



Multnomah County Oregon

Board of Commissioners & Agenda

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BOARD OF COMMISSIONERS

Diane Linn, Chair

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-3308 FAX (503) 988-3093

Email: mult.chair@co.multnomah.or.us

Maria Rojo de Steffey, Commission Dist. 1

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-5220 FAX (503) 988-5440

Email: district1@co.multnomah.or.us

Serena Cruz, Commission Dist. 2

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-5219 FAX (503) 988-5440

Email: serena@co.multnomah.or.us

Lisa Naito, Commission Dist. 3

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-5217 FAX (503) 988-5262

Email: district3@co.multnomah.or.us

Lonnie Roberts, Commission Dist. 4

501 SE Hawthorne Boulevard, Suite 600
Portland, Or 97214

Phone: (503) 988-5213 FAX (503) 988-5262

Email: lonnie.j.roberts@co.multnomah.or.us

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NOVEMBER 2 & 4, 2004

BOARD MEETINGS

FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:30 a.m. Tuesday Metro Goal 5 Proposal
Pg 2	8:45 a.m. Thursday Update on County Business Services
Pg 3	9:30 a.m. Thursday Employee Service Awards
Pg 3	9:50 a.m. Thursday Human Resources Audit
Pg 3	10:00 a.m. Thursday Directing Sale Funds to Help Fund Possible East County Justice Facility
Pg 3	10:35 a.m. Thursday Resolution Establishing NE Wood Village Blvd as County Road No. 5020
Pg 3	10:40 a.m. Thursday Authorizing Amendment to Lease Agreement with Children's Land Trust
Pg 4	10:55 a.m. Thursday 1st Reading Food Service License and Vector Control Ordinances
Thursday November 11 Board Meeting Cancelled due to Veteran's Day Holiday	

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Tuesday, November 2, 2004 - **9:30 AM**
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

BOARD BRIEFING

B-1 Briefing on Metro Resolution No. 04-3506; Goal 5 Proposal. Presented by Commissioner Lisa Naito, Gary Clifford and Invited Guests. 1 HOUR REQUESTED.

Thursday, November 4, 2004 - **8:45 AM**
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

BOARD BRIEFING

B-2 Update on County Business Services. Presented by Tony Mounts. 45 MINUTES REQUESTED.

Thursday, November 4, 2004 - **9:30 AM**
Multnomah Building, First Floor Commissioners Boardroom 100
501 SE Hawthorne Boulevard, Portland

REGULAR MEETING

CONSENT CALENDAR - 9:30 AM **DEPARTMENT OF COMMUNITY JUSTICE**

C-1 Budget Modification DCJ-06 Adding \$20,687 in Portland Community College Grant Carryover Revenue to the Department of Community Justice Federal/State budget

REGULAR AGENDA - 9:30 AM **PUBLIC COMMENT - 9:30 AM**

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES - 9:30 AM

R-1 **9:30 AM TIME CERTAIN:** Presentation of Employee Service Awards Honoring Multnomah County Employees with 5 to 40 Years of Service

NON-DEPARTMENTAL - 9:50 AM

R-2 Human Resources Audit: Define Services and Continue Improvements. Presented by Suzanne Flynn, Judith DeVilliers and Mark Ulanowicz. 10 MINUTES REQUESTED.

R-3 **10:00 AM TIME CERTAIN:** RESOLUTION Directing Funds from the Sale of the Hansen Building and Multnomah County Correctional Facility (MCCF) to Help Fund a Possible New East County Justice Facility

OFFICE OF SCHOOL AND COMMUNITY PARTNERSHIPS - 10:30 AM

R-4 Budget Modification OSCP_1 Restoring 1.5 FTE in County Business Services to Provide Support to the Office of School and Community Partnerships and to the Commission on Children, Families, and Community (Continued from October 7, 2004)

DEPARTMENT OF BUSINESS AND COMMUNITY SERVICES - 10:35 AM

R-5 RESOLUTION Establishing NE Wood Village Boulevard as County Road No. 5020

R-6 RESOLUTION Authorizing a Second Amendment to Lease Agreement with the Children's Land Trust, formerly known as Regional Children's Campus

DEPARTMENT OF HEALTH - 10:45 AM

R-7 NOTICE OF INTENT to Request Grant Funding from the National Institute of Environmental Health Sciences' "Environmental Justice: Partnerships for Communication" Grants Program to Support an Environmental Health Education Initiative in Northeast Portland

R-8 NOTICE OF INTENT to Submit a Proposal to the Health Resources and Services Administration's Ryan White CARE Act Title I HIV Emergency Relief Grant Competition

R-9 First Reading of a Proposed ORDINANCE Amending MCC § 21.612
Relating to Food Service License and Other Fees

R-10 First Reading of a Proposed ORDINANCE Establishing a Vector Control
and Enforcement Advisory Committee

AGENDA PLACEMENT REQUEST

BUD MOD #:

Board Clerk Use Only:

Meeting Date: November 2, 2004

Agenda Item #: B-1

Est. Start Time: 9:30 AM

Date Submitted: 10/25/04

Requested Date: November 2, 2004

Time Requested: 1 hour

Department: Non-Departmental

Division: Commissioner District 3

Contact/s: Gary Clifford, Terri Naito

Phone: 503-988-3043

Ext.: 85217

I/O Address: 455/116

Presenters: Gary Clifford and Invited Others

Agenda Title: "Briefing on Metro Resolution No. 04-3506; Goal 5 Proposal"

**NOTE: If Ordinance, Resolution, Order or Proclamation, provide exact title.
For all other submissions, provide clearly written title.**

1. What action are you requesting from the Board? What is the department/agency recommendation?

Commissioner Naito and Land Use Planning is asking for the authors of Metro Resolution No. 04-3506 to present to the Board of Commissioners the concept and reasoning behind this resolution and its approach to Statewide Planning Goal 5.

2. Please provide sufficient background information for the Board and the public to understand this issue.

Multnomah County is one of three counties within Oregon that Metro sets long-range planning goals for. Metro started work on revised planning for meeting statewide Goal 5 several years ago. While many structured approaches to achieving the Goal 5 standards, Resolution No. 04-3506 appears to be a departure from past approaches. This briefing is intended to give the Board of County Commissioners and the public an opportunity to understand this approach, its intended outcomes and how it will affect the residents of Multnomah County.

3. Explain the fiscal impact (current year and ongoing). The costs, if any to Multnomah County, should fall within the current amounts for planning.

NOTE: If a Budget Modification or a Contingency Request attach a Budget Modification Expense & Revenues Worksheet and/or a Budget Modification Personnel Worksheet.

If a budget modification, explain: n/a

- ❖ What revenue is being changed and why?
 - ❖ What budgets are increased/decreased?
 - ❖ What do the changes accomplish?
 - ❖ Do any personnel actions result from this budget modification? Explain.

 - ❖ Is the revenue one-time-only in nature?
 - ❖ If a grant, what period does the grant cover?
 - ❖ When the grant expires, what are funding plans?
- NOTE: Attach Bud Mod spreadsheet (FORM FROM BUDGET)

If a contingency request, explain: n/a

- ❖ Why was the expenditure not included in the annual budget process?

- ❖ What efforts have been made to identify funds from other sources within the Department/Agency to cover this expenditure?
- ❖ Why are no other department/agency fund sources available?
- ❖ Describe any new revenue this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.

- ❖ Has this request been made before? When? What was the outcome?

If grant application/notice of intent, explain:

- ❖ Who is the granting agency?
- ❖ Specify grant requirements and goals.
- ❖ Explain grant funding detail – is this a one time only or long term commitment?
- ❖ What are the estimated filing timelines?
- ❖ If a grant, what period does the grant cover?
- ❖ When the grant expires, what are funding plans?
- ❖ How will the county indirect and departmental overhead costs be covered?

4. Explain any legal and/or policy issues involved.

The policy issue is the effect on long-term planning within the Metro region and will changing the present program and timelines affect Goal 5 protections in the Pleasant Valley and Springwater urban areas in particular.

5. Explain any citizen and/or other government participation that has or will take place.

Effective public involvement is critical and Metro has had public hearings as well as presenting it to MPAC at hearings on this proposed resolution. Their timeline for the resolution is to vote on it November 4, 2004.

Required Signatures:

Department/Agency Director: _____



Date: 10/25/04

BOGSTAD Deborah L

From: MARCH Steve J
Sent: Thursday, October 28, 2004 8:13 AM
To: CLIFFORD Gary L; NAITO Lisa H
Cc: NAITO Terri W; BOGSTAD Deborah L
Subject: RE: Confirming 9:30 a.m. on Tuesday, November 2

Gary,

Thanks, though I note Deb was not on the cc list so we may not have gotten David Bragdon officially noticed in the agenda placement, but obviously it will be good for him to present to the BCC as author of the proposal. I understand there may have been proposed amendments that might have been offered at MPAC as well.
 Steve

-----Original Message-----

From: CLIFFORD Gary L
Sent: Wednesday, October 27, 2004 11:09 AM
To: NAITO Lisa H
Cc: MARCH Steve J; NAITO Terri W
Subject: RE: Confirming 9:30 a.m. on Tuesday, November 2

Council President David Bragdon's office has confirmed that he will present his proposed Resolution at the Board Briefing.

Gary Clifford

-----Original Message-----

From: NAITO Lisa H
Sent: Tuesday, October 26, 2004 4:24 PM
To: CLIFFORD Gary L
Subject: RE: Confirming 9:30 a.m. on Tuesday, November 2

We should also invite Mayor Becker...he's chair of MPAC. Lisa

-----Original Message-----

From: CLIFFORD Gary L
Sent: Tuesday, October 26, 2004 10:24 AM
To: NAITO Lisa H
Cc: MARCH Steve J; NAITO Terri W
Subject: RE: Confirming 9:30 a.m. on Tuesday, November 2

Progress report as of 10:00 AM Tuesday, October 26 for invitations to the Board Briefing:

- David Bragdon and Rod Park have been contacted, no confirmation yet;
- Gil Kelley will be out of town, but will have a staff member there;
- Kelly Ross will be there;
- Jim Labbe (Audubon) and Sue Marshall (Tualatin Riverkeepers) will both be there and will coordinate their presentation (they will also contact Mike Houck and work with him if Mike can come).

Gary Clifford

10/28/2004

-----Original Message-----

From: NAITO Lisa H
Sent: Monday, October 25, 2004 2:41 PM
To: CLIFFORD Gary L
Cc: MARCH Steve J; NAITO Terri W
Subject: RE: Confirming 9:30 a.m. on Tuesday, November 2

Thanks! I'll be in meetings all day tomorrow...so feel free to talk with Terri or Steve if you need help. If you can think of anyone else that should be invited, feel free to add folks. My cell is 503-849-4170. Lisa

-----Original Message-----

From: CLIFFORD Gary L
Sent: Monday, October 25, 2004 2:38 PM
To: NAITO Lisa H
Subject: RE: Confirming 9:30 a.m. on Tuesday, November 2

I will start making calls immediately and will check back to let you how it goes.

Gary Clifford

-----Original Message-----

From: NAITO Lisa H
Sent: Monday, October 25, 2004 2:26 PM
To: CLIFFORD Gary L
Subject: FW: Confirming 9:30 a.m. on Tuesday, November 2
Importance: High

Gary,

I would like you to be the lead on this briefing and to outline specific Multnomah County issues. I suggest we invite David Bragdon and/or Rod Park to present their proposal. I would like to invite Gil Kelley from the City of Portland as a urban planning perspective, Mike Houck or someone representing the environmental groups, and Kelly Ross from the Homebuilders or someone representing homeowners. Could you invite these folks immediately? Let me know if you need me to make calls. Thanks! Lisa

-----Original Message-----

From: BOGSTAD Deborah L
Sent: Monday, October 25, 2004 1:34 PM
To: CLIFFORD Gary L; Diane Linn; Lisa Naito; Lonnie Roberts; Maria ROJO DE STEFFEY; Serena Cruz
Cc: Carol WESSINGER; Darcy Miles; Delma FARRELL; Kristen WEST; Mary Carroll; Matthew LASHUA; Shelli Romero; Tara BOWEN-BIGGS; Terri Naito
Subject: Confirming 9:30 a.m. on Tuesday, November 2
Importance: High

I just spoke with Commissioner Naito so this is to confirm that the Board is available at 9:30 a.m. Tuesday, November 2nd for a one hour briefing on

10/28/2004

the Metro Goal 5 issue. (This is instead of the
November 22nd afternoon session set last week.)
Thank you!

Deb Bogstad, Board Clerk
Multnomah County Commissioners
501 SE Hawthorne Boulevard, Suite 600
Portland, Oregon 97214-3587
(503) 988-3277 phone
(503) 988-3013 fax
deborah.l.bogstad@co.multnomah.or.us
<http://www.co.multnomah.or.us/cc/index.shtml>

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DIRECTING THE) RESOLUTION NO. 04-3506
CHIEF OPERATING OFFICER TO DEVELOP A)
FISH AND WILDLIFE HABITAT PROGRAM)
THAT RELIES ON A NON-REGULATORY)
EFFORT TO IMPROVE HABITAT PRIOR TO)
ANY IMPLEMENTATION OF NEW REGIONAL,) Introduced by Metro President David Bragdon
PERFORMANCE-BASED REGULATIONS) and Metro Councilor Rod Park

WHEREAS, Oregonians have a long tradition of understanding the interdependent values of economic prosperity and environmental quality, both of which constitute important elements of the livability that distinguishes this state and the Portland metropolitan region; and

WHEREAS, citizens of the Metro region value living in a place that, within the built environment, provides access to greenspaces and habitat for fish and wildlife species; and

WHEREAS, citizens representing a range of economic and environmental interests have stated that wildlife habitat and water quality need to be more consistently protected and improved across the region, as part of an ongoing regional commitment to planning for the future; and

WHEREAS, the Metro Policy Advisory Committee (MPAC), comprised of elected officials representing the region's cities and counties, adopted a "Vision Statement" in 2000 to enunciate the region's commitment to improve the ecological health and functionality of the region's fish and wildlife habitat; and

WHEREAS, that Vision Statement set an overall goal "to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with the surrounding urban landscape . . . [to be] achieved through conservation, protection and appropriate restoration of streamside corridors through time;" and

WHEREAS, Metro has pursued the development of a regional fish and wildlife habitat and water quality protection program consistent with Statewide Planning Goal 5, one of 19 state land use planning goals, thereby producing a region-wide inventory of habitat comprising over 80,000 acres that has been located and classified for its ecosystem values and mapped to provide an information system for developing the region-wide program; and

WHEREAS, by developing the habitat inventory, Metro now has extensive and comprehensive information on the ecological health of the region's fish and wildlife habitat, and an important role for Metro to play in the future will be to keep the inventory up to date, to continue to monitor the state of habitat in the region, and to share such information with local governments in the region to help them develop effective habitat protection and restoration programs; and

WHEREAS, fish and wildlife habitat depends on healthy functioning watersheds and follows the natural contours of the landscape, while political boundaries frequently split watersheds and divide the natural landscape, and Metro, as a regional government, can play an important role to help ensure a

consistent level of habitat protection and restoration across the region's political boundaries, in an ecologically-based manner that respects watersheds and the natural landscape; and

WHEREAS, access to resources for protecting and conserving habitat varies widely among the region's communities and Metro also can provide technical assistance to communities with fewer resources to help them develop protection and conservation approaches that are appropriate for their communities, such as tools to allow and encourage lowest impact development or the conservation of critical wildlife habitat through purchase or the use of creative land-trust instruments; and

WHEREAS, the rights of private property owners and their commitments to community goals and environmental protection should be recognized and honored, and that doing so will help us attain and sustain a high quality of life for both humans and wildlife; and

WHEREAS, the types of actions that affect the quality and quantity of the region's fish and wildlife habitat vary widely, including thousands of small decisions made each day by individuals, such as whether to use pesticides on their lawns, as well as bigger decisions, such as how development of these properties occurs; and

WHEREAS, to produce desired, measurable outcomes of cumulative improvements to fish and wildlife habitat throughout the region, the fish and wildlife habitat protection and restoration program must enlist the broad support of hundreds of thousands of people across the region, making habitat property owners participants in a regional program that includes education and incentives for lowest-impact development practices, restoration initiatives directed by watershed councils, and purchase of the most ecologically valuable habitat areas from willing sellers through the funds generated by a bond measure; and

WHEREAS, by making a concerted effort to provide the region's citizens with additional fish and wildlife habitat education, incentive, restoration and willing-seller property acquisition programs the region can potentially make substantial progress toward improving the quality and quantity of its fish and wildlife habitat; and

WHEREAS, Metro, local governments, and the citizens of the region should make such a concerted effort to meet the goals of the Vision Statement using non-regulatory strategies, and our progress toward meeting those goals should be measured, before local governments are required to comply with any new rules or regulations; now therefore,

BE IT RESOLVED that the Metro Council hereby directs the Chief Operating Officer to develop a fish and wildlife habitat protection and restoration program consistent with the following provisions:

1. Metro's Program Shall Rely Primarily on Education, Incentive, Restoration and Acquisition Programs

Metro, other government agencies and volunteer-based non-governmental organizations across the region already have in place extensive education, restoration and acquisition programs designed to protect and enhance the quality and quantity of well-functioning fish and wildlife habitat. Metro's parks and solid waste and recycling departments and the Oregon Zoo, for example, have already developed education programs to teach individuals about fish and wildlife habitat, water quality, natural gardening, and what we all can do to improve fish and wildlife habitat. Many local governments (e.g. Portland's Bureau of Environmental Services), special districts (e.g. Clean Water Services in the Tualatin Basin), and non-governmental organizations (e.g. Friends of Trees) already engage in extensive natural area restoration programs and

neighborhood tree planting programs that improve habitat. Metro, local governments, and non-governmental organizations (e.g. the Wetlands Conservancy) are all engaged in willing-seller land acquisition programs designed to purchase, preserve, and restore the region's highest-quality fish and wildlife habitat. Many of these efforts only take place thanks to the strong support of the region's private businesses and the efforts of many individuals. The region's vision of protecting and restoring a "continuous ecologically viable streamside corridor system" will only be achieved by harnessing the collective power of regional and local governments, non-profits, citizen volunteers, and private business to expand these programs. Such an effort should include:

a. **Education and Incentive Programs**

Metro's program shall be focused, first and foremost, on creating citizen education and incentive programs to help the citizens of the region voluntarily make the best choices for the protection and enhancement of fish and wildlife habitat. In addition, existing incentive programs that have not yet been implemented at the local level, such as Oregon's riparian and wildlife habitat property tax incentive programs that are ready for use by local governments, shall be identified and efforts made to ensure that such programs are available to, and used by, the citizens of the region.

b. **A Regional Habitat Acquisition and Restoration Program**

The Metro Council intends to develop, and take before the voters for approval, a fish and wildlife property acquisition and restoration bond measure to purchase from willing sellers those properties, or conservation easements on those properties, that are deemed to be of the greatest ecological importance for fish and wildlife habitat, and to fund habitat restoration efforts that could provide even higher quality habitat.

2. **Development of Local Program Performance Standards and Timeline for Compliance**

The regional fish and wildlife habitat protection and restoration program shall establish local program performance standards to be achieved by the local fish and wildlife habitat protection and restoration efforts adopted by local jurisdictions in the region. Local jurisdictions will be required to show that their programs will meet the local program performance standards, and Metro shall make such local program performance standards as clear and objective as possible to provide local governments with a clear understanding of what programs will be sufficient to meet such standards. For example, such standards could include calculations of the amount of habitat that is protected through public ownership, a tree protection ordinance, regulatory buffers, easements, or other tools, and an assessment of the potential to minimize or mitigate impacts to fish and wildlife habitat through the use of low-impact, habitat friendly design approaches. Local governments will have the option of retaining their existing programs, developing their own new programs, or using a model program approach to be developed by Metro. Local program performance standards will be broad and flexible enough to allow for local programs to take very different approaches, and Metro shall review and give equal credence to all approaches when determining whether local governments are in substantial compliance with those standards. The model program developed by Metro shall be based on the use of best management practices for low-impact, habitat-friendly, environmentally sensitive land development. Local governments shall be required to be in compliance with the local program performance standards no later than June 1, 2012, subject to the provisions of paragraph 4 of this resolution.

3. Regional Outcome Measures and Metro Monitoring of Habitat Conditions

Metro shall develop regional outcome measures to evaluate the region's progress toward meeting the vision of conserving, protecting and restoring fish and wildlife habitat in the region. Upon Metro's adoption of a fish and wildlife habitat protection and restoration program, Metro shall begin immediate implementation of the non-regulatory program components described in paragraph 2, above, and paragraph 5, below. The Chief Operating Officer shall periodically assess the region's progress toward meeting the regional outcome measures. Not later than March 1, 2010, the Chief Operating Officer shall prepare and present to the Metro Council a written report on the region's progress toward meeting the regional outcome measures. Such report shall include a new analysis of habitat inventory in the region, using the same methodological approaches used to create the habitat inventory adopted by the Metro Council in Resolution No. 02-3218A, but allowing for the use of analytic and data improvements developed in the interim. The Metro Council shall hold at least three public hearings to review and consider the Chief Operating Officer's report. Not later than June 1, 2010, the Metro Council may adopt an ordinance to extend the time by which local governments are required to comply with the local program performance standards if the Metro Council concludes that the region has made substantial progress toward achieving the regional outcome measures described above.

4. Metro Technical Assistance to Local Governments

To help the region meet the regional outcome measures, as Metro implements the non-regulatory approaches described in paragraph 2, above, it shall provide technical assistance to local governments to help them develop and improve their local fish and wildlife habitat protection and restoration programs. Such technical assistance may include providing information about alternative low impact development practices, scientific analysis of local habitat conditions, the collection, organization and use of geographic information system data and mapping technologies, development of educational information and curricula, and review of local land use codes to identify current barriers to development approaches that benefit fish and wildlife habitat and potential modifications to benefit fish and wildlife habitat.

5. This Resolution is Not a Final Action

This resolution is not a final action. The Metro Council's action in this resolution is not a final action on an ESEE analysis, a final action on whether and where to allow, limit, or prohibit conflicting uses on regionally significant habitat and impact areas, or a final action to protect regionally significant habitat through OAR 660-023-0050 (Programs to Achieve Goal 5).

ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

Approved as to Form:



Home Builders Association
of Metropolitan Portland



August 9, 2004

The Hon. Tom Brian, Chair
Tualatin Basin Natural Resources Coordinating Committee
155 N. First Avenue
Hillsboro, OR 97124

RE: Goal 5 Staff Recommendation

Dear Chair Brian and Committee Members:

We, the undersigned, represent business organizations having a total membership of nearly 10,000 companies and individuals, which collectively provide in excess of 100,000 jobs.

Most of us have already presented testimony to you individually on the Goal 5 proposal, but our concern over potential impacts is at such a high degree that we are joining together to reiterate once again our assessment of the serious consequences this could have for the future economic health of Washington County. The likely costs to existing and future businesses, as well as possible additional financial liability for local governments, deserve much closer consideration than the very rushed review process that has occurred thus far.

Make no mistake, our members are well aware of the importance of a healthy natural environment in attracting skilled employees, providing livable neighborhoods, and complying with state and federal laws. In fact, any one of us could provide numerous local examples of companies incurring significant additional expense to preserve or improve environmental values to a far greater level than that required by applicable law. We also are proud that broad based consensus was reached among business and environmental interests alike to implement Metro's Title 3 program several years ago.

Indeed, one of the primary reasons that Washington County has become Oregon's economic leader is its long history of close cooperation between its local governments and diverse interest groups. We are concerned that this longstanding partnership may be threatened by a Goal 5 regulatory program for which the costs are so disproportionately born by businesses and private property owners.

Together—representing the enterprises that provide incomes for families in each of your communities, that pay a major part of the revenues for your local government operations, and that hope to see Washington County continue as a dynamic, livable place in the future—we urge you to carefully consider the following facts:

- A. All parties agree that, while precise impacts of the Goal 5 proposal are as yet unknown, there will definitely be a loss in capacity for future commercial, industrial, and residential development. And although state administrative rules (OAR 660-023-0070) require adding buildable lands to compensate for any losses caused by a Goal 5 program, it's highly unlikely that such additional lands would be in Washington County in light of Metro's past actions on the UGB and any expansions would not be ready for development until many years after the new regulations' effective date.
- B. There could also be very significant costs to local governments—including takings litigation from property owners, processing and payment of claims if Measure 37 passes, and lost property tax revenues—that might affect their future ability to deliver essential services.
- C. Each day brings new reports of inaccuracies in the mapped inventory with significant implications for resource planning in the Tualatin Basin, but no clear way to resolve these differences.

In response to all of the above, we urge the Coordinating Committee to take the following actions:

1. Explicitly authorize a map correction process administered by each local jurisdiction in any Goal 5 program that is adopted;
2. Now that there is a draft set of better defined possible regulations allowing more quantified consequences, re-examine the previous ESEE analysis to more accurately determine the magnitude of economic, social, energy, and environmental impacts;
3. Direct your legal counsel to do an analysis of potential liability for takings litigation, not only for possible direct payments to property owners but also for defense costs and processing of Measure 37 claims.
4. Make the effective date of any regulatory changes concurrent with Metro identification of lands in Washington County that will be added to the UGB to compensate for lost capacity.

Thank you for your consideration of this very important matter, and as always, please do not hesitate to let us know if we can provide any additional assistance.

Sincerely,

Jonathan Schlueter
Westside Economic Alliance

Kelly Ross
Home Builders Association of Metro Portland

Cindy

Cindy Catto
Associated General Contractors

Jane M Leo

Jane Leo
Portland Metro Association of Realtors®

Mike

Mike Salsgiver
Portland Business Alliance



Home Builders Association
of Metropolitan Portland

September 22, 2004

The Hon. Tom Brian, Chair
Tualatin Basin Natural Resources Coordinating Committee
155 N. First Avenue
Hillsboro, OR 97124

RE: Goal 5 Staff Recommendation

Dear Chair Brian and Committee Members:

On behalf of our 1,200+ members and their more than 25,000 employees, I am writing to reinforce the following points, either made previously (letter of 8/2/04 and memo of 8/9/04) or prompted by new statements in the Issue Papers:

- The proposal now being recommended for your approval represents what would be the most damaging set of regulations for housing—and probably for the Washington County economy in general—that I have seen in my 25 years of involvement with the Oregon land use system.
- According to the capacity loss analysis produced by county staff, “limit” regulations—lightly, moderately, and strictly—would be applied to 4,516 acres of privately owned, vacant buildable land. This represents just 7% of the 65,812 acres identified as Goal 5 habitat, **meaning that 93% of the identified habitat is already developed, already protected, or is in areas where future development will be allowed.**
- To protect the residentially zoned portion of this 7% segment, the proposal would designate approximately 1,878 acres—nearly three square miles—of vacant residentially zoned land as either “strictly limit” or “moderately limit,” decreasing potential housing capacity by over 17%. For single-family residential, the decrease is even higher, with a capacity reduction of more than 21%.
- **Such capacity losses represent at least \$700 million in lost economic activity, \$84 million in lost fee and tax revenues to local governments, and as many as 15,000 jobs.** When 93% of the identified habitat areas are already developed, protected, or in an “allow” classification, does it really make sense to cause such huge impacts on housing and the economy? What are the actual environmental benefits that these sacrifices will achieve?

- HBA believes the projected capacity loss estimate to be on the conservative side; the analysis includes (a) no numbers for losses from decreased infill and redevelopment, and (b) no loss in development from the “lightly limit” classification. Our own analysis indicates that the infill and redevelopment reduction could be significant, and that the extra expense of mitigation requirements for “lightly limit” will cause many future development projects to be economically unfeasible.
- The inevitable result of such land use restrictions will be virtually no flexibility on the type and density of future residential construction. Densities by necessity will have to be high to meet both the 50% non-disturbance requirement of the “moderately limit” classification and to accommodate increased permitting and mitigation costs.

It is our firm belief that, except for the isolated bits of infill land left available, detached single-family construction will cease to be an option in Washington County within five years of the effective date for these regulations.

- Coordinating Committee members should keep in mind that extensive restrictions on land development are already in existence to protect environmental resources. A recent analysis of lands impacted by Title 3 regulations found that 2,244 vacant, buildable parcels have a total area of 1,159 acres restricted. This acreage represents 23% of the parcels’ total area of 4,971 acres. **The lost capacity estimates provided by county staff are in addition to reduced development potential already caused by Title 3.**
- In addition to the cost of lost development potential, however, existing Title 3 regulations also impose higher costs on new homebuyers and businesses through requirements for “enhancement” of riparian and wetland areas even though it is completely off limits from development. To illustrate, the following four examples were received from two builders who prefer to remain anonymous:

Example #1 - Of a 45-acre parcel in the Bethany area, 19 acres were set aside for open space. The cost to “enhance” riparian areas (which could not be built upon or disturbed), as required by CWS Title 3 Design Standards, was approximately \$670,000 (more than \$3,500 per lot). An additional \$500,000 (more than \$2,600 per lot) was spent to satisfy requirements to install wildlife crossing culverts, producing a total cost of \$1,170,000 to protect resources.

Example #2 – A small 23 lot subdivision in Sherwood had a cost of \$50,000 (\$2,100 per lot) to enhance Title 3 resources as required by CWS Design Standards. Approximately 60% of the raw land remained as protected open space.

Example #3 – A 59-townhome development in Sherwood was required to enhance 1.39 acres of Title 3 land at a total cost of \$18,032.10.

Example #4 – A 93-lot subdivision in Tualatin was required to enhance 12.54 Acres of Title 3 land—once again, land that was not being disturbed in any way by construction—at a total cost of \$119,690.80, or \$1,247 per residence.

- As described in Issue Paper #6, the current Goal 5 proposal includes a requirement for Low Impact Development (LID) techniques to be applied in all resource designations (SL, ML, and LL). **While very interested in the potential benefits that Low Impact Development can provide, HBA is also very concerned with a blanket requirement**

that doesn't include coordination with existing stormwater management rules and SDCs.

An additional concern with Low Impact Development requirements is the possible impact that they may have on development capacity, especially when coupled with any separate mitigation requirements. We disagree with the opinion of Tualatin River Keepers that LID programs might actually increase development capacity through use of eco-roofs and pervious surfaces. In the current liability insurance market, where underwriters are extremely resistant to alternative building techniques (especially one where moist soil would be maintained in direct contact with the entire roof surface), commercial builders would risk cancellation of coverage and loss of their license if they were to construct such a home.

We are encouraged by Tigard Council President Nick Wilson's call for "a fundamental shift from a reliance on regulatory measures to incentives," and urge you to pursue the proposal that he has made.

We are also strongly supportive of Issue Paper #13's four recommendations that the TBNRCC condition its approval/recommended Goal 5 program on ensuring that any lost development capacity will be offset by a precise set of UGB expansions within Washington County.

However, we strongly fear that there may be a long delay period between the effective date of new Goal 5 restrictions and the availability of replacement developable land. Any conditions that are adopted should require that UGB expansions will be concurrent with the effective date of any new regulations.

As always, thank you for your consideration of our input.

Sincerely,

Kelly Ross
Vice President, Government Affairs

Portland Oregonian

Oregonian, The (Portland, OR)

May 20, 2004

NEW AND IMPROVED

Author: NANCY McCARTHY - SPECIAL WRITER

Edition: SUNRISE

Section: NEW HOME MONTHLY

Page: 03

By adding amenities and protecting greenspace, new developments enhance existing neighborhoods

At Progress Ridge on Southwest Barrows Road in Beaverton, water is filling a 40-foot pit to create a lake where a rock quarry used to be. South of the new lake, Summer Creek, which used to be confined within a pipe along the road, has been released to flow freely under the arches of a newly constructed road. Native trees and bushes are planted along the creek's bank. Eventually, the creek will become part of a park that will be created when Barrows Road is realigned to run through Progress Ridge, a development of condominiums, apartments and townhomes alongside a commercial center.

The realignment will mean that existing neighbors, who once overlooked a busy street, will view trees and bushes through their windows. "We're really excited about this development . . .," said Fred Gast, senior vice president of Polygon Development, which is building the project. "Ten years ago you would have seen a mining operation here. Now there will be 35 acres of parks and an enhanced waterway."

It's not always good news when residents of existing communities hear they're about to get new neighbors -- and those neighbors will live in large developments that could disrupt the surroundings they know and love.

"Not in my back yard!" is a common refrain.

But some new developments have actually improved existing communities. They've turned out to be good neighbors -- neighbors who build community parks and institute major wetlands, for example. "Neighborhoods aren't just a collection of houses," Gast said. "There's more to it." The 100-acre quarry that was shut down several years ago holds new promise as a residential community with parks, apartments, condominiums and townhomes, plus a town center. The first group of homes will be ready in early fall; the one-, two- and three-bedroom homes -- some with main-floor master bedrooms -- will start in the \$120,000s and rise to the \$190,000s. Gast envisions neighbors inside and outside the development taking morning walks to the new Lakeview Plaza, grabbing a cup of coffee and heading over to the 12-acre lake, which will be dedicated to the Tualatin Hills Park and Recreation District.

There, next to a waterfall along the public plaza, will be benches, tables and a dock. Eventually, fish may even be brought into the lake for some early-morning casting. The lake will be surrounded by 10,000 trees and native plants, Gast said.

Because existing neighbors above the new lake expressed concern about a new development ruining their views of Mount Hood, no new houses will be built to block those views, Gast said. In Progress Ridge, residents can have what they want, he added. "They have all the urban services, but they're surrounded by natural resources."

On the water

In Tualatin, some of the homes look out over Lake Tonquin, which was a private lake until it was bequeathed it to the city. Still, the lake wasn't easy to reach. When Matrix Development, which is the development arm of Legend Homes, sited homes for its Lake Forest developments, it deeded two acres on a hillside along the lake to the city.

"The city saw an opportunity to put in a trail system and have open space," said Craig Brown, vice president of development for Matrix. "The tracts provide a wider setback to protect the lake, and there is a wooded hillside around the lake instead of just a lake."

Matrix also kept many of the mature trees that had been on the development site, including one that once "pointed" pilots to the former landing strip that had been there. The original windsock is still visible high up in the tree's branches. Some of the 49 detached single family homes in Lake Forest have views of the lake. Most have deep back yards with mature trees. Lake Forest II features detached three-, four- and five-bedroom homes with bonus rooms and two- and three-car garages. Prices range from \$337,900 to \$409,000, and the houses feature lots of extras, including kitchen pantries, shelving in the laundry rooms and stainless-steel appliances. All back yards have fences, and the front yards are landscaped and have sprinklers.

Even small improvements can add livability to a community. The community park at D.R. Horton's Morgan Hills development provides a gathering spot in an area bordered by busy Southeast 257th Avenue in Gresham. The park comes with a gazebo, playground and picnic tables. The detached houses run from 1,497 to 2,550 square feet, with three and four bedrooms. Prices range from \$166,900 to \$242,900. Optional bonus rooms also are available.

Conservation and commitment

Before Centex Homes built the Alderbrook III development in Hillsboro, some of the property adjacent to the 6.65-acre tract flooded during heavy rains. But the extension of the wetland area behind the new development has given rain someplace to go, said David Cady, director of the company's land development office. Overall, more than half of the tract is devoted to wetlands management.

Part of Glencoe Swale, the wetland drains into McCay Creek and adjacent pastureland. That area -- along with a stand of trees -- was donated to the city of Hillsboro, Cady said. Before that, however, the area was cleared of car bodies, carpet and barrels that had been dumped along the

ridge.

"We could have moved closer to the stream, but we chose to be good stewards of the land and provided a nice protection of the stream and slope. We built two neighborhood parks and partnered with Hillsboro to extend the sewer line to the neighborhood next to us. It was the right thing to do," Cady said.

The 20 homes being built on the site range from 2,200 to 2,900 square feet and contain three and four bedrooms; many come with bonus rooms and dens. Prices range from \$233,900 to \$268,900. When a new home is sold, Centex enrolls the owner as a member of the Nature Conservancy. Homeowners also receive information about wetland preservation.

"We paid attention to how the housing interacted with the resources. We had a lot of open space we were 'giving' away," said Cady, looking over the sidewalk along the ridge at the swale's edge. "When it becomes pedestrian-oriented, it creates a community atmosphere. It improves the homes' values and sustainability. We take what some people might call a detriment and turn it into a resource."

Nancy McCarthy is a Portland free-lance writer. She can be reached at createxp@teleport.com.



TUALATIN Riverkeepers

16507 SW Roy Rogers Rd. Sherwood, OR 97140
(503) 590-5813 • fax: (503) 590-6702 • www.tualatinriverkeepers.org
email: info@tualatinriverkeepers.org

Nov. 2, 2004

Dear Multnomah County Commissioner,

The Tualatin Riverkeepers and our 700 members are working to protect and restore the Tualatin River system. Thank you for the opportunity to present our position on Metro Resolution 04-3506. While only a small portion of Multnomah County is in the Tualatin Basin, the headwaters of both Fanno Creek and Rock Creek, we appreciate the chance to share our concerns with you today.

The Tualatin Riverkeepers oppose Metro Resolution 04-3506 for the following reasons.

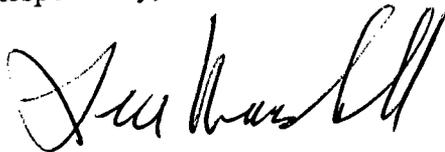
- **Metro's Goal 5 Regional Fish and Wildlife Protection Plan, as scheduled, is within six months of adoption.** The program is intended to include a mix of regulatory, voluntary, educational, and landowner incentives to address and integrate a regional approach to meet state land use planning Goal 5, the Clean Water Act, and the Endangered Species Act criteria. The jurisdictions of Washington County appeared to be within one month of adopting a Goal 5 framework plan tailored to the fish and wildlife needs of the Tualatin Basin. These planning processes should be allowed to be completed on their present course.
- **Title 3 provides a successful example of regional planning** through extensive committee, staff, and public involvement a model ordinance was developed that provided for local flexibility in determining significant compliance with a time certain for adoption. Metro's Goal 5 Fish and Wildlife Protection Program is following a similar and successful planning course as Title 3.
- Resolution 04-3506 **undermines a thoughtful planning process** that has been underway for a number of years in the region and in the Tualatin Basin. These planning processes have involved a wide spectrum of the community over several years. The sudden policy change signaled by resolution 04-3506 is a disservice to the many jurisdictions, their planning staff, and the public who have invested considerable time to bring this process forward.
- **Acquisition, incentives, voluntary action, and educational programs require funding.** It is unclear how much funding would be needed to protect water quality and wildlife habitat based on a voluntary approach and there is no assurance that a proposed bond measure would pass. This adds a high degree of uncertainty to a process that was otherwise nearing completion.

- **Resolution 04-3506 adds significant uncertainty to fish and wildlife protection by extracting a yet to be defined regulatory component and delaying it for five years.** Metro's combined Water Resource Advisory Committee and Goal 5 Technical Committee in reviewing of this resolution knew of no credible evidence or historical record of successful resource protection without a regulatory backstop. NOAA Fisheries recognized in their 4 d rule, a rule that defines exceptions to taking... practices that are allowed to occur, that are not likely to jeopardize listed species, that urban development is likely to jeopardize listed species, threatened salmon and steelhead.
- We believe **passage of 04-3506 would shift a significant liability to local jurisdictions,** many of whom have been relying on Metro to develop a model ordinance, leaving the jurisdictions more vulnerable to third party litigation under the Clean Water Act and the Endangered Species Act.
- Metro's Goal 5 Fish and Wildlife planning process was originally tied to the decision to expand the urban growth boundary in 2002. The next UGB decision will be in 2007. Allowing the pressure of compact urban development to continue **without adequate regional protection of public trust resources will inevitable lead to significant loss and it is at odds with the regional framework plan.**
- Finally and most importantly as a firm supporter of the role of regional government, we believe that **resolution 04-3506 undermines the important leadership role that Metro provides the greater Portland region.**

Introduction of Measure 04-3506 has seriously disrupted an important regional planning process at the eleventh hour. It casts fish and wildlife resource protection into a vague and uncertain arena. Extracting and delaying for five years the regulatory component of a Regional Fish and Wildlife Protection Program, as is proposed in the resolution, fundamentally weakens the program and does not provide reasonable assurance that public resources will be protected.

Thank you very much for your consideration.

Respectfully,



Sue Marshall
Executive Director
Tualatin Riverkeepers



To: Multnomah County Commissioners

From: Jim Labbe, Urban Conservationist, Audubon Society of Portland

Date: November 2, 2004

Re: Metro Council Resolution 04-3506

Due the pace at which Resolution 04-3506 has been developed and proposed it is difficult to understand its full meaning and implications for the region. However, we feel strongly that the resolution's proposal to postpone the regulatory component of the regional fish and wildlife program until 2012- long after the existing Metro Council will have left office- is to effectively eliminate the regional regulatory program. The opportunity to develop a program to protect and restore a continuous, ecologically viable stream corridor system as called for in the Metropolitan Policy Advisory Committee's Goal 5 Vision Statement will never be greater than it is right now. In retreating from a program that combines and integrates regulatory and non-regulatory tools, we believe Resolution 04-3506 sets the region on a course that will fail to achieve the purpose, vision and goals we have set for ourselves as a region.

We feel strongly that Metro's regional Goal 5 planning should be allowed to continue toward developing a model ordinance and reasonable deadline for jurisdictions to demonstrate substantial compliance. The same approach- successfully achieved and implemented with regional water quality regulations (Title 3) - has had demonstrable benefits for the region. By synthesizing and refining the best local Goal 5 programs, we can do the same in developing a regional fish and wildlife program that combines regulatory and non-regulatory tools.

The level of regulatory protection, extent and nature of complementary education and incentive programs, definition and scope of performance standards, and strategies to incorporate flexibility as envisioned in riparian district planning are all key questions that can and should be developed in the next and final phase of the planning process.

We ask that the Multnomah County Commissioner consider the following issues and reject the Resolution 04-3506 as currently written:

I.) Resolution 04-3506 will not feasibly achieve the goals articulated in the Goal 5 Vision Statement:

It is unclear how the Resolution 04-3506 will achieve the stated purpose, vision and goals of the Regional Fish and Wildlife Plan articulated in the Metropolitan Policy Advisory Committee (MPAC) Vision Statement:

<http://www.urbanfauna.org/Goal5VisionStatement.doc>

Specifically:

1. How will local voluntary and incentive programs coupled with a proposed regional green space bond measure realistically achieve:
 - o the purpose and intent to “address Federal Endangered Species Act (ESA) requirements” and specifically “recovery obstacles within and along stream corridors?”
 - o the overall goal of “a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with others streams and rivers, and with their floodplains in a manner that is integrated with the surrounding urban landscape?”
2. How will local governments and watershed councils obtain the funding for new voluntary and incentive programs when funding for existing programs is being cut or is in question?
3. How much public funding will a regional bond measure raise? What if a regional bond measure does not pass?
4. Should local and regional acquisition programs meant to buy public-access green space substitute for regulations that serve a very different function, namely to ensure new development avoids, minimizes or mitigates environmental impacts to regionally significant habitat?

II.) Resolution 04-3506 unjustifiably delays a regional regulatory program.

Resolution 04-3506 proposes to delay implementation of a regional regulatory program and to rely on voluntary and incentive-based approaches to achieve “local performance standards.” However, the resolution is vague with respect how “local performance standards” are to be defined. There is no indication in Resolution 04-3506 that “performance standards” will conform with **OAR 660-023-0050(2c)** which specifically defines them as “an outcome to be achieved by the design, siting, construction, or operation of the conflicting use, and specifies the objective criteria to be used in evaluating outcome or performance.”

Hence, local governments will not be required to update of their local codes and development standards to avoid, minimize, or mitigate environmental impacts until 2012 at the soonest.

Why delay a regional regulatory program? This approach ignores existing information that already indicates local regulatory and non-regulatory programs are inadequate to prevent ongoing habitat degradation and loss. Resolution 04-3506 leaves many of the region's streams and watersheds extremely vulnerable to severe degradation over the next decade by eliminating any mandate to substantially comply with a regional standard to protect even the highest value habitats.

Specifically:

- 1.) There are approximately 30,000 acres of regionally significant fish and wildlife habitat that are not protected by Title 3 water quality management areas and existing parks and open space. In the 1990s the Metro region lost approximately 16,000 acres of urban natural areas to development, an area larger than the City of Gresham.¹ To date, acquisitions from the 1995 regional bond measure total just over 8,000 acres.

¹ Metro Data Resource Center; Henings, L.A. and Edge, D.W. 2003. Riparian Bird Community Structure in Portland, Oregon: Habitat, Urbanization, and Spatial Scale Patterns. *The Condor* 105: 299-302.

2.) At least 100 miles of streams inside the Urban Growth Boundary are not protected by Title 3 Water Quality Resource Areas (WQRAs). Many of these streams are small intermittent headwater streams. Recent scientific research increasingly identifies these streams as critical to downstream water quality and aquatic habitat.²

3.) Many local Goal 5 program provide stream corridors protections that are less or equal to those currently provided by Title 3 WQRAs and are inadequate to protect fish and wildlife habitat and habitat connectivity.³ The July 1997 Policy and Scientific Literature Review for Title 3 found that "Title 3's WQRA is within the recommended widths, but is at the low end because the region is not focusing on fish and wildlife habitat at this time."⁴

4.) Metro's March 2003 Performance Measures Report indicates the region is losing its undeveloped floodplains under Title's 3's balance-cut-and-fill. Between 1998 and 2000 the Portland-Metro region lost roughly 568 acres of vacant floodplain lands, a 9% reduction. At this rate, the region's remaining undeveloped floodplain could be developed in about 20 years.⁵ These data are supported by ample anecdotal evidence.⁶

The status of City of Gresham's local Goal 5 program highlights the regulatory gaps in the region's protections for stream corridors and their implications for protection and restoration efforts in watersheds like Johnson Creek and the Columbia Slough. In delaying when local governments would be required to update their comprehensive plans to meet a consistent regional standard for fish and wildlife habitat protection, Resolution 04-3506 will only undermine local watershed protection and restoration efforts.

The City of Gresham lacks the human, technical and financial resources to develop a Goal 5 program that can realistically achieve the purpose, vision and goals of MPAC's Goal 5 Vision statement. The City faces a serious budget crisis and has dedicated limited planning resources to the Pleasant Valley and Springwater urban expansion areas which together total some 2700 acres.

Having last updated its local Goal 5 program 1988, Gresham has one of the most out-dated local Goal 5 programs in the region. Their Goal 5 program's stream protection standards were exceeded by Metro's Title 3 which the City adopted in November of 2002. At that time the City of Gresham adopted the following language in reference to its local Water Quality Resource Areas Overlay District:

"It is intended that this overlay will remain in effect until the City adopts more stringent stream/wetland protection standards. These will be based on the Metro Goal 5 Streamside CPR (Conserve, Protect and Restore) program, any special needs for compliance with the Endangered Species Act (ESA), and any Total Maximum Daily Load (TMDL) allocations required under the Clean Water Act. The adoption of these standards will occur after Metro completes the Goal 5 program, as preparation for an ESA submittal, or after TMDL's relevant to Gresham water bodies are adopted."⁷

The City of Gresham's existing stream corridor protection standards do not cover or adequately protect headwater streams in the Columbia Slough, Johnson Creek, and Lower Sandy Watersheds. Existing patterns of development, particularly in the Johnson Creek headwaters, jeopardize high

² Metro Technical Report on Goal 5 (2002), Letter to U.S. Army Corps of Engineers from 39 scientists (October 2001). Online at: <http://www.urbanfauna.org/Headwaters.html>

³ Metro Local Plan Analysis (2002).

⁴ Metro Policy and Scientific Literature Review for Title 3 (1997).

⁵ Metro Performance Measure Report 2003.

⁶ *Oregonian*, January 8, 2004.

⁷ City of Gresham Development Code Section 5.0602.

quality habitat and ongoing restoration investments downstream (See attached CD containing slideshow "ExistingRegulations.ppt").

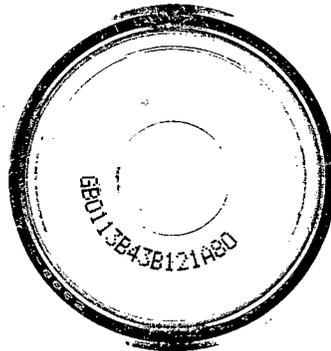
III.) Resolution 04-3506 ignores the public record and undermines the planning process:

The Metro Council and MPAC made clear 4 years ago the intent and purpose of the regional (Goal 5) fish and wildlife plan to provide a consistent, region-wide program combining of regulatory and non-regulatory tools. Thousands citizens, scientists, and stakeholders have informed this effort to date, weighing in with letters, postcards, and spoken testimony and participating in open houses and advisory committees. Thousands of citizens have supported and advocated a strong regional program with regulatory standards applied consistently throughout the region. In the last year and a half, Metro has received over 1500 letters and postcards supporting stronger development standards to protect the region's streams and watersheds.

369271

Metro

Res. 04-3505





Department of Business and Community Services
MULTNOMAH COUNTY OREGON

Land Use and Transportation Program
1600 SE 190th Avenue
Portland, Oregon 97233-5910
PH. (503) 988-3043 Fax (503) 988-3389
www.co.multnomah.or.us/dbcs/LUT/land_use

M E M O R A N D U M

Date: November 1, 2004
To: Multnomah County Board of Commissioners
From: Gary Clifford, Senior Planner
RE: Comments on the proposed changes to Metro Goal 5 Fish and Wildlife Habitat Program

Metro Council President David Bragdon and Councilor Rod Park have proposed a resolution for consideration by the Metro Council that would make changes to the present Fish and Wildlife Habitat Program. Resolution No. 04-3506 would do the following:

1. There would be an immediate shift in emphasis of the program, for the near term, to developing more non-regulatory measures for fish and wildlife protection. These would include more education, incentives for protection and restoration, and purchase of sensitive lands from willing property owners.
2. The next part of the resolution extends the timeline for local governments to meet "program performance standards" that will be developed. The deadline is proposed to be June 1, 2012. In developing those "performance standards" Metro would be directed to have the standards as "broad and flexible enough to allow local programs to take very different approaches."
3. Metro would develop "outcome measures" that evaluate the entire region's progress toward protecting and restoring fish and wildlife habitat.
4. Metro would provide technical assistance to local governments in their efforts to meet Metro's "performance standards" by the 2012 deadline. The assistance would include providing mapping, scientific and educational, and model code information.

I have attached a copy of the comments of the members of the Metro Technical Advisory Committee which I think raise some good questions.

On the following page are additional comments regarding how the proposed policy change might impact specific areas of Multnomah County land use planning jurisdiction. The comments are made recognizing that such policy documents cannot include specific details. Raising questions at this time, however, is also needed to begin the dialog in addressing future work programs the County may undertake.

West of the Sandy River Rural Plan Area. This area is bounded by the City of Gresham, the Sandy River and the Clackamas County line. It is an area that includes the "Springwater" UGB addition, and rural lands in which approximately the west half is inside of Metro's boundary, but outside the UGB.

- I think we should support the proposed idea of flexibility (#2 on page 1) on Metro's part in accepting local programs that are comparable in achieving performance standards. In the West of the Sandy River area there are very good fish and wildlife habitat protections in place right now. The zoning protections were adopted after a two year public involvement process that included precise mapping and good science from a consultant. We should have the opportunity to present the existing protection program to Metro as meeting the (future) performance outcome requirements.

This can be illustrated by the two attached maps showing a sample area east of Gresham. One map is Metro's fish and wildlife habitat inventory map and the other map shows the extent of Multnomah County's zoning protection overlays in the same area. What should be seen is how very similar they are.

Pleasant Valley Area. This UGB pocket area is bordered by Portland, Gresham and the Damascus UGB planning area.

- In this area there are no Goal 5 fish and wildlife habitat zoning regulations at this time. A resource inventory was done as part of the "Pleasant Valley Plan" which was done as part of a joint government project. There are plans by Portland, under an intergovernmental agreement amendment with Multnomah County, to administer their environmental regulations on their part of the area. There is no timetable right now for when fish and wildlife habitat protections will go into place for the remainder of Pleasant Valley. Eventually such protections would be administered by Gresham, but the timing will have to be worked out – it may be only after annexation of the area, or before annexation under an intergovernmental agreement with Multnomah County, or Multnomah County may choose to implement the Goal 5 habitat part of the "Pleasant Valley Plan" before areas are annexed into Gresham.

West Hills Area. This is an area that includes the rural area west of the City of Portland that is inside the Metro boundary and the urban pocket known as "Area 93."

- In this area it probably would be best to rely on Metro's assistance in getting better resource protections in place (#4 on page 1). The County fish and wildlife habitat zoning in this area dates from the early 1990's and lacks the map accuracy and regulatory protections that are found in the more recent West of Sandy River Plan. Metro has already done the resource mapping and such information should be vital in development of the Metro "Title 11" urban services planning for "Area 93."
- This area illustrates the need to develop performance objectives and programs that recognize that outside of Urban Growth Boundaries, Counties cannot regulate forest or farming practices (e.g. no tree cutting ordinances are allowed).

M E M O R A N D U M



METRO

To: MPAC

From: Andy Cotugno
Chris Deffebach

Subject: MTAC comments on Resolution 04-3506

Date: October 27, 2004

On October 13, Council President David Bragdon and Councilor Rod Park presented their draft resolution on the Fish and Wildlife Habitat Program to MPAC. The resolution calls for developing a fish and wildlife habitat program that relies on a non-regulatory effort to improve habitat prior to any implementation of a new regional regulatory program. After some discussion, MPAC asked that the resolution be placed on the MTAC agenda. MTAC discussed the resolution at their October 20th meeting. This memo summarizes the issues that MTAC identified. They did not take a vote on the resolution.

The main points discussed at MTAC were:

- Support for the local flexibility aspects of the resolution
- Need to clarify implications of this resolution for Metro's intent to seek LCDC acknowledgement for a Regional Goal 5 program and requiring local jurisdictions to consider the regional inventory and Allow-Limit-Prohibit Map.
- Need to clarify that the program is actually a regulatory program if the performance standards are required.
- The resolution deserved further consideration, and not action on October 28, on the definitions of outcome measures and performance standards.

Schedule: Several comments were made that Metro should take the time to review and allow comment on this resolution. An October 28 Council action date would be too quick.

Local Flexibility: Several comments were made that the reliance on regional goals with local flexibility is a positive step. However, concern was expressed that local

jurisdictions do not want to be adrift for a long time, waiting for the results of the monitoring.

Goal 5 Acknowledgment: Much of the discussion focused around the implications of Metro seeking LCDC acknowledgement for a regional Goal 5 program. One viewpoint was that it is important for local jurisdictions, which do not have the financial resources to do their own Goal 5 program, to be able to adopt the regional, acknowledged Goal 5 program. The other viewpoint was that if Metro requires jurisdictions to consider the regional inventory and the regional Economic, Social, Environmental and Social (ESEE) Allow-Limit-Prohibit (ALP) decision, local jurisdictions won't have enough flexibility and would be required to meet too high of a standard. A suggestion was made for Metro to not finish Goal 5 as a regional program with an adopted inventory and ALP decision, but instead help local jurisdictions meet their Goal 5 mandates and get acknowledgment of their local Goal 5 programs.

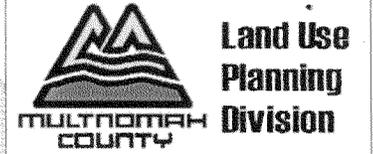
Time Frame: Several comments were made about the time frame in the resolution. One point of view was that the time frame seemed about right but it is important to establish and require the performance standards early on. Another point of view was that the resolution should call for a phased approach, with progress measured every year or every other year.

Non-Regulatory/Regulatory Mix: Clarification was requested about the regulatory and non-regulatory nature of the resolution. It was pointed out that if local jurisdictions will be held accountable for performance standards, it is a regulatory program. Delayed implementation of regulations is still regulations. It was also pointed out that SB1010, upon which this resolution was modeled, is a regulatory program and is tied to a broader Clean Water Act regulatory program.

Scope of the Regional Program: Clarification was requested about whether the program would be developed to address a regional level standard, watershed level standard or a very site-specific standard. One suggestion was to keep the outcome measures at a global level and not tie them to site-specific designations of the inventory and ALP map. In addition, the need for clarification on the difference between a local performance standard and an outcome measure was raised.

Existing and Future Regulations: MTAC comments made it clear that they did not see this resolution as suggesting a rollback of existing regulations. On the contrary, the existing regulations in many jurisdictions were seen as the basis of which to build a non-regulatory program. One commented that voluntary-only actions were unrealistic for habitat protection and wanted to be clear that the resolution didn't preclude additional local regulations in some jurisdictions in the future.

Approval of Local Programs. If the performance standards imply a regulatory program, how will Metro judge local plans as to their adequacy? It was suggested that emphasis on the Avoid, Minimize, and Mitigate philosophy continue.



Example County Goal 5 Area

For comparison with Metro Goal 5 inventory map

- Tax Lots
- WSR Riparian Corridor
- SEC-wr (Water Resources)
- SEC-h (WSR Habitat)



1" = 508 feet



1600 SE 190th Ave.
Portland, OR 97233
503.248.3043 Fax 503.248.3389
Email: land.use.planning@co.multnomah.or.us

This map is based on data from Metro Multnomah County cannot accept responsibility for errors, omissions or positional accuracy. There are no warranties expressed or implied.

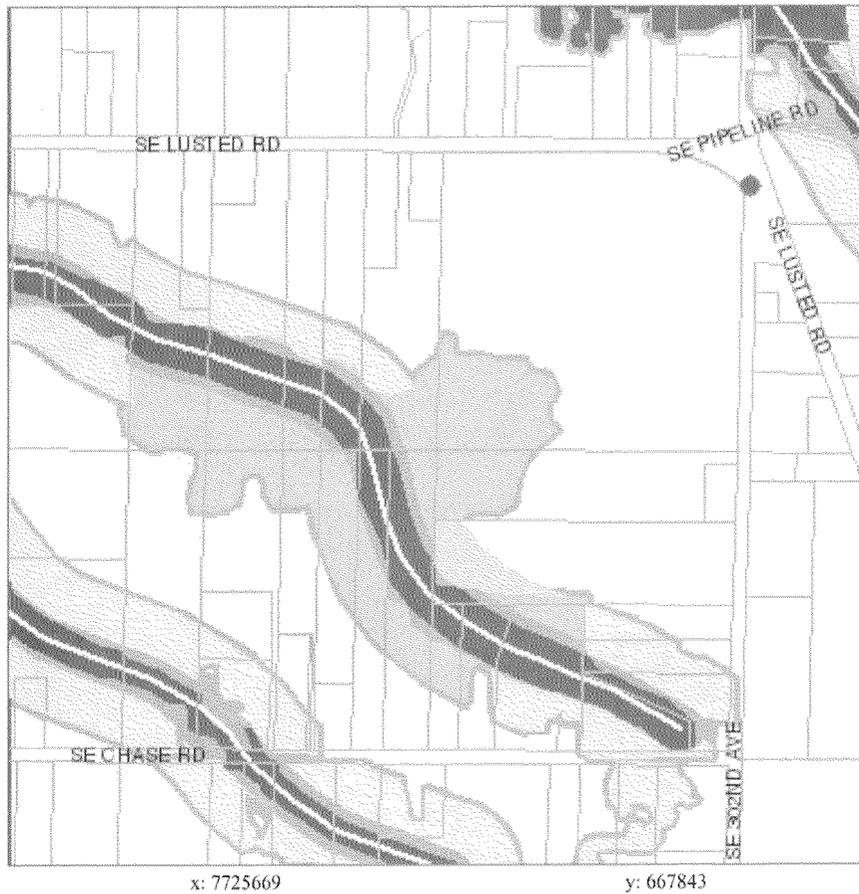


Fish and wildlife habitat protection

Interactive map: Inventory of regionally significant habitat

<http://www.metro-region.org/article.cfm?articleID=5903>

SE 302ND AVE / SE LUSTED RD , MULTNOMAH COUNTY



Map legend



class 1 riparian, highest-value habitat



impact areas, land next to regionally significant habitat that may have a significant affect on the condition of the

	class 2 riparian, medium-value habitat		habitat
	class 3 riparian, lower-value habitat		not included in the fish and wildlife habitat inventory
	class A wildlife, highest-value habitat		streams and rivers
	class B wildlife, medium-value habitat		parks and open spaces
	class C wildlife, lower-value habitat		

Habitat is an area that provides food and shelter for fish and wildlife. Areas that are of greatest significance to the region are called "regionally significant habitat" and are ranked "low, medium, and high" based on their value to fish and wildlife.

For more information, call Natural Resources Planning at (503) 797-1839, fax (503) 797-1911 or send e-mail to habitat@metro-region.org. The hearing impaired can call TDD (503) 797-1804.

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 600 NE Grand Ave., Portland, OR 97232-2736
 (503) 797-1700 | TDD (503) 797-1804 | Fax (503) 797-1797
webmaster@metro-region.org