

# MINUTES OF THE METRO COUNCIL MEETING

November 19, 1998

Council Chamber

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

Councilors Absent: Patricia McCaig

Presiding Officer Kvistad convened the Regular Council Meeting at 2:06 p.m.

## 1. INTRODUCTIONS

**Councilor Monroe** introduced the audience to his t-shirt. It said "Sober Solutions". He was part of the governor's advisory committee on DUI. There had been a press conference that morning to kick off a campaign to encourage people to party sober and safe and not drink and drive.

**Presiding Officer Kvistad** welcomed the students from Capital Center in West View.

## 2. CITIZEN COMMUNICATION

None.

## 3. EXECUTIVE OFFICER COMMUNICATIONS

None.

## 4. AUDITOR COMMUNICATIONS

None.

## 5. MPAC COMMUNICATION

None.

## 6. CONSENT AGENDA

6.1 Consideration of the minutes of the November 12, 1998 Regular Council Meeting.

**Motion:** **Councilor McLain** moved to adopt the meeting minutes of November 12, 1998 Regular Council Meeting.

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

**Discussion:** **Councilor Morissette** amended the November 12, 1998 minutes, on page 6 he said "right now we fill the need best with what we have" not feel.

**Vote:** The vote was 5 aye/ 0 nay/ 0 abstain. The motion passed as amended with Councilors Washington and McCaig absent from the vote.

**Councilor Washington** arrived after the vote on the consent agenda.

**7. PUBLIC HEARING**

7.1 **Ordinance No. 98-779A**, For the Purpose of Amending Metro Urban Growth Boundary and the 2040 Growth Concept Map in Ordinance 95-625A in Urban Reserve Areas 43 and 47 of Washington County.

7.2 **Ordinance No. 98-788A**, For the Purpose of Amending Metro Urban Growth Boundary and the 2040 Growth Concept Map in Ordinance 95-625A in Urban Reserve Area 55 of Washington County.

7.3 **Ordinance No. 98-786A**, For the Purpose of Amending Metro Urban Growth Boundary and the 2040 Growth Concept Map in Ordinance 95-625A in the Sunnyside Area of Clackamas County.

7.4 **Ordinance No. 98-781A**, For the Purpose of Amending Metro Urban Growth Boundary and the 2040 Growth Concept Map in Ordinance 95-625A in the Pleasant Valley Area of Clackamas County.

7.5 **Ordinance No. 98-782**, For the Purpose of Amending Metro Urban Growth Boundary and the 2040 Growth Concept Map in Ordinance 95-625A in the Stafford Area of Clackamas County.

7.6 **Resolution No. 98-2726A**, For the Purpose of Expressing Council Intent to Amend the Urban Growth Boundary to Add Urban Reserve Areas 62, 63 and 65 in Washington County.

7.7 **Resolution No. 98-2728A**, For the Purpose of Expressing Council Intent to Amend the Urban Growth Boundary to Add Urban Reserve Areas 53, 54 and 55 to the Hillsboro Regional Center Area.

7.8 **Resolution No. 98-2729A**, For the Purpose of Expressing Council Intent to Amend the Urban Growth Boundary to Add Urban Reserve Areas 39, 41, and 42 in the Vicinity of Wilsonville.

**Presiding Officer Kvistad** announced to the Council that if the Council had UGB amendments to come forward to make sure the amendments were given to Council Analyst Morrissey so all of the members of the Council received a copy of the amendments as well as the notices were properly given. The last public hearing on the Urban Growth Boundary would be on December 3, 1998. The public hearing would not be for general testimony but would be the last day to place materials into the record.

**Councilor Morissette** said that he had a modification to an urban reserve and asked for clarification on what date that must be in to the Council.

**Presiding Officer Kvistad** suggested Councilor Morissette get amendments in by next week, November 24, 1998 so they would be available, this included any deletions, corrections, and adjustments. This would allow time for Analyst Morrissey to write them up and distribute them in

a timely manner for December 3, 1998. He asked Mr. Cooper to clarify the notice requirements for what was currently on the table and what was forth coming.

**Dan Cooper, Legal Counsel**, said this clarification also related to the amendment process the Presiding Officer had just spoken about. He said the Council had given notice through a newspaper ad of all of the areas that were potentially being considered. Separately, forty five day notice was given to DLCD of the December 3, 1998 date. The newspaper ad was also published forty five days in advance of the December 3, 1998 date. Separately, a twenty day notice was given in writing, to every property owner inside any of the areas being considered in an ordinance and also any one who lived within five hundred feet of the boundary, of any of the proposals that had actively been introduced. When the Growth Management Committee amended several of those proposals to add land to some of the legislation, an additional notice was given to every one within 500 feet of the new boundary including people who were already in. If the Council intended to add any land to the proposals that were in front of the Council now as they were currently prepared, they needed to make sure that the written notice was given out to the five hundred foot boundary at least 20 days before the Council acted on that proposal. So as the Council got closer to the end of the year, the Council could see the time compression. If there was a proposal to consider something that was not in the area or immediately adjacent to that which was in the newspaper ad, we needed to give that serious thought as to whether we needed to do another newspaper ad and give the forty five day notice on a property that was not properly noticed in that forum at the time the general notice was done. There was some notice limitations that the Council must deal with so if any Councilor had proposals for amendments that would be adding land to any of these proposals he suggested consulting with him or someone in the General Counsel office so that they could make sure there were no notice problems and got them taken care of. Additionally, if there were amendments that deleted land from anything currently in front of the Council, it would not be a problem on the notice side.

**Presiding Officer Kvistad** said the newspaper ads were very expensive and went beyond our current budget. There were adjustments made in next year's budget in the public outreach section to accommodate the increase in costs as the Council would have to take care of those notices again in the next fiscal year.

**Councilor McLain** asked Mr. Cooper for clarification on the notice requirements. She asked if the land was going to be packaged with a different property but had already been noticed, what were the notice requirements.

**Mr. Cooper** said this was not a problem, the Council had already given notice to the property owners. The different pieces that had already been noticed could be mixed and matched without triggering an additional need for notice.

**Councilor McLain** said she wanted this on the record because Mr. Cooper had made a comment that if it looked different or seemed to be somewhat different than the notice had been given.

**Presiding Officer Kvistad** asked **Elaine Wilkerson**, Growth Management Service Director, to present an overview of the urban reserve areas under consideration at this meeting.

**Elaine Wilkerson** stated that the summaries of all the sites would be completed by Tuesday, November 24. She admitted that a concern existed because not all the assessments and analyses have been turned in. She stated that she would try to deliver the summaries on Monday, November 23. The full reports would be delivered by Tuesday.

**Presiding Officer Kvistad** said in terms of the work itself, materials needed to be turned in as soon as possible.

**Elaine Wilkerson** added that one of the reasons for submitting these materials as soon as possible was because her staff needed to review it. Proponents would be called back and asked to submit additional information of staff believed additional material would enable them to make better recommendations.

**Ms. Wilkerson** continued with brief analyses of the five areas noticed for today's meeting. Ms. Wilkerson stated that Urban Reserve #39 referred to Resolution 98-2729A. This area was amended from the original reserve of 13 acres. Seven additional acres were added because of Wilsonville's submission explaining that they were hoping to have two schools in that location in a campus arrangement with an existing school presently within the Urban Growth Boundary. There were no units in the Productivity Analysis because staff's awareness of the idea of making it a school.

She continued with urban reserve #41, which also referred to Resolution 98-2729A. This was the Dammasch site and was in the First Tier. The area to the north was also in that reserve but it was not brought forward at this time. It consisted of 279 acres and should generate, according to the Productivity Analysis, something in the range of 1277 housing units and 426 jobs.

Finally, Ms. Wilkerson discussed urban reserve #42, the final urban reserve covered by Resolution 98-2729A. It consisted of 326 acres and was known as the Day Road Employment Area. 4000 jobs were estimated in the productivity analysis for this area.

**Presiding Officer Kvistad** cautioned that the area currently under consideration did not include the prison unless the governor and the state legislature sited that facility there.

**Ms. Wilkerson** replied that this was indeed a condition of the urban reserve decision.

She next discussed urban reserve #43, in Tualatin. This area referred to Ordinance No. 98-779A and was a single development known as the Matrix development. It consisted of 10.2 acres. The productivity analysis proposed 45 units and 15 jobs.

Finally, Ms. Wilkerson directed the council's attention to urban reserve #45 in Sherwood. No specific recommendation came forth from the Growth Management Committee on Sherwood. The community was in a position where they would, as a first tier area, be eligible to make a commitment to do an urban reserve plan and could be considered on that basis. Their Council dealt favorably with that issue. The 464 acres had the potential of 1772 units as well as 591 jobs according to the Productivity Analysis.

**Presiding Officer Kvistad** asked for questions from the council. Seeing none, he then opened a public hearing.

**Charlotte Lehan**, Mayor of Wilsonville, 30000 SW Town Center Loop, Wilsonville OR 97070 stated for the record that Wilsonville was in support of Resolution No. 98-2729A for the inclusion of urban reserves #39, #41, and #42. She suggested no changes at this time. #39 was a school site, #41 was essential for desperately needed housing and #42 would provide needed infrastructure in that area.

**Sue Engels**, City of Sherwood, 20 NW Washington St., Sherwood OR 97140 discussed urban reserve #45. She noted that a packet of information had been distributed to the members of Metro Council. The packet included a resolution passed by Sherwood City Council at their November 10 meeting in support of inclusion of urban reserve #45. This resolution made a commitment to the concept planning. Additionally, she noted that the packet contained a letter of support from a resident of the urban reserve area. She made note of her testimony before the Growth Management Committee. She stated that there was logic in bringing urban reserve #45 into the urban reserve group in the first place and that logic still stood. The area was noted to be suitable for urbanization; adjacent to the city's Urban Growth Boundary with available roads; readily available urban services. She pointed out that this area was rapidly growing. A school district needing more ground was noted. She said that although the concept planning had not been done to date, much logic existed to include it, leading to a coordinated plan in the Sherwood area.

**Melanie Pennington**, 10365 SW Day Road, Sherwood OR 97140 said that she was here once again, on behalf of a large group of her neighbors who were opposed to urban reserve #42 being included in this expansion. She noted that they had testified many times in opposition. She called attention to her perception of why the concept plan for the area was done without input from the people there. The fact that this was being known as the Day Road Employment Area came as a surprise to her, she said. The plan for urban reserve #42 gave zero houses and, in fact, if the people who actually lived there were counted, housing was being eliminated. A city that had constantly complained about a 3:1 jobs to housing ratio had asked Metro to give them more jobs against the will of the people currently living in the area. She stated that everyone living there had wells and no further infrastructure was needed. Some people would like to sell and move away but the majority of the people who lived in this area wanted to continue to live there and did not want to become part of the City of Wilsonville.

**Darren Pennington**, 10365 SW Day Road, Sherwood OR 97140 stated that he came to the council asking that urban reserve #42 be pulled from this amendment. Reiterating what his wife said, he charged that the concept plan did not involve public hearings. It was based solely on the wishes of the City of Wilsonville in order to move the prison, originally sited on the Dammasch property, to Day Road. He stated that now the state was in a position where the prison could be moved totally from Wilsonville. There was no reason for urban reserve #42. It was the wishes of the City of Wilsonville, not of the citizens or the majority of citizens in the area.

**Mike Tannebaum**, Deputy Superintendent, West Linn-Wilsonville School District, Administration Building, West Linn OR 97068 stated that he was in attendance at today's meeting to support Resolution No. 87-2729A. The school district and Mr. Tannebaum stated their pleasure at seeing the additional seven acres included in urban reserve #39 and called attention to the need to accommodate building two elementary schools.

**Keith Liden**, McKeever-Morris 209 SW Oak Suite 200 Portland OR 97204 stated that he had been doing work on behalf of the school district. He noted that he had submitted information on behalf of the district to the staff to assist them with the report to be in the findings. Mr. Liden made one clarification in that the configuration of the site was a little different from the draft in the ordinance now. He said that he submitted the concept site plan once at the Growth Management Committee and a slightly-revised one to the staff just recently.

**Councilor Morissette** asked if the seven acres moved in committee wasn't all that was wanted or perhaps it was not configured exactly as was wanted.

**Mr. Liden** answered that it was actually configured a little differently. The map in the councilors' packets showed just an addition to the west and the actual configuration would be a little bit to the north and a little to the west.

**Councilor Morissette** asked if Ms. Wilkerson could explain this matter.

**Ms. Wilkerson** stated the map adjustment may not be a problem depending on how large it was. Perhaps it was something that could be accommodated with just minor changes.

**Presiding Officer Kvistad** asked Mr. Cooper if this might not be considered a technical adjustment.

**Mr. Cooper** stated that there was probably not a need for an additional letter notice for this small area because of the way everything was configured there but the matter would need to be researched. He recommended that the correct map be attached to the amendment of the resolution.

**Presiding Officer Kvistad** asked **Mr. Morrissey** to follow through on that matter.

**Charlie Wright**, 12055 SW Malloy Way, Sherwood OR 97140 talked about the Tier II portion of urban reserve #41. Most of the Council had received letters that he sent on November 2, 1998. These letters requested an amendment to the peninsula as it was referred to. He received a letter from Councilor McLain that stated one would have to be compliant with Goals 2 and 14 prior to an amendment. When the City of Wilsonville reviewed this area in greater depth, he continued, they would have a plan for that area which would adhere to Goals 2 and 14. His particular interest had always been in the portion just north of Malloy Way. In his letter, he stated that if the council were to choose to amend and bring in that portion into the Urban Growth Boundary, it would make a fairly easy-to-read north/south boundary for the municipalities where urban stopped and rural began. Farming on the north side of Malloy Way would be eliminated. With the inclusion of the area south of Malloy Road all the filbert trees would eventually be gone. The two parcels to the east of his also supported livestock. To incorporate his property would eliminate all farming except for a few horses that were almost at the very end of Malloy Way. He asked the Council review his letter. He appreciated the responses that he had gotten. He also understood, from Mr. Cooper's statement that they might be facing some time constraints.

**Councilor McLain** made clear that the letter referred to by Mr. Wright indicated what the Metro Code as well as the State law indicated that which was necessary to be able to work through this process. As to the comments just made by the speaker, she continued, all of those comments were good reasons why we needed to have further review of this particular section. The comments that Mr. Wright made, she noted, would help Metro with that in this coming year.

**Mr. Wright** continued by stating that most of the area was RR-5 land. There was an area to the east of Graham's Ferry that contained much EFU land.

**Councilor Washington** stated that he had not received a copy of the above-mentioned letter and was assured by Presiding Officer Kvistad that he would get him a copy. Councilor Washington asked if Mr. Wright really wanted to get rid of the chickens and llamas.

**Mr. Wright** stated that that he did not want any of these animals out of the area. He explained that these matters encompassed a life style that he and his wife chose to lead and in which to raise

their family. They felt growth to be inevitable but thought that it would be twenty to thirty years distant from the time they purchased their acreage in 1990.

**Presiding Officer Kvistad** reminded the members of Metro Council that when these borders were set, they were not lot line specific. These were administratively set so a potential for review existed.

**Leland Wiedemann**, 25450 SW Garden Acres Rd, Sherwood OR 97140 owned property in urban reserve area #42. He stated that he would like to go on record as being in favor of the expansion of the Urban Growth Boundary to include area #42. He stated that members of Metro Council must be aware that area #42 originally had nothing whatsoever to do with any possible prison siting. When he purchased the property in 1986, it was obvious to him that it would, at some point, become an extension of the north end of Wilsonville's industrial growth and he welcomed that. He supported inclusion whether or not the prison was or was not sited there.

**Keith Taylor**, 25290 SW Graham's Ferry Rd, Sherwood OR 97140 stated that he and his wife had 17 acres right in the center of urban reserve area #42. They were definitely in favor of expanding the Urban Growth Boundary because they were surrounded by a recycling company (which they happened to own) but it was still there. It was almost not a residential area any longer. He explained that the area was certainly not farm land any more but it would be a great place for a rock crusher operation. He again expressed he and his wife's support in favor of expanding the Urban Growth Boundary in this area.

**Thomas O. Marlin**, 10704 NE Klickitat, Portland OR 97220 addressed area #42. He stated that it seemed like everybody was hell bent on making Portland unbearable and unlivable for native Oregonians, who would have to leave. The City of Portland wanted to have a meeting about densifying Gateway which would compound some problems here for him in Area #42. The area in question was his mother's property that they had owned since 1942. That was to be where he was going to retire. His mom still lived there. She had dementia and he was now having to go out there and care for her starting next week. He stated that he did not understand what was going to happen here because all he received was a terrible map about the area that was going to be in question for urban renewal. He stated that was zoned MAE, agricultural and forestry which nobody had complied with anyway. He stated that his family had complied with it and was unable to do a thing with their property other than what the zoning ordinance stated. He concluded that he did not understand how Metro had the power to go out there and just wipe all that out, the forestry end of it.

**Presiding Officer Kvistad** responded by saying that the change to bring this into the Urban Growth Boundary would give property owners more control over their land. They would be able to do with their land what they wanted so long as it was properly zoned and approved by the cities. This was not redevelopment of existing property. It brought it into the Urban Growth Boundary which allowed far more flexibility in terms not only of what was done with homes but the rest of the acreage.

**Mr. Marlin** explained that the land on Graham's Ferry was to be considered flood plain. He stated that he wished to leave it like it was since it was livable right now. He asked how far outside Portland did Metro have control?

**Presiding Officer Kvistad** explained that the southern end was south of Charbonneau, the west boundary was Forest Grove.

**Mr. Marlin** stated that his parents had owned the property since 1942 and that he always had hopes of going back to the farm. He said that people came from all over the country to get the well water from his parent's farm. He stated his fear of industry moving in and ruining the area.

**Diana Godwin**, Attorney at Law stated that she was here to represent Matrix Development Corporation, owner of the entire site #43, consisting of under ten acres. She stated that on October 27, 1998, Matrix Development had submitted the first reasonably complete draft of an urban reserve plan. Since that time she had been working closely with Ms. Wilkerson's staff to identify any area where the staff felt the plan needed to be supplemented. She submitted some additional addendum information. She asked Mr. Platt to give an overview of this site. Governance was settled: Tualatin planned to annex it. Coordination with all the service providers had been accomplished: Tualatin had drafted a commitment letter to complete the urban reserve plan. The City Council of Tualatin had yet to review the urban reserve plan for approval. They would meet on this matter on December 14.

**Ernie Platt**, Matrix Development, 6900 SW Haines St. Tigard OR 97223 stated that Site #43 was perhaps unique in this whole process in that it was a 9.89 acre site under single ownership. He continued that another 11.83 acres owned also by Matrix Development was already inside the Urban Growth Boundary and combined, the sites were under single ownership, Matrix. The proposal for development, if this land could be included in the Urban Growth Boundary, was to develop the entire 22 acres into approximately 80 residential home sites. About 44 to 45 were yielded from the part that would be annexed to the Urban Growth Boundary and the remainder from the part that was already in the Urban Growth Boundary. Mr. Platt stated that there would be open spaces on this land. It was a natural sensitive land area, partially wetlands. Mostly it contained steep slopes and ravines. The City of Tualatin had stated that they would be very happy to receive that land into their Open Spaces program. Graham's Ferry Road was on the border of the west side and this development envisioned the creation of two intersections into Graham's Ferry Road, one presently in the city and opposite an intersection that was being created across the street and then one more into the area near the southern part of the property.

**Mark Ferris**, Alpha Engineering, 9600 SW Oak Suite 230, Portland OR 97223 called the council's attention to the urban reserve productivity report. He explained that the cost-per-dwelling-unit equivalent was approximately \$62,000. Alpha Engineering had completed a cost estimate, the summary of which was done using a broad brush overview of anticipated development costs. Looking closely at the development costs for this parcel, the urban reserve productivity report versus Alpha Engineering's cost estimate differed significantly, particularly when sanitary sewer costs of \$1.7 million were considered. Studying these at closely, it became clear that the cost to provide sanitary sewer to this site was approximately 7% to 10% of what was shown in the productivity report. This study anticipated providing pump stations, porous mains and great deal of pipe. He concluded that in this matter, you wind up with a gravity fed system and the cost of development of about 10% of what was originally anticipated. Water was revealed to be at 54% of what was anticipated and storm runoff at about 68%. The bottom line seemed to be that the cost per lot came down from \$62,000 to about \$11,586 per lot which was substantially different and when you equated that, that was the fifth most serviceable site in the list. He concluded with the statement that these above mentioned factors spoke quite favorably about this site.

**Marguerite Nichols**, 24788 SW Labrousse Road, Sherwood OR 97140 was a property owner right on the outskirts of the Urban Growth Boundary. She had sold four acres that went into the new Urban Growth Boundary. She was in favor of the new Urban Growth Boundary because we needed new land for development by virtue of all the people who loved Oregon and were moving



here. She was not notified about the Urban Growth Boundary when they changed it out in the Sherwood area. She came today because, of course, she would like to see her property entered into UGB when they made the map adjustments. It was flat and was buildable and was in an excellent area. She had been told that more land was required for development in the Sherwood area. Being a property owner on that side, she was very pleased to see that they went to the southwest area instead of going to the northwest / northeast area of Sherwood. She expressed concern about the property that they were thinking of annexing since she lived there. Much of it would make nice open space. She stated that much of the property along Burkeman Road was unbuildable. She noted that the train went through there and questioned the wisdom of using Ladd Hill Road which traversed a ravine.

**Councilor McLain** pointed out that one of the reasons for the work plan was to allow Sherwood to do some urban reserve planning.

**Troy J. Garrett**, 14850 SE Michael Ct., Sherwood OR 97140 was here to make known his opposition to this area being included. His main concern was the explosive growth that had already taken place in Sherwood and the concomitant strain on public services, particularly the water supply. He stated that he moved to Sherwood seven years ago; the population was then 3,600. Now it was between 9,000 and 10,000. That was explosive growth which amounted to a great strain on traffic and infrastructure. He urged that this area should not be included as a Tier 1 area so that infrastructure could be built up in the meantime.

**Presiding Officer Kvistad** reminded Mr. Garrett and the rest of the audience that Metro was, in this process, selecting land for a twenty-year land supply.

**Councilor McLain** stated that Metro Council believed, in lieu of a resolution in front the Council at this point, that the urban reserve planning had not been completed along with the public process. This again gave the opportunity to work through some of those community problems.

**Councilor Washington** asked of staff what the current population of Sherwood was. He received a reply of approximately 10,000.

**Stephan Lashbrook**, Planning Director, City of Wilsonville, PO Box 1282, Wilsonville OR 97070 thanked Metro Council for the resolution that included areas #39, #41, and #42. Thanks were also expressed for adding the seven acres for area #39. He stated that Wilsonville and the school district had been working on that matter for several years. He responded to several comments made about area #42. He pointed out that there were no public hearings and that was, in fact, true since the process hadn't been completed. The concept plan was submitted and labeled 'preliminary' and Metro's recent changes to the Code would put more emphasis on public hearings that would happen in the future regarding the concept plan before it was completed. He noted that it was interesting that people who complained that there had been no public involvement pretty consistently were those who had attended many public meetings in Wilsonville on the subject. They had been involved and would continue to be so as that process continued. Numerous meetings had been held on the subject although they weren't public hearings as such. He continued with the next issue which had to do with flooding in the area of Day Road and Graham's Ferry Road. It had proved to be a very real issue and one, it was hoped, that some surrounding jurisdictions would assist the City of Wilsonville in identifying a solution. Looking to the future, he related that if Wilsonville didn't solve the flooding problem with the help of some very large developments in the area, the question could legitimately be raised if Washington County would ever solve it. His last comment was directed to Mr. Marlin's property. Mr. Marlin had stated that his property was in an MAE (mineral aggregate extraction [land-

extensive industrial zone or rural-industrial]) zone. Mr. Lashbrook stated that he had not looked at the Washington County zoning ordinance, but offered the opinion that this property was really a rural industrial zone which allowed aggregate removal as well as farm and forest industrial operations.

**Valerie Kirkendall**, 10951 SW Brown Road, Wilsonville OR 97070 stated that she wanted to go on the record as opposing the addition of area #41 to the Urban Growth Boundary. She explained to the council that she and her family had lived in the area since the turn of the century. They appreciated that way of life and that lifestyle. She stated that her family did not buy the property because they wanted to make money off it or because they saw it as an investment. They purchased it because it was viewed as a way of life and a place to live where they were able to enjoy the rural aspects of life. She commented that they had a few filberts and enjoy it. The area around their property had been purchased in speculation by a developer. Their anticipation was that they would be surrounded by apartment buildings. She expressed her concern that the infrastructure would not be able to support development in the area.

**Councilor Monroe** asked for specific identification of her property and if it was in the Tier 1 portion.

**Ms. Kirkendall** replied in the affirmative.

**Greg Leo**, 11938 SW 25th Avenue Portland OR 97219 introduced Ron and Linda Gaynor who lived in area #42 and were in support of this area coming into the Urban Growth Boundary. He continued that one of the concerns was with exception lands. The growth of the industrial and commercial use in this area was without the infrastructure adequate to handle it. There were four gravel mining operations, a railroad, gas lines, things which were really industrial in nature. In his opinion, Mr. Leo stated that it was a transitional area. At Growth Management Committee the fact that metropolitan area needed industrial ground to be brought inside the Urban Growth Boundary. The employment generated was beneficial to the Portland area's economy. He urged the inclusion of urban reserve area #42 within the Urban Growth Boundary. He submitted written testimony from Stacey Rungay on behalf of the North Wilsonville Industrial Association. This was a group of citizens who supported urban reserve #42 coming into the Urban Growth Boundary.

**Councilor Monroe** asked about the serious ground water problem along Day Road. How would, he asked, bringing urban reserve area #42 into the Urban Growth Boundary assist in dealing with those very serious ground water problems?

**Mr. Leo** replied that storm water runoff was a big problem for this area because of the industrial uses but also because the geology of the area. It was on a hard bedrock area which slanted to the south so much of the drainage from the south Tualatin area actually came down into this area. Specifically ground water systems which would drain this area into the Coffee Lake area and eventually to the Willamette River would provide the kinds of culverts and the storm water runoff in this area.

**Presiding Officer Kvistad** suggested that the Greenspaces program here at Metro would have maps which would indicate the location of water run off.

**Mr. Leo** stated that urban reserve #42 existed before a prison was discussed. In a sense, having predated it, it may have given rise to the idea of a prison there regardless of whether or not a

prison went in Umatilla, Dammasch or any other place. This area should come in the Urban Growth Boundary and should be industrial in nature.

**Councilor Washington** asked Mr. Lashbrook if the issue of run off occurring right now secondary to the rain. Could this be observed at this time?

**Mr. Lashbrook** doubted that flooding could be seen today. He stated that photographs of the flooding two years ago revealed the pooling that indicated that ground water runoff.

**Councilor Washington** asked Mr. Lashbrook if the water settled in that spot during the heavy rains and then disappeared after the rain had stopped.

**Mr. Lashbrook** stated that Councilor Washington's concept of the problem was accurate.

**Philip M. Keilhorn**, 24970 Garden Acres Road, Sherwood OR 97140 Mr. Keilhorn stated that he purchased his property in 1959. This was ten years before Wilsonville was a city. He stated that three or four people in area #42 had testified today but they were not a majority. Two new homes were in area #42, two widows lived there and none of them wanted to be in the Wilsonville area. He stated that he had formerly worked for the US Geological Survey and twenty years ago water problems were apparent. He stated that too many wells had been drilled. He said that he could not understand why they wanted more property when they could not furnish water to what they had. He believed that the great majority of property owners who lived in area #42 did not want to be in the city limits of Wilsonville.

**Presiding Officer Kvistad** closed the public hearing at 3:15 p.m.

**8. EXECUTIVE SESSION: Held pursuant to ORS 192.660 (1)(h), to consult with legal counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.**

Members Present: Legal Counsel, members of the press, Bruce Warner, Director of REM.

**9. RESOLUTIONS**

9.1 **Resolution No. 98-2735**, For the Purpose of Considering a Request by Waste Management Disposal Services of Oregon, Inc. for Consent to a Merger Between Waste Management, Inc. and USA Waste Services, Inc.

**Motion:** **Councilor Morissette** moved to adopt Resolution No. 98-2735.

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

**Discussion:** **Councilor Morissette** said due to the merger between Waste Management Inc. and USA Waste Services, Inc. an opportunity presented itself to rebid our contract and, with current rates being much lower than we were currently paying, saving regional taxpayers some money.

**Presiding Officer Kvistad** stated that the motion before the council was to not deny consent and validated this from **Mr. Fjordbeck**.

**Mr. Fjordbeck** answered in the affirmative.

**Presiding Officer Kvistad** opened a public hearing on Resolution No. 98-2735.

**Councilor McFarland** asked a point of information: She explained that what was said prior to this meeting was appropriate even though it was lawyer-talk.

**Jim Benedict** of Cable, Houston and Benedict and representing, Oregon Waste Systems and Waste Management said that the company valued Metro as a customer and had so for many years. He stated his belief that the company he represented had worked hard to maintain that relationship. Seven amendments to the contract had been successfully negotiated thus far, he stated. He stated his belief that mediation was a good alternative to arbitration which led to a winner and a loser instead of mediation which produced a win / win situation. Beyond this, he spoke briefly to the consent. He believed that the request for consent was timely. Nothing in the contract provided a time limit on when consent could be requested or granted. He stated that he believed the appropriate standard for granting consent was whether or not the company could adequately and faithfully perform the contract. The only issue that had been discussed respecting the concerns of Metro about the consolidated operations following a merger would be the perceived ability for the company to redirect wastes from one or more of its facilities to Metro's detriment in the rate structure. As had been pointed out in the letter of November 2, 1998, we had agreed to allow waste to be counted in the rate structure process. This took away the ability to do that. In discussion recently held with Metro staff, they had also raised the issue of the Forest Grove waste and Recycle America waste. He stated a willingness, for purposes of this consent, to allow both of those wastes to also be counted and incorporated into the declining rate structure for purposes of the consent. Beyond that, pending settlement discussions were being held with an offer from Metro on the table. They looked forward to receiving a response from regarding this settlement.

**Discussion:** **Councilor McLain** echoed Councilor Morissette's comments about the two companies and the relationship that this particular Council had had with those two companies. They had been outstanding in their abilities to both work with us and to be a good part of the process. As a councilor who was not a lawyer, she needed to take some advice after review of a lawyer's take on a contract that we had. At the present time, the resolution seemed appropriate because of the review by Metro's lawyers take on this particular contract in that item. She hoped that Metro would understand that the hope of a win / win situation might eventually be achieved. She wanted to clarify that a 'yes' vote on this resolution still allowed Metro staff to go forward with negotiations or with continued discussion in which this company had expressed interest. Councilor McLain requested an opinion from legal staff.

**Marv Fjordbeck, Legal Counsel** answered in the affirmative.

**Councilor Morissette** said he hoped that negotiations could continue. He believed that in his four years on Metro Council, there had been an excellent working relationship with both Waste Management and USA Waste. Due to the merger, an opportunity, in the contract, allowed Metro an opportunity to rebid the contracts. He stated that he wanted to explore this opportunity. He continued that it was in Metro's best interest to have the very best rates possible for the ratepayers of the region.

**Vote:** The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

## **10. COUNCILOR COMMUNICATION**

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**Councilor McFarland** asked Bruce Warner to answer her questions regarding this contract. They agreed to do so after the meeting.

**Presiding Officer Kvistad** reminded council that next week's Council meeting was on Tuesday.

## 11. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 4:15 p.m.

Prepared by,

Chris Billington  
Clerk of the Council