

MINUTES OF THE COUNCIL TRANSPORTATION & PLANNING COMMITTEE  
OF THE METROPOLITAN SERVICE DISTRICT

September 8, 1992

Council Chamber

Committee Members Present: Chair Richard Devlin, Vice Chair  
Susan McLain, Roger Buchanan and Ed  
Washington

Committee Members Absent: None

Chair Devlin called the regular meeting to order 6:09 p.m.

1. Consideration of March 10 and April 28, 1992 Minutes

Motion: Councilor McLain moved for approval of the  
minutes.

Vote: Councilors McLain, Washington and Devlin voted  
aye. Councilor Buchanan was absent. The vote was  
unanimous and the minutes were approved.

2. Discussion of FY 1992-93 Five Year Financial Plan

Chair Devlin noted the five Council committees would hear, or had  
heard, FMI staff presentations on the FY 1992-93 Five Year  
Financial Plan.

Chris Scherer, Financial Planning Manager, said he was available  
for questions if necessary.

Chair Devlin opened a public hearing.

Robert Liberty, attorney, 2433 NW Quimby, Portland, testified on  
the Five Year Financial Plan and said significant adjustments  
should be made to Metro's budget to deal with Metro's land use  
responsibilities. He said he testified on similar issues  
approximately one year ago when the Council adopted the Regional  
Urban Growth Goals and Objectives (RUGGOs). He said this year's  
budget showed a small FTE allocation for Metro's planning  
process, which appeared to deal with Urban Growth Boundary (UGB)  
issues and part of the Western Bypass Study. He said if RUGGOs  
or Region 2040 study results were to be implemented through  
regulatory changes in local plans, Metro had to have a  
substantial staff to do so. He said, when making a presentation  
to a City Club committee on the proposed Metro Charter and  
consolidation measure, he stated his concerns that Metro did not  
have sufficient staff to perform planning functions adequately.  
He urged the Transportation & Planning Committee to increase  
budget allocations for FTEs to fully perform all Metro's planning  
functions.

Mr. Liberty said if regulatory documents to implement RUGGOs were adopted, Metro would perform functions similar to the Land Conservation and Development Commission (LCDC). He said LCDC's budget for planning staff was approximately \$1 or 2 million per year. He said transportation planning alone was a major function. He said Metro had a delegated and moral legal responsibility to ensure compliance with the Region 2040 study. He said a great deal of growth was projected to occur by the mid 1990s and that Metro should budget at least \$1 to \$3 million for planning staff alone. He said it would be an investment in the future similar to investment in infrastructure. He asked the Council to think seriously about comprehensive functional plan review consistent with RUGGOs and Region 2040.

Mr. Liberty said the Council should ask for a time estimate for review of comprehensive plans against a speculative idea of what regulatory framework would be adopted. He said Region 2040 was perceived by some as a plan, but said it was not. He said Metro had to develop functional plans, and then review compliance with those functional plans, part of which would be the Regional Transportation Plan (RTP) which itself would have to be revised to reflect Goal 12.

3. Briefing - Western Bypass Study, LUTRAQ Option

Keith Bartholomew, 1000 Friends of Oregon attorney, briefed the Committee on the Land Use, Transportation and Air Quality Study (LUTRAQ) option for the Western Bypass Study.

Jack Polans, 16000 SW Queen Victory Place, King City, asked if bad weather days were taken into consideration during transportation planning. Mr. Bartholomew briefly addressed weather conditions.

4. Consideration of Ordinance No. 92-450, An Ordinance Adopting a Final Order for Periodic Review of the Metro Urban Growth Boundary (Public Hearing)

Ethan Seltzer, former Regional Planning Supervisor, gave staff's report and explained the ordinance. He said Metro received a periodic review notice for the UGB from the Department of Land Conservation and Development (DLCD) in 1987 and explained criteria for periodic review at that time. He said Metro did not adopt a comprehensive land use plan, but said the UGB was a component of a comprehensive land use plan, so that Metro's periodic review was very narrow to determine if the UGB met the needs of the urban population. He said Metro had never formally adopted procedures for amending the UGB but that Metro had formal, acknowledged procedures for locational adjustments meant

to address technical locations of the boundary. He said the periodic review was 1) meant to address the land supply for the needs of the urban population and 2) to adopt formal procedures for amending the UGB. He explained periodic review procedures further. He said because of Metro's Regional Land Information System (RLIS), staff could accurately pinpoint land needs for the urban area through 2010. He said no change in the UGB was warranted at this time. He said future forecasting efforts could lead to amendments based on demographics and employment related to Region 2040 findings.

Mr. Seltzer explained the three proposed new UGB amendment procedures.

Mr. Seltzer said the first procedure, the Legislative Amendment, would be used by the Council acting in its capacity as a legislative decision-maker to amend the boundary to maintain consistency with Statewide Planning Goal 14. He said the ordinance outlined criteria and procedures for a Legislative Amendment.

Mr. Seltzer said the second procedure, the Major Amendment, was for proposals in excess of 20 acres brought to Metro by a private party and the Council would act in its capacity as a quasi-judicial decision-maker. He said the process for Major Amendments would be described in the Metro Code as well as in criteria per Goals 2 and 14.

Mr. Seltzer said the third procedure, the Locational Adjustment, was currently in the Metro Code. He said the maximum size for a locational adjustment had been decreased from 50 to 20 acres because of the "ascending burden of proof" previously used and required for any amendments over 10 acres.

To Councilor McLain's question, Mr. Seltzer explained a major amendment was any proposed amendment over 20 acres. He said major amendments had to demonstrate a necessary need for the land to meet the needs of the urban population or to meet livability, housing or employment opportunity criteria. Mr. Seltzer explained the procedures for trades were still included in the Locational Amendment process. He said the new amendment procedures would also cover roadway alignments. He said the Council might want to recognize "natural area" amendments also. Mr. Seltzer reviewed the public review process and noted staff received a letter from DLCD dated August 31 which requested that in Definitions, on page 60, (o) "Net Developable Vacant Land," the multiplier be changed from "0.6" to "0.6 to 1.0." The Committee and Mr. Seltzer discussed UGB issues further.

Chair Devlin opened the public hearing.

Robert Liberty, testified a second time at this meeting and recommended using a factor of 0 to 0.4 to determine public lands needs. He asked Mr. Seltzer to diagram the three kinds of amendments and explain the criteria for the three amendments. Mr. Seltzer said the criteria for Major and Legislative Amendments was essentially the same and had to show consistency with Goals 2 and 14. He said other land use goals could apply. Mr. Liberty said the Legislative Amendment factor appeared to be longer than the Major Amendment factor. Mr. Seltzer agreed and said Factor 1 referred to Goal 14 which had seven factors which needed to be considered when amending or establishing the UGB. He said the first two factors dealt with whether there was a need for land and the second five factors dealt with the actual location of the proposed amendment. Mr. Seltzer explained Locational Adjustment criteria briefly.

Mr. Liberty proposed four amendments. His first suggested amendment was to delete language in Chapter 3.01, on page 62: "3.01.020(a) The purpose of this section is to address Goals 2 and 14 of the Statewide Planning Goals and RUGGO. This section details a process which is intended to interpret Goals 2 and 14 for specific application to the District urban growth boundary. [~~Compliance with this section shall constitute compliance with Statewide Planning Goals 2 and 14 and the Regional Urban Growth Goals and Objectives.~~]" Mr. Liberty said he recommended deleting the last sentence because if that language remained, Metro would not have to comply with more stringent Statewide Planning Goals. He cited the Blazer Homes UGB case as an example. Under the same amendment, Mr. Liberty proposed deleting the same language under Section 3.01.025 on page 68: "3.01.030 Major Amendment Criteria (a) The purpose of this section is to address Goals 2 and 14 of the Statewide Planning Goals and RUGGO. This section is a detailed listing of criteria which are intended to interpret and further define Goals 2 and 14 for specific application to the District urban growth boundary. [~~Compliance with the requirements of this section shall constitute compliance with Statewide Planning Goals 2 and 14 and the Regional Urban Growth Goals and Objectives.~~]" Mr. Liberty said Metro should remove the language even if it did have the authority to state a case did comply with Statewide Planning Goals. He asked what the result would be if Metro's criteria differed from Goal 14. He said Metro's criteria would be weaker than statewide language, set precedent for future cases and be subject to legal challenge. He said the language had been included because of the flawed Blazer Homes UGB case.

TRANSPORTATION & PLANNING COMMITTEE

September 8, 1992

Page 5

Mr. Seltzer said staff's language was meant to establish a guide on how to apply to amend the UGB and said periodic review offered the opportunity for agencies to update procedures. He said the language offered would establish stability and consistency by stating what Metro's criteria was. He said the state could make Metro undergo periodic review of its land use procedures at any time and that the ordinance could be amended. Mr. Seltzer and Mr. Liberty debated the criteria contained in land use goals/factors. Mr. Seltzer noted the letter from DLCD said Metro had done a good job.

Mr. Liberty said his second recommended amendment was to eliminate both Legislative and Major Amendment procedures. He said the UGB encompassed approximately 224,000 acres, and since Locational Adjustments were for 20 acres only with a maximum of 100 acres per year, that Locational Adjustments would amount to trying to analyze 1/10,000 of the UGB. He said Legislative and Major Amendments were contrary to the philosophy of trying to make fine adjustments to the UGB. He said UGB amendments had a dollar value. He said after the Riviera property was included within the UGB, its price went up by a factor of 10 per acre, or from \$2,000 per acre to \$20,000 per acre. He said it did not make sense to have a regional boundary with tiny changes. He did not oppose land trades. He said Metro should allow applicants to petition every five or seven years.

Mr. Seltzer said it was very difficult to amend the UGB. He said applications to amend the UGB should remain flexible and cited the Dammasch and Rock Creek College petitions. He said staff did discuss not having a major amendment process, but said both the Regional Policy Advisory (RPAC) and Regional Technical Advisory Committees (RTAC) agreed it was important to have access to such a process. He said the UGB was a legal boundary and it was important to have flexibility in amending it. He said Locational Amendments would be small in scale. He said Metro had only had difficulties with the Oregon City and Blazer Homes cases. He agreed with Mr. Liberty and said applicants could not prove a 20 acre amendment based on need, but could prove the amendment was necessary based on services. Mr. Liberty said amendments based on services was acceptable, but asked how much ongoing litigation cost Metro and staff when criteria was not clear.

Councilor McLain said it was frustrating for citizens to have no recourse to government. Mr. Liberty said such an argument could be applied to weakening any regulation. Councilor McLain said the UGB amendment process provided flexibility. Mr. Liberty again cited unnecessary litigation. Mr. Liberty said the UGB should be stable for at least five to seven years because otherwise people would not take it seriously.

Mr. Liberty said his third recommended amendment was that only property owners be able to apply for UGB amendments. Mr. Seltzer said via the legislative process, citizens could tell the Council the UGB was too big or that land had been made urban on an inappropriate basis. He said citizens should not be able to propose their neighbors' property should be made urban or rural. Mr. Liberty said Mr. Seltzer's argument validated his prior argument to eliminate the Major and Legislative Amendments. Mr. Seltzer said the Council's best defense was to exercise its legislative role in managing the UGB which the Council had not done for 12 years. He said if the Council used its legislative role and periodic review, citizens and jurisdictions would have the opportunity to give input on the UGB and its future shape.

Mr. Liberty said his fourth recommended amendment was that applicants be allowed one opportunity only, including appeal, to petition to amend the UGB to avoid abusive reapplications over long periods of time. He said the Council should also consider not taking applications the year before periodic review. Mr. Liberty said applicants should have one chance in five or seven years, and said if an application was remanded, it should be considered a denial. He said applicants should not be allowed to appeal multiple times to supplement the evidence.

Jack Polans, testified for a second time at this meeting and said there was a need for legislative change with regard to the UGB in the King City area. He objected to Washington County developers bringing county property within Oregon City limits and said that change was incompatible with King City's original charter. He said the UGB did not need to be within King City limits and said it affected 95 percent of its citizens who were 55 years or older.

Chair Devlin said the issue with regard to King City was not a UGB decision, but a Boundary Commission annexation of unincorporated Washington County. The Committee discussed UGB issues further with Mr. Polans and referred him to Planning Department staff for additional information and assistance.

Chair Devlin asked that a summary of this public hearing be produced for publication in the September 22, 1992 Transportation & Planning agenda in addition to the letter from LCDC. Chair Devlin closed the public hearing.

5. Consideration of Resolution No. 92-1669, For the Purpose of Endorsing a Public Awareness Plan for the Metropolitan Greenspaces Plan and Ballot Measure No. 26-1

Motion: Councilor Washington moved to recommend the full Council adopt Resolution No. 92-1669.

Pat Lee, Regional Planning Supervisor, gave staff's report. He explained the resolution would endorse a public awareness program to inform citizens about the Greenspaces Master Plan and Ballot Measure No. 26-1. He discussed the survey conducted in April which indicated approximately 30 percent of the public was aware of the Greenspaces Program at that time. He said the public awareness program would increase that percentage utilizing environmental education and citizen involvement in the Greenspaces Program. He said the public should be accurately informed about the ballot measure, its ramifications and how it tied into the Master Plan overall. He said to that effect the resolution identified past and future work product, public communication efforts, information displays at institutions and other repositories, and speaking engagements to groups.

Mr. Lee said most of the project budget was for postage and printing costs and noted numbers contained in Attachment A were not accurate and said costs would total \$60,310 instead of the \$66,915 listed because some expenses due to the Master Plan and the ballot measure were inadvertently counted twice by staff. He distributed a corrected Attachment A. He said costs related to the Master Plan would be approximately \$50,000 and approximately \$10,000 would be related to the ballot measure.

Councilor McLain asked if persons listed in Attachment B would serve as the information contact specialists. Mr. Lee said they would and that most of the persons listed had served on the technical and policy advisory committees and others were involved via local jurisdictions. He said they provided mailing lists for ballot measure fact sheets and that the Cities of Portland and Gresham might mail information inserts in utility billings.

Vote: Councilors Buchanan, McLain, Washington and Devlin voted aye. The vote was unanimous and Resolution No. 92-1669A was recommended to the full Council for adoption.

Andy Cotugno, Director of Planning, distributed his memo dated September 3, 1992, "Proposed Amendment to the Unified Work Program." He explained the memo contained a draft copy of the scope of work proposed to perform transportation and land use modeling for Region 2040 concepts. He said that activity had been

TRANSPORTATION & PLANNING COMMITTEE  
September 8, 1992  
Page 8

proposed for completion using Federal Highway Administration (FHA) grant funding and would require an amendment to the Unified Work Program (UWP). He said the project would provide model improvements so that runs were completed in a timely manner and proposed scenarios could be performed. He said that work would improve Region 2040 concepts and ensure that each scenario was tested against the results generated by Metro's transportation model.

Mr. Cotugno said staff recently discovered Metro was eligible for such grant funding for the work described above. He said in order to qualify for the funding, the UWP had to be amended to reflect the project and the amendment and grant application had to be completed by September 30. He said staff hoped for JPACT review September 17, consideration by the Transportation & Planning Committee September 22, and Council consideration September 24 in order to qualify for the funding in time.

Respectfully submitted,



Paulette Allen  
Clerk of the Council