreage at their site to softball and soccer fields, play structures and playgrounds which people used daily even though they are not supposed to. He noted that last summer they had received notice from Washington County that they could be cited for operating a private park if other than church members used the facilities. He concluded that they would not be creating problems for Metro but solving them and appealed to the council to adjust the UGB to let them join the City of Hillsboro. He felt they provided benefits to the region even though it might not be some of the economic net gains cited in Metro's staff report. He asked council to overturn the hearings officer's report and grant them inclusion in the UGB.

Presiding Officer Kvistad closed the public hearing.

Councilor Monroe asked how much of the previous testimony should be considered under the law.

Ms. Beery said most of Pastor Stanton's testimony was presented to the hearings officer. She said she had made a finding that the social value which the Center contributed to the community was inescapable but was not enough to overcome the criteria.

Motion: **Councilor Monroe** moved to adopt Resolution No. 98-2714.

Seconded: **Councilor McFarland** seconded the motion.

Discussion: **Councilor Monroe** said that his motion had nothing to do with the value of the church and the service they provided. The locational adjustment process was an exceptional process to the normal process of expanding the UGB. It had specific law in how the exception could be applied. He had not heard any arguments to reverse the hearings officer's determination of the law.

Motion to

Substitute: **Councilor Morissette** moved to remand this locational adjustment to staff to create findings for approval.

Seconded: **Presiding Officer Kvistad** seconded the motion to substitute.

Councilor Morissette reminded council that the land use process was clearly designed to allow people to do things with their land that they were previously doing before the land use process was established. He said there were all kinds of things that could be done with land and still follow the rules. He believed the church would continue to be a good neighbor for the area as well as the region and felt it came down to letting them do what they were already doing but in a better and more efficient way. He did not believe the rules were put in place to stop this sort of expansion and requested reconsideration of the issue.

Vote to substitute: The vote was 2 aye/ 5 nay/ 0 abstain. The motion failed with Councilors McFarland, Washington, Monroe, McCaig and McLain voting no.

Councilor McLain said her reasons to support the denial had nothing to do with how much she supported churches or schools but she was bound by the criteria before council and the technicalities of it. She felt some of the comments made by the petitioner actually supported the hearings officer's thoughts rather than disputed them. The church was talking about expansion but when taking into consideration the comments of some of their neighbors, the church's good neighbor status could not continue with this particular urban use in this site because of its changed circumstance. She said the petitioner wanted to change the UGB for their changed circumstance but council had to look at the circumstance of the neighborhood around them when they reviewed it for superior boundary. The parking and extra buildings that went along with the services they provided would take away from their being a good neighbor with these agricultural purposes. She supported the motion as presented by the hearings officer and put forward by Councilor Monroe.

Councilor Morissette thought a church was an excellent farm use and they were making a mistake.

Presiding Officer Kvistad was bothered that the narrow criteria and technical way they had to make their decisions made it very difficult when there was a facility providing an important public service like this one. He said he was not going to be able to support the motion.

Vote on the

Main Motion: The vote was 5 aye/ 2 nay/ 0 abstain. The motion passed with Councilor Morissette and Presiding Officer Kvistad voting no.

9.2 **Resolution No. 98-2718**, For the Purpose of Expressing Council Intent to Amend the Urban Growth Boundary for Locational Adjustment Case 98-4: Tsugawa.

Presiding Officer Kvistad asked Mr. Shaw to review the rules for this case.

Mr. Shaw said this procedure was a little different as there had been a timely request made to reopen the evidentiary hearing before the hearings officer for additional evidence that they had summarized in their request. He said the council had the choice of ruling on the motion based on the request itself or hearing oral argument from both sides.

Presiding Officer Kvistad recommended, in order to be consistent, that they not allow further testimony and move to general discussion on the hearings officer's report. He said he would entertain a motion to discuss new evidence if any councilor so wished. None wished so he ruled they would not accept new testimony at this time and would move to general discussion on the resolution expressing council's intent to amend.

Mr. Glen Bolen, Growth Management Service Department, said before Council today was a proposal for a locational adjustment to the UGB. Jim and Amy Tsugawa had requested the addition of 15 acres to the UGB for the purpose of developing the site with residential uses. He noted what was included with the resolution (a copy of which may be found in the permanent record of this meeting). He also noted that there was a request for the Oregon Department of Transportation to reopen the record. The property was located in Washington County southeast of the intersection of north Cornelius Pass Road and West Union Road. A public hearing was held on July 9th conducted by Richard Forester, the Hearings Officer for Metro. He introduced Mr. Forester.

Mr. Richard Forester, contract Hearings Officer for this case. He recommended approval of this locational adjustment. He said that this case was a flip side of the case just before the Council. The area to be annexed into the UGB was surrounded on three sides by the Urban Growth Boundary and was also an urban reserve area. He found that the applicant met all of the criteria. There was public testimony regretting the loss of a filbert orchard but this did not address the approval criteria. There was also some testimony about traffic, the potential impact of this proposal on the intersection of Cornelius Pass Road and Highway 26. There were two issues that required some discretion on the part of the hearings officer in terms of coming to an affirmative conclusion. He noted a letter from the Department of Transportation addressing impact on Hwy. 26. The applicant consultant responded to the ODOT letter. The Hearings Officer had to weigh potential impact on that intersection with the criteria. The criteria was net transportation impact which required looking at all of the transportation impacts not just that one particular intersection. The applicant suggested that the impact from Kiddleson was not statistically significant. There was a transportation analysis from Metro staff that impact would not be noticeable until the year 2020. Weighing the benefit of sidewalks, bicycle lanes and intersection improvements that this proposal would provide versus theoretical impacts twenty years out, Mr. Forester felt the weight of the testimony was that there would be net transportation improvements in terms of relationship of developments to the east and south which would be able to access a rural center on the intersection of Cornelius Pass Road and West Union Road. There would also be a realigned of Jacobsen Road.

The other issue that required some discretion on the part of the hearings officer was whether this inclusion would facilitate other development. He noted on the map that the area surrounding this proposal was already developed. Therefore, the impact was neutral. But the proposal would improve the stability of the people from the south to the east of the intersection. This would actually improve the relationship to the surrounding intersection. He concluded on that basis that all of that criteria was met and he recommended approval.

Presiding Officer Kvistad called for questions of staff.

Councilor Washington noted that the Urban Growth Boundary surrounded the Tsugawa property on three sides and asked Mr. Forester what was to the left of the property. It appeared undeveloped.

Presiding Officer Kvistad explained that this was the West Union intersection, directly to the west was an agricultural store, across in the urban reserve on the corner was a small office complex, shopping center. He noted the active rail line and the orchard.

Councilor Washington asked where the boundary went beyond the map.

Councilor McLain responded that to the west was inside the Urban Growth Boundary, across the road was a fruit store. There was some development going on in that area inside the Urban Growth Boundary.

Councilor Washington noted on the map what area he spoke of.

Councilor Morissette said that area was primarily industrial.

Presiding Officer Kvistad said the Council would not be considering the ODOT issue.

Mr. Shaw clarified that Mr. Chandler was at the meeting to rebut the motion. In looking at the Code, he recommended that the Council needed to vote to determine if the request to reopen the record would be considered. If the decision was not to reopen the record without oral argument then there should be a motion to that effect and it be voted on to make the record clear.

Motion: **Councilor Morissette** moved to not reopen the record to consider new evidence in Locational Adjustment Case 98-4:Tsugawa.

Seconded: **Councilor McFarland** seconded the motion.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

Presiding Officer Kvistad said on the unanimous vote of the Council they would not reopen testimony, therefore, the Council would move to discussion and/or a motion to approve or deny.

Councilor McFarland asked for a point of information. If the Council had just voted not to reopen the record, hadn't the Council completed their decision process for this resolution.

Presiding Officer Kvistad clarified that the Council would need to vote to approve or deny the resolution. There was new testimony that had been requested to be included in the record. The Council voted not to reopen the record.

Motion: **Councilor McLain** moved to adopt Resolution No. 98-2718.

Seconded: **Councilor Monroe** seconded the motion.

Councilor McLain closed by noting the map. She said the property was a filbert orchard 20 years ago. At that point the Council was convinced that this property would be farmed as a filbert orchard. With the improvements in efficiency of the corner and improvements in efficiency of the Urban Growth Boundary, she thought the record as presented by the hearings officer had been met.

Presiding Officer Kvistad noted that the Tsugawas were friends of his family but he had not spoken to them on this item.-

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

10. RESOLUTIONS

10.1 **Resolution No. 98-2711**, For the Purpose of Granting Time Extension to the Functional Plan Compliance Reporting Deadline.

Motion: **Councilor Morissette** moved to adopt Resolution No. 98-2711.

Seconded: **Councilor McLain** seconded the motion.

Discussion: **Councilor Morissette** said that there were date certain for the people that were requesting extensions. They were asking for reasonable time extensions to meet the requirements of the Functional Plan. Generally these requests were from smaller communities that had less ability to provide the planning needs. He believed that these extensions would not adversely effect the implementation of the Functional Plan. He encouraged approval of this resolution.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

11. COUNCILOR COMMUNICATION

Presiding Officer Kvistad said there was a copy of the public hearings for the urban growth boundary public hearings before the Growth Management Committee in the Councilors' mail boxes. He encouraged attendance noting that the upcoming public hearing on the Stafford area.

Councilor McLain said there was an update that was in the Councilor mail boxes. She asked if the Legal Staff would be bringing that update to Council or to the Growth Management Committee.

Mr. Shaw asked if this was concerning the Tech matter?

Presiding Officer Kvistad said he thought this matter would be reviewed in Executive Session.

Mr. Shaw indicated that some of this matter would be in executive session and some in regular session. He said there was an important memo on a new kind of a land use decision called a development agreement that was on a fast track in Washington County to be adopted on October 27th. Metro had an interest in its authority and Functional Plans. He suggested that the Council review this. The attorney for Tech had given Mr. Shaw his draft findings to try and firm up the master plan to show consistency with the current Functional Plan. Mr. Shaw had returned comments to the Tech attorney but no revised version had been received back from the attorney.

Presiding Officer Kvistad said an executive session had been his intention at either the October 22nd or November 5th Council meeting.

Councilor McLain suggested that the executive session should be at next week's Council meeting as there may be ramifications for Metro.

12. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 3:58 p.m.

Prepared by,

Chris Billington
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
101598c-01	October 1998		TO: Metro Council FROM: Alexis Dow, Auditor	
101598c-02	10/15/98	Letter concerning UGB Case 98-4: Tsugawa ODOT's request for Council to reopen case	TO: Metro Council FROM: Marah Danielson Planner Development Review ODOT 123 NW Flanders Portland OR 97209	Resolution No. 98- 2718
101598c-03	10/13/98	Letter concerning Washington County Development Agreement Ordinance	TO: Metro Council FROM: Larry Shaw	