

## MINUTES OF THE METRO COUNCIL MEETING

November 9, 1995

Council Chamber

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

Councilors Absent: None

Presiding Officer McFarland called the meeting to order at 2:06 p.m.

### 1. INTRODUCTIONS

none

### 2. CITIZEN COMMUNICATIONS

none

### 3. EXECUTIVE OFFICER COMMUNICATIONS

Presiding Officer McFarland and the Executive Officer agreed to move this item to the end of the agenda.

### 4. CONSENT AGENDA

#### 4.1 Consideration of Minutes for the November 2, 1995 Metro Council Meeting. Minutes of the November 2, 1995 work session were not available.

***Motion:*** Councilor Monroe moved for adoption of the consent agenda

***Vote:*** All those present voted aye. The vote was 7-0 and the motion passed unanimously.

### 5. ORDINANCES -- FIRST READINGS

#### 5.1 Ordinance No. 95-623, For the Purpose of Amending Chapter 5.01 of the Metro Code, Changing its Name to "Solid Waste Facility Regulation," Authorizing Demonstration Facilities and Clarifying the Executive Officer's Authority to Impose Reporting and Other Facility Requirements.

The clerk read the ordinance by title only.

#### 5.2 Ordinance No. 95-621, For the Purpose of Amending Metro Code Chapter 5.01 to Establish Licensing Standards for Yard Debris Processing and Yard Debris Reload Facilities.

The clerk read the ordinance by title only.

## 6. RESOLUTIONS

### 6.1 Resolution No. 95-2234, For the Purpose of Requesting Proposals and Executing a Contract for Property/Casualty Agent of Record/Broker.

The clerk read the resolution by title only.

***Motion:*** *Councilor McCaig moved, seconded by Councilor Washington, for adoption of Resolution No. 95-2234.*

Scott Moss, Risk and Contract Manager, presented the resolution. His staff report is included in the permanent meeting record. Mr. Moss stated this is a multi-year contract with an agent of record to market property and liability insurance for Metro. No direct Metro funds are involved and so there is no budget impact.

In response to a question from Presiding Officer McFarland, Mr. Moss stated all multi-year contracts come before the Council for approval unless designated otherwise.

***Vote:*** *All those present voted aye. The vote was 7-0 and the motion passed unanimously.*

## 7. 2040 GROWTH CONCEPT MAP

Councilor McLain took over as chair. She stated that various amendments had been received during the past week from the Maybourne Company, Coalition for a Livable Future and Oregonians In Action. A memo was received from Peggy Lynch which put forth specific ideas on language in the RUGGOs dealing with the Future Vision statement and freight movement. There is an additional amendment, brought by Peggy Lynch from MPAC, which deals with lines 974 - 989. A memo was received from Clackamas County addressing both the map review and amended section 22.3.5 of the RUGGOs, which was introduced by Councilor Jon Kvistad at the Growth Management Committee. A memo from John Fregonese, director of Growth Management Services, indicates the language MPAC suggested the committee add to the motion dealing with that section.

### 7.1 Public Hearing

Chair McLain opened a public hearing.

1. *Susan Lester*, representing Damascus CPO and Business Owners, 16796 SE Royer Road in Damascus, presented oral and written testimony. A copy is included in the permanent meeting record.

2. *Debra Stevens*, of the Damascus Community Association, 14482 SE Wycast Avenue in Damascus, presented oral and written testimony. A copy is included in the permanent meeting record.

3. *Susan Cassidy*, 23885 SW Newland Road in Wilsonville, testified: "I am here today to talk about the UGB expansion plans in the City of Wilsonville. I am against the additional acreage being added in Wilsonville. The City of Wilsonville provides its citizen's water

from underground wells. As a result, we are totally dependent on a limited supply of water. The manager of the Tualatin Valley Water District wants Wilsonville to keep its options open to include water from the Willamette River in the future. This greatly disturbs me and the reason why I am here today is because of this issue.

"Any additional development will only cause Wilsonville city planners to look towards its only proposed alternative source of Water, the mighty Willamette River. I do not want any one in the Portland area to be forced to drink water that has created deformed fish whether DEQ knows what did it or not. If Wilsonville's only alternative is supply water to meet growth needs is in the Willamette, why would Metro ask us to do so? My last statement to you, Metro Council, is to do the right thing. The water problem in Wilsonville is real. Let's plan for development where services are available for the future and cost of services is important but water quality should be the top priority."

4. *Heather Chrisman*, Lake Oswego City Councilor, 380 "A" Avenue in Lake Oswego, testified: "The Lake Oswego City Council is unanimous in its support for adoption of the RUGGOs and the 2040 Growth Concept Map as long as the Urban Reserve Study Area is not expanded in the North Stafford area. We do not want to spend any additional time and resources studying an area that has been studied now for four years. The Stafford Area Task Force is confident that further study would only indicate what we already know. It will be very expensive to serve this area. More importantly, the area is not a logical location for urbanization.

"Urbanization of the North Stafford area would not contribute to a more efficient compact urban form. It would increase the region's dependence on the automobile and regardless of how densely it would be developed, it would result in urban sprawl because the cities of West Linn, Lake Oswego, and Tualatin would all grow together. These areas have assumed since last December that the North Stafford area would remain in rural reserve and we have begun to plan accordingly. On October 31, 1995, the North Stafford area was put back on the table by Councilor Kvistad. Again, this is not a Damascus versus Stafford problem. We would rather spend the time with our citizens and staff working on the early implementation of 2040 than on revisiting an issue that, we believe, has been resolved with the adoption of the 2040 Concept Map eleven months ago. Thank you."

5. *Mary Puskas*, Lake Oswego City Councilor, 380 "A" Avenue in Lake Oswego, testified: "I am here today to let you know that the City Council of Lake Oswego is very much opposed to any expansion of the Urban Reserve Study Area in the North Stafford area. Our opposition is not as simple a matter as objecting to any growth as some have characterized our position. Heather Chrisman has summarized the basis for our opposition. An area of greater concern to us at the local levels is the general population's unwillingness to pay for growth.

"Last year, the City of Lake Oswego tried to raise \$6 million for needed street repairs. It was rejected by the voters. At the same time, the school district asked for \$4 million. That was also rejected. More recently, on Tuesday, voters in Clackamas County soundly rejected a gas tax measure that would have funded existing street repair needs. Voters in West Linn rolled back a water rate increase needed to finance water system improvements needed to serve the existing population. And voters in Tualatin rejected a \$17 million measure that would have funded improved public facilities needed to serve the existing population.

"On the 16th, Diane Wooster, Chair of the West Linn/Wilsonville School District will be here to tell you about a recent study they have completed that indicates that they will have to go to their voters over the next twelve years for over \$90 million to finance facilities that they will need for the population they will be expected to serve within their existing Urban Growth Boundary (UGB). My concern is that our local citizens will not be willing to finance the growth of our cities and region unless they are convinced that the 2040 Plan will result in a demonstrably more efficient land use pattern that will not diminish the quality of their lives.

"We believe that urbanization of the North Stafford area would not result in a more efficient land use pattern and will diminish their quality of life. The result will be, as recent events have demonstrated, that our tax payers will not be willing to pay for those services that developers are not required or willing to pay for, our schools and our ongoing costs of governmental services, police, fire, libraries, parks and recreations programs and general government. Thank you."

Councilor McCaig stated that she had attended the North Stafford rally last Saturday. She strongly objected to two slides contained in the slide show, one showing an automobile accident and another one showing convicted felons. Councilor McCaig asserted that graphic depiction such as these two slides play to the population's worst fears.

6. *Aleta Woodruff*, 2143 NE 95th Place in Portland, presented oral and written testimony. A copy is included in the permanent meeting record.

7. *Douglas Graf*, 16400 NW Springville Road in Portland, testified: "I was upset with an article that was in the paper about a month ago after your last meeting in regard to the UGB. I am in the Bethany area and I am in the Urban Reserve Study Area now north of Springville Road. It is not really very suitable for farming to be continued in that area. Half of our farm has already been taken by the UGB and obviously, I am interested in the other half, north of Springville Road being included. The services are primarily there.

"There is a 24 inch water main going right down Springville Road with a 10 million gallon reservoir about a mile away from this area and site for another 10 million gallon reservoir so I think the services are primarily there. It would not be a very costly project to include the sewer which is already being moved up on the south side of Springville Road through our particular property. I just want to thank you for the opportunity to speak my piece and if I can get out of here without being mugged, thank you very much."

8. *Catherine Udenberg*, representing Johnson Creek Watershed Council, 8701 SE 156th in Portland, stated she has a number of markups for the RUGGOs that deal with wording for natural and wildlife habitat.

Chair McLain requested Ms. Udenberg leave her amendments in written form for study by the Committee.

9. *Robert L. LeFeber*, representing Maybourne Real Estate, 1100 SW 6th in Portland, presented oral and written testimony. A copy of which is included in the permanent meeting record.

10. *Charles Hoff*, Rosemont Road Property Owner's Association, 21557 SW 91st in Tualatin, presented oral and written testimony. A copy is included in the permanent meeting record.

11. *Jeanne Roy*, 2420 SW Boundary Street in Portland, testified: "I am speaking as a citizen in opposition to any expansion of the UGB. I have been involved in environmental issues over the past 25 years, mostly air quality and solid waste. Neither of those issues really touches me as deeply as this one. In my 55 years of living here in this region, I have seen what sprawl does. It destroys the quality of life here. It takes away a sense of community because urban area has become just too large. It is becoming more like California where you go from one city to another and you can't tell when you are leaving one and entering the other. It results in cars and noise everywhere.

"I live half a mile from the Beaverton-Hillsdale Highway. I can hear the cars and the noise of the traffic when I go to bed at night and get up in the morning even though the windows are closed. It takes away the small farm lots where vegetables and fruit used to be grown. This summer I couldn't even find cherries locally and I had to drive all the way to Banks to find prunes. Expanding the UGB will only further destroy our quality of life. Those comments are from the feeling side of my brain. I also have a couple points from the rational side. One is the fact that the State has an ambitious transportation goal - to reduce automobile travel and we tax payers are making a major investment in light rail. I don't think that either of these can be successful without very compact development.

"Those comments are from the feeling side of my brain. I also have a couple points from the rational side. One is the fact that the State has an ambitious transportation goal - to reduce automobile travel and we tax payers are making a major investment in light rail. I don't think that either of these can be successful without very compact development. A couple years ago, "The Oregonian" reported that Tri-Met's ridership area has only 4.4 people per square mile whereas Toronto has 16 people per square mile. If we don't keep the UGB as it is, there is no way that we can achieve the density to support a cost-effective public transportation system.

"My second point has to do with sustainability. An urban area is not sustainable unless it has adequate farm and forest hinterland, to feed and shelter its people. This region is not sustainable now but I think we all recognize that we need to be moving in that direction. The way to start is to protect the farm and forest land that we have left. We must not allow homes and factories to be built upon it. I know this can be done because in Europe there are models of cities that are compact. They have definite boundaries surrounded by farm land and that is the vision that I have for our region here."

12. *Peggy Lynch*, 3840 SW 102nd Avenue in Beaverton, presented oral and written testimony. A copy is included in the permanent meeting record. She testified: "For many of us, the importance of RUGGOs is directly linked to our day-to-day lives. The goals and objectives and planning activities you pursue will either make our lives better or worse. Therefore, when I read the RUGGOs, I read it from a less regulatory but more human viewpoint: jobs, housing, the environment, modes of transportation and how we relate to one another are all important. So, the first amendment that I ask you to consider is to at least acknowledge that your Future Vision exists.

"The second issue is freight movement additions. In a number of places and I list them in the letter that you have, you have added to the RUGGOs document the word 'enhances' when you

deal with freight movements. I exist because of a small manufacturing business. Freight movement is critical to our livelihood. On the other hand, with the use of the word 'enhances' in a number of places in your document, I am very concerned about the interpretation of that as you move forward to the RTP. In our area, where Canyon Road, Beaverton-Hillsdale Highway and Scholl's Ferry Road all exist, an enhancement could be widening of intersections at our town centers and our main streets and thereby reducing or simply nullifying any opportunity for great pedestrian traffic. I would ask that you consider these amendments that I have listed. Think along those lines and what the implication of the word 'enhances' is with all of your freight movement discussions.

"The third point is targeted industries. I still believe that your recommendations regarding targeted industries can come from another source and I have a minor amendment there which simply suggests that you are going to receive the input from your economic strategies councils from around the region and come up with that list but you are not going to create a new list. Number four, not in my letter, lines 975 - 989 have a section called the values, needs and desires of consumers include and you list those. I would ask that section be deleted. The previous sentence says 'in weighing and balancing various goals, values and objectives that these needs will be considered and taken into account.' I don't think that it is appropriate for you to list those.

"Number five, also not in my letter. The Kvistad amendment that is listed 22.3.5 concerning urban reserves. Having participating in the MPAC meeting last evening, I have one additional concern about the amendment. The words 'at any time' when discussing when you might bring Urban Reserve Study Areas forward creates a great deal of uncertainty to the citizenry and local governments. I would ask that the proposed amendment include the reason for why you would spend public dollars for such an urban reserve study.

"Lastly, a map comment: The Beaverton School District will be asking for \$139 million worth of bonding to just pay for the next five years of growth using current densities. We had 29,000 students and are growing at the rate of 1000 per year. That is two elementary schools, one middle school and one-half high school. We have to accept those kinds of challenges. I have a great concern about many of Councilor Kvistad's proposed map amendments as it relates to the school district - and not only the prime rural lands that are being suggested to be added by that these amendments will significantly impact the Beaverton School District's ability to serve the needs of the students."

13. Doug Bollam, PO Box 1944 in Lake Oswego, presented oral and written testimony. A copy is included in the permanent meeting record. He testified: "As you know, I have followed the process very closely in the previous years and somewhat intensely within the last year. I have attended the vast majority if not all of the various JPACT, MPAC, MTAC, Metro Council Growth Management Committee meetings and the full Metro Council meetings. I have to say you have been very attentive in listening to the public in my view. The 2040 Concept and its implementation is a monumental task and the Metro staff, in my view, has done a very admirable job in attempting to air the various issues.

"Metro Growth Management director, John Fregonese, and his staff have maintained a very responsible job in attempting to come forth with the necessary data for the council and the various committee to make the decisions that are going to guide the destiny of our city and the metropolitan region in the years to come. I believe that they have dedicated themselves to spending the taxpayer's money wisely in making this process unfold in a way that eventually

the outcome will be light for generations to come. I keep my fingers crossed and jury is still out and the proof is still in the pudding.

"Next, at the last Metro Growth Management committee public hearing, Councilor Kvistad introduced some additional UGB study areas. In defense of the Chair, Councilor McLain, she emphatically stated that she would take this motion of Councilor Kvistad to MPAC. Last night, at the MPAC meeting, Mayor Gussie McRobert of Gresham, said she had heard about Councilor Kvistad's new additional study area in a round about manner and put the motion on the agenda thereafter. My personal feeling is that Councilor McLain's statement that she would bring to MPAC at the next meeting would have been honored and the chair of MPAC put the growth management committee in a bad light and this was done needlessly. It wasn't malicious, it wasn't intended in any way but I just believe that it could have been avoided by the Mayor talking to Chair McLain prior to that.

"Lastly, I would like to address the way "The Oregonian" has reported Councilor Kvistad's various proposed additions to the Urban Reserve Study Areas. The citizens rely upon the newspapers as a means of ascertaining the rights and wrongs and trying to differentiate between fact and fallacy. In grade school, they teach children that if they wish to go back and study history, the best and primest spot is to go to the newspapers. Therefore, I think that the newspapers are in a position to try to strive for responsible journalism.

"Two days ago, at the November 7 Metro Council meeting, there was an exchange between Executive Officer Mike Burton and Councilor Kvistad. They had a lively discussion about the North Stafford Basin. It centered about the UGB study areas, not an expansion of the UGB. Yesterday, "The Oregonian" stated that was not the case. I believe "The Oregonian" had misled the public and the citizens who read the bold print and the subheadlines and didn't go any further in reading the article in it entirety.

"I have handed the article to the councilors and it definitely implies in the headlines that Councilor Kvistad was proposing adding the Stafford Basin to the UGB. That was not the case at all. The case was that he just wanted it as a study area, like any other study area and any citizen reading that article, at least the initial headlines, would be led astray thinking that Councilor Kvistad intended to have Stafford Basin included within the UGB expansion if that were to be the case and if the UGB was expended. That is not so. I just wanted to make my point to that effect that the citizens rely upon responsible journalism and I think, as the party previous who spoke and people in previous public meetings have stated, that sometimes the press doesn't get it correct and I think that is unfortunate for the citizens of our region and it makes your involvement in the process a lot more cumbersome because there is needless dialogue if, in turn, they don't report the facts properly."

14. *Mary Kyle McCurdy*, representing 1000 Friends of Oregon, 534 SW 3rd Avenue in Portland, presented oral and written testimony. A copy is included in the permanent meeting record.

15. *Gussie McRobert*, Mayor of Gresham, 1333 NW Eastman Parkway in Gresham, presented oral and written testimony. A copy is included in the permanent meeting record.

16. *Richard N. Ross*, representing the City of Gresham, 1333 NW Eastman Parkway in Gresham, presented oral and written testimony. A copy is included in the permanent meeting record.

17. *Geni Geannopoulos*, 17130 NW Springville Road in Portland, testified: "We would strongly urge you to reconsider the placement of a transportation corridor down Springville Road and Bethany Boulevard. We understand that there is discussion of needing bus service in this area and this is one of the reasons why the corridor is being considered. We do not want to see a lot of commercial development in this area. We don't need it. We have a large town center designated within one-quarter mile, serving all of Bethany and we would like bus service but we would like to see and suggest that there be a delineation between transportation corridors and commercial corridors. Springville Road runs on the fringe of the UGB whether it is expanded into the UGB study area. It is still on the fringe. There is residential housing planned for the entire length of the corridor; therefore, it doesn't leave much opportunity for commercial development anyway.

"The other area that we would like to have considered is not expanding the UGB north of Springville Road. Again, that area serves as a prime Nursery stock area for Washington County and the entire state of Oregon. Our schools are stressed to capacity. The residential development going in along Springville Road south of the UGB now, those students will be bussed to alternative schools because we do not have the schools to accommodate them now. CPC Rock Creek, which runs north of Springville Road has a 90 acre wildlife preserve so they are already using up 90 acres of potentially developed land. The land there could not be developed to the R6 or R7 designations that we want to see for growth because of the terrain and the watershed problems in that area as well as the seismic risks that exist in that area. We have talked repeatedly in the CPO about the amount of industrial land available in Hillsboro and we would concur that some of that should be reserved for housing."

18. *Steve Apotheker*, 1905 NE Going in Portland, testified: "I have no particular expertise in this area; all I can do is where my personal experience touches on some of the policies that lead to your final decision. It leads me to come to you with a recommendation that this time would say, 'Let's not expand the UGB at this point.' I feel that we have to ask ourselves the question 'Have we achieved a quality of life that we feel is being implemented throughout all of our neighborhoods that we are satisfied with and that we have programs in place that are going to continue Portland in the direction of being the city with the highest quality standard in our country.'

"While I feel that we have made a lot of progress, there are other areas that do concern me. I am concerned that in the area of transportation, which is a major part of this, that we have not really moved as far as we have in the area of solid waste. I am very concerned that in our neighborhoods, the programs that are being funded are increasingly only serving people with higher levels, greater than the median income. It seems to me that until the point that regionally and with our cities, we can really focus - have clear plans - to make certain that we are going to have housing developed that is not going to cause displacement in our neighborhoods, to lower cost housing fringing on the areas and that people will be able to have some investment in the equity, share in the growth that a good transportation system and the culture of our downtown city can provide. I would have to say that at this point, let's keep the lid on. We have seen what the progress of a downtown parking ban has done in terms of furthering things. We have seen the progress in the area of solid waste by not siting a land fill in this area."



19. *Alan Malone*, Friends of Cooper Mountain, 19238 SW Heightsview Drive in Aloha, presented oral and written testimony. A copy is included in the permanent meeting record.

20. *Greg Malinowski*, Malinowski Farms, 13450 NW Springville Lane in Portland, presented oral and written testimony. A copy is included in the permanent meeting record.

21. *Maureen Murphy*, PO Box 1893 in Lake Oswego, testified: "I am here to make some comments and observations. I am neither proposing inclusion or exclusion for specific areas, as far as the UGB is concerned. One of the things that I do want to comment on is the 2040 Plan is the future plan for growth. When you take into consideration the future plan for growth, the people that it is really going to impact are going to be the youth and I am not married. I have no children but I would ask you as you take a look at the housing, the industrial and also the commercial areas, the employment areas, to take a look and consider the balance of economics that goes into that as well.

"Having worked for a major corporation, I do know that when they have employment areas in specific locations, as far as town are concerned, and suburbs of towns are concerned, they make contributions to higher education. They also make contributions to secondary education, primarily those contributions to secondary education will be in the area where they have a plant or a location. So I am looking and thinking if there is a way that the balance in these employment and industrial locations can be made between westside and eastside, that maybe that would help to benefit the your of our metropolitan area for the next fifty years."

The public hearing was closed and after adjourning for a short recess, the meeting was called back to order by the Presiding Officer at 4:03 p.m.

## **8. INFORMATIONAL ITEM**

### **8.1 Report: Burlington Northern Trail Feasibility Study**

Councilor McLain described the process that led to the Burlington Northern Rails to Trails Feasibility Study. Her report, a staff report from Charles Ciecko and Mel Huie of the Regional Parks and Greenspaces Department, and a timeline of the steps leading up the study are included in the permanent meeting record.

Councilor McLain stated that this year at the recommendation of she and Councilor Kvistad, public and community meetings were held in several location. A January 17 meeting as Tualatin Hills Park and Recreation drew about 90 people, about 25 people gathered February 7 at Bowers Junction, and close to 110 citizens attended February 28 at Skyline Grange Hall.

The informational briefing on the feasibility study being presented today provides several conclusions. Councilor McLain stated this feasibility study is not a master plan. What the study does do is:

- assess the condition of rails, ties, trestles and the tunnel within the corridor
- determine if any hazardous wastes and/or contaminated sites exist
- inventory the corridor for historic sites
- assess the condition of the terrain and landscape, ie: erosion
- develop a database of maps, land and aerial photographs and statistics
- appraise the value of the corridor

- estimate construction costs of a potential trail
- estimate maintenance costs for a potential trail
- studies the option of a potential Rails with Trails project

The rail corridor is outside the Metro and UGB boundaries, but it connects two geographic areas within Metro: Northwest Multnomah Count-Northwest Portland and Tualatin Valley-Hillsboro. Bike lanes currently exist on Highway 30 and St. Helens Road, which is the eastern terminus of the potential trail. Metro's Regional Transportation Plan designated the bicycle routes as regionally significant. The City of Hillsboro is planning bike routes and pedestrian pathways near the western terminus. The connections between those two bike routes could be potential the Burlington Northern Rails to Trail.

Councilor McLain continued that the alternative route currently available is Northwest Cornelius Pass Road, which has been determined to be less suitable for bicyclists. This rural road has high-speed traffic.

No recommendations are being made by the Metro Executive Officer or staff. This is an informational briefing only on the feasibility of a trail. Councilor McLain then introduced Mel Stout, the David Evans and Associates Consultant; Jim Desmond, director of the Open Spaces Program; Mel Huie, of the Trails and Local Share Program; Charlie Ciecko, director of the Greenspaces Department; and Bob Akers, chair of the Greenspace Citizen Involvement Committee.

Mr. Stout then gave an oral and slide presentation depicting various scenes from the site. One slide, taken about one year ago, showed a wooden trestle that had just burned. Eight wooden trestles remain on the project. Another slide showed the only location where a cluster of homes are visible from the rightaway - in the Burlington community. The Level 1 environmental analysis showed no significant hazardous wastes or contaminated sites along the corridor.

Mr. Stout said surveyors were able to go into the east end of the tunnel before it was welded shut with steel plates. The tunnel is in good shape and is concrete lined for the most part. An appraisal was down to establish a value for the corridor, if that information is needed later in the process. A preliminary analysis of joint use of the rail and trail showed it would be very expensive to keep the rail when building a trail.

He explained that public meetings were held and concerns were raised about security, privacy and fire safety. The areas are served by fire and rescue units from City of Portland, Tualatin Valley Fire and Rescue, and Multnomah County. The Multnomah and Washington county sheriff's departments also serve the area. All have interagency agreements to serve the area.

Mr. Stout stated the feasibility study concluded there are no known environmental, cultural, historical or physical conditions that would preclude use of the corridor for a trail.

Councilor Monroe asked if equestrian use was anticipated as well as bicycle and pedestrian use, and if so, would the trail be divided.

Mr. Stout responded affirmatively and showed a slide of Gresham's Springwater Trail showing combined use for equestrians and pedestrians. On that trail, bicycles and horses use the center of the path and a separate pedestrian way is on the side.

Councilor Monroe further asked about how the path could be structurally built where the trestle burned so that users could safely get across.

Mr. Stout responded that this issue would be addressed in the master planning process if that process follows. For his report, they drew a conclusion for preliminary costing that the bridge would be re-built for pedestrian crossing.

Councilor Washington asked for clarification about joint use between horses and bicyclists on the same part of the path. He asked about liability problems with bicyclists encountering horse manure on the path.

Mr. Stout responded that for the most part, equestrian use would not be very heavy. However, regular maintenance would be necessary.

Councilor Washington said he thinks this is a potential liability and should be considered in the planning stage.

Councilor McLain reminded the councilors and audience that this is not a master plan and she explained the process that has and could occur. Metro was told Burlington Northern was possibly abandoning this line and so Metro decided it deserved a feasibility study to see if could be used as a trail. The abandonment has not taken place yet. When the company chooses to post that abandonment with the interstate commerce commission, there will be a notification. Metro then could file a letter of intent to assume financial responsibility for the corridor. Then, Metro and the Burlington Northern Company could negotiate terms for the purchase of the corridor. A public hearing process in front of the Metro Council would occur and the Council would decide whether or not to purchase the corridor, based on cost estimates and potential benefit to the public. If the Council chooses to go forward with the purchase, the corridor would be acquired. However, no trail would be built until funding was secured for the construction. Once funding was secured, then the master plan process would begin.

Councilor McLain stated Metro is offering the executive summary for free and the full feasibility study for \$18.

Councilor Monroe asked how long before the proposed trail could be in operation if everything progresses smoothly.

Councilor McLain responded Metro has no control over the railroad's abandonment process and timeline. However, as an example, the Banks to Vernonia trail took seven years.

The Presiding Officer opened a public hearing.

1. *Elizabeth Thutt*, 22495 NW Phillips Road in Hillsboro, spoke against. She lives outside the UGB along this proposed trail and strongly opposes the project. Residents inside the UGB in urban and suburban areas need and deserve parks, but in their own neighborhoods. People need close, convenient, safe, open areas to play, run, exercise and recreate. The problem with this proposed park is that it offers none of these features. The average taxpayer and park user within the UGB is almost certainly unaware of this proposed project.

She continued that the mile-long, unlit tunnel renders the property totally unsuitable for use as a park. The severely damaged trestle also renders the property unsuitable. The reason Burlington Northern is not using this line is a key issue. Two years ago, a fire started on a trestle and burned for two months before it could be reached and put out. Seven more very high, very long trestles render the property unsuitable. Life is not without risk, but why subject the public to dangerous manmade structures. She questioned if Metro would develop a crumbling old mine

shaft or fire-gutted high-rise apartment building as park. Clearly, this property is not suitable park material. Aesthetically, this project would not look anything like a "trail."

Residents in that area don't want Metro to develop them. They don't want increased traffic, parking lots, potty stations, garbage cans and picnic tables in their back yard. Mostly, they do not want crime. This summer, someone fired eight high-caliber bullets into the restroom on the Banks to Vernonia trail. As a result of crime and drug activity on the trail, a separate park security patrol had to be formed. At Forest Park, the police department has recorded more than 70 written reports of criminal activity in a nine-month period. She asked for a guarantee that residents near the proposed Burlington trail won't have to form their own park security force. Metro must not develop this property into a park unless the agency appropriately funds safety, security and fire control resources to protect the area. Likewise, perpetual funding for clean-up, inspections and maintenance must be included in the project.

Ms. Thutt concluded that before any further work is completed on the project, Metro must appoint an advisory committee to prepare an independent assessment of the suitability of this property as a park. This committee should not include the consultants nor any staff members who have participated in the work so far. Secondly, a comprehensive assessment of the crime statistics for parks in the Portland metro area should be conducted.

2. *Stephen Bach*, 9800 SW Hawthorne Lane in Portland, spoke against. He is a property owner along Cornelius Pass Road. He stated several errors have been presented in the feasibility study. The consultant's statement that nothing culturally is involved is an error. The trail will have significant negative impacts on the culture of residents. He stated Metro cannot connect the original grants on the original properties to the current owners. It is wrong for Metro to use the federal Rails to Trails Act as justification for doing this. The agency is using eminent domain.

The Fritch decision handed down this past July by the federal district court clearly states the operator of the trail will assume all liability. As the railroad was responsible for every action involving the rail, so to will Metro be responsible for every single act of anyone who uses the pathway. Metro also will be liable for any personal or property damage as a result of the cougars, bears and elk herds in the area.

Mr. Bach encouraged the councilors to read an article on the federal Rails to Trails Act in the October 16, 1995 issue of the "Wall Street Journal," a copy of which is included in the permanent meeting record.

The Presiding Officer stated she was reminded that the Council wanted Metro legal staff to make a brief comment on the feasibility study.

Todd Sadlow, Senior Assistant Counsel, commented on the Rails to Trails legislation. His memorandum to the Council is included in the permanent meeting record. He stated the Interstate Commerce Commission has authority over railroads and railroad abandonments, and has since 1887. Since 1920, a railroad wanting to stop service had to get the commission's permission based on a public interest determination. This process is still in effect.

In 1968 the National Trails System Act was passed to encourage the construction of trails, which in the beginning were built along abandoned rail corridors. In 1988, the National Trails System Act was amended to encourage construction of trails along railroad right-of-ways not

currently needed for rail use. The ICC was directed not to grant an abandonment of a rail corridor if there was a government or qualified non-profit group willing to take responsibility for it and the railroad agreed to it.

The amendments further stated that since the rail is not being abandoned, it is available for future rail use. Any parcels obtained by easement or right of revert by the railroad, do not revert. If the rail is ever needed again for rail use, the railroad company would have to negotiate the purchase of the line back from the government or group at fair market value.

Mr. Sadlow stated there are no reverter clauses in any of the property deeds, as claimed to him by several residents in the area. He has not checked all of the deeds on the corridor. Even if there are reverter clauses, there is no legal "taking" here if Burlington Northern abandons the corridor or the ICC refuses to allow it to be abandoned and Burlington Northern sells it to Metro. A unanimous U.S. Supreme Court decision in 1990 upheld the constitutionality of the Act, and lower courts have consistently held that neighboring land owners do not have a compensable property right.

3. *Seth Tane*, Land Use Committee chair of the Linnton Neighborhood Association, spoke in support. He provided written testimony, which is included in the permanent meeting record. He stated many residents who live in the area of the proposed trail support it and would be happy to use it. They disagree with statements it wouldn't be attractive and appropriate. He encouraged all the councilors to personally visit the site and determine for themselves how appropriate the trail use would be.

4. *Laurie Voss*, 15446 NW Cornelius Pass Road in Portland, spoke against. She provided written materials and a sample petition, which are included in the permanent meeting record. She stated that where people live in reference to the proposed trail makes a difference. Mr. Tane does not live right near the project, it doesn't come through his property. She is not willing to give up her property that she has worked so hard for, so 120,000 plus people can come walking through it.

5. *Allan Patterson*, 19003 NW Columbia Street in Portland, spoke against. The trail goes through his backyard. For years they have dealt with the noise of the trains, the fires and the tramps. What the slides and the feasibility study didn't show is the gang graffiti on the east end of the tunnel and the porosity report on the concrete in the tunnel. He knows one of the Burlington engineers and one of the reasons the line was shut down because of the damage to the engines when they pass through the tunnel. Chunks of concrete have been known to fall off on them. He's been through the tunnel many times and isn't safe. It's not safe to walk through and there's no way to prevent someone from committing a rape or murder inside it.

The east end of the tunnel is right at the Washington County-Multnomah County line, at it has been a dead stop over the years in respect to both of the county sheriff's offices' failure to respond to the area. Several homes in the area have burned down, and fire response is very slow.

6. *Bob Akers*, 1038 SE 224th in Gresham, spoke in support as President of the 40 Mile Loop Land Trust group. He has been involved in the feasibility study and master plan process for the Springwater Trail and Powell Butte. The same concerns with safety, graffiti, etc. were raised with those projects. These same things cross his mind when he drives the I-5 corridor, Highway 84 East, and lives in his home. Scare tactics should not stop this positive

project. This summer he walked on many trails like the one proposed for the Burlington Northern tracks, including walking through several tunnels.

He stated that recreational trails are a way to get people comfortable with riding bikes, which ultimately helps get them out of their vehicles and off our crowded highways. He suggested the Council proceed through the master plan process. Then if it's wrong, they can stop it. He's optimistic that won't happen.

Councilor Monroe stated the Springwater Trail is a Rails to Trail project and much of it passes through semi-rural areas. He asked if in the time it has been a trail, has there been any increased crime or vandalism of nearby properties any increase in property values.

Mr. Akers responded that all research will show that the more positive people you get using the trail in a positive way the vandalism and problems go down. There is vandalism and graffiti at the Springwater Trail, but the families who walked the trail last weekend won't say it is a bad place. The benefits outweigh the problems.

Councilor Monroe stated he uses the Springwater Trail frequently and has never seen any evidence of those types of activities.

7. *Bob Melbo*, President and General Manager of The Willamette and Pacific Railroad in Albany, spoke against. He stated the proposal is shortsighted in ignoring future rail transportation needs in the northwestern portion of our state. The Willamette and Pacific Railroad is a new carrier, formed in 1993 and operating 185 miles of former Southern Pacific branches in the western Willamette Valley. During the company's short tenure on these lines, they have increased by nearly 30 percent. This year they will handle approximately 36,000 carloads of business, much of which originates and terminates solely within Oregon.

In August of this year, they formed a second company called the Portland and Western Railroad. This railroad now is operating the former Burlington Northern lines that start at Bowers Junction at the other end of this corridor and include all of the BN lines from about five miles north of Salem. They anticipate a considerable amount of growth in the rail business in northwestern Oregon. This will more strains on existing rail facilities in downtown Portland. At present, only two routes connect the main rail system with the western Willamette Valley. The Cornelius Pass route offers an alternate route, which will be strategically important to the development of transportation in this area as we go into the next century. It should not be disposed of. Using the line in question will allow rail traffic to skirt around the downtown Portland area and to not pass through the city of Lake Oswego.

His company feels so strongly about this that if the Burlington Northern were to file for abandonment today, they likely would file an intent to take responsibility for the line.

8. *Julie Morrow*, 16501 NW Wapato Drive in Portland, spoke against. She and her husband moved to Burlington 10 years ago. They knew when they bought the property there was a train in their backyard. It didn't bother them. They have children and the engineers have come to know the family as they pass by. About three years ago they decided to build a new house on the property, but they wouldn't have if they knew a pedestrian trail would be going in. Their new house will be approximately 30 feet from the railroad rightaway. They are OK with the trains, but not with people walking by.

She stated there are many other issues that bother them. They were one of the closest houses to the trestle fire. It took Portland nearly two hours to answer that fire call and find the trestle, which basically was done burning by the time they arrived. Medical and police units take at least 45 minutes to respond. They also are concerned with the garbage that will be left in the area. Their biggest concern is their loss of privacy from people who will park on the street in front of their home and walk through their property to reach the trail.

Also, they have been told their property value will increase if this trail goes in. They don't want it to increase and have to pay higher property taxes. Since this trail is outside the UGB, the people who will be affected most by it did not get to vote on Open Spaces Measure 26-26.

9. *Bob Bothman*, serves on the Trails Advisory Committee for the Washington County Park District, spoke in support. Trails and bike paths that raised similar concerns years ago now have proved to be very popular and beneficial to nearby residents. Ways to shield neighbors and use buffers are positive things that can be considered. A summary of all the Rails to Trails projects in the U.S. printed in the current "Traveler's Magazine" show all the success stories.

The Presiding Officer closed the public hearing and returned to an earlier agenda item that was moved.

### 3. EXECUTIVE OFFICER COMMUNICATIONS

The Presiding Officer opened an Executive Session pursuant to ORS 192-660 (1)(e) to discuss real estate negotiation matters.

Present: Presiding Officer McFarland, Councilor Monroe, Councilor Kvistad, Councilor McCaig, Councilor McLain, Councilor Washington, Cathy Ross, Assistant to the Presiding Officer, Executive Officer Mike Burton, General Counsel Daniel Cooper, and Todd Sadlow, Senior Assistant Counsel.

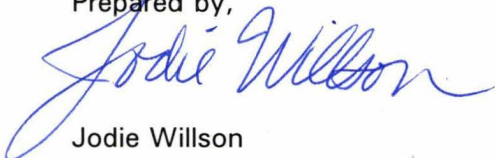
The Presiding Officer closed the Executive Session.

### 9. COUNCILOR COMMUNICATIONS

none

There being no further business before the Council, Presiding Officer McFarland adjourned the meeting at 5:40 p.m.

Prepared by,



Jodie Willson  
Council Assistant

*(2040 Growth Concept Map testimony prepared by David Aeschliman)*