

## MINUTES

Joint Planning Commissions  
Springfield, Eugene and Lane County  
Public Hearing  
City Council Chamber–Springfield City Hall  
225 5<sup>th</sup> Street, Springfield, OR 97477

June 3, 2003  
5:30 p.m.

**PRESENT:** Steve Moe, Chair, Jim Burford, Greg Shaver, Bill Carpenter, Lee Beyer, Gayle Decker, David Cole, Springfield Planning Commission members; Adell McMillan, President, Charles Rusch, Vice President, Jon Belcher, Mitzi Colbath, Rick Duncan, John Lawless, Anne Marie Levis, Eugene Planning Commission members; Mark Herbert, Chair, Juanita Kirkham, Vice Chair, Jacque Betz, Chris Clemow, Steve Dignam, Lane County Planning Commission members; Joe Leahy, Springfield City Attorney; Greg Mott, Springfield Planning Manager; Jan Childs, Eugene Planning Director; Kent Howe, Lane County Planning staff; Carol Heinkel, Kathi Wiederhold, Lane Council of Governments Planning staff; Jeff Shike, Tom Boyott, Dean Fuller, Oregon Department of Transportation (ODOT), guests.

**ABSENT:** Don Clarke, Marion Esty, Vincent Martorello, Robert Collin, Lane County Planning Commission members.

Commissioner Moe called the Springfield Planning Commission to order.

Commissioner McMillan called the Eugene Planning Commission to order.

Commissioner Herbert called the Lane County Planning Commission to order.

Those present recited the Pledge of Allegiance.

### **JOINT SPRINGFIELD PLANNING COMMISSION, EUGENE PLANNING COMMISSION, AND LANE COUNTY PLANNING COMMISSION PUBLIC HEARING**

The public hearing was opened.

#### **1. Amendments to Text of Metro Plan Chapter III-D. Willamette River Greenway, River Corridors, and Waterways and Adopting an Exception to Statewide Planning Goal 15, ODOT I-5 Detour Bridge**

##### **a. Staff Presentation**

Greg Mott, Springfield Planning Manager, explained that Policy #13 of the Metro Plan, Chapter III-D, required that when a nonwater-dependent transportation facility placed fill in the Greenway setback area, an exception to the Greenway goal must be taken. He said direction on how to take a goal exception,

provided in Oregon Administrative Rules (OAR) Chapter 660, Division 004, Section 0022, required an amendment to the Comprehensive. Mr. Mott said that two actions were required: adoption of new Metro Plan text, and adoption of findings to support the goal exception. He said the Joint Elected Officials had scheduled a hearing on the goal exception on June 18 and would consider the recommendations of their respective planning commissions as part of their deliberations.

Mr. Mott reviewed the materials in the agenda packet, and additional materials provided to commissioners at the meeting. Those materials consisted of:

- Exhibit 1 – a corrected page 7 to be inserted in the Staff Report and Findings of Compliance,
- Exhibit 2 – proposed language for the Metro Plan Text Amendment to Policy #13, and
- Exhibits 3 and 4 – two documents that represented actions taken by the Springfield Planning Commission at its May 20 meeting regarding establishment of the Greenway Setback Line and discretionary approval for the intensification of use, which was the detour bridge.

Mr. Mott illustrated on an aerial photograph of the area the Greenway Setback Line. He said that the subject property was publicly owned, either by ODOT or Willamalane Park and Recreation District. He observed that the setback represented a de facto zoning district, within which only water-related, water-dependent activities were allowed.

Mr. Mott stated the three conditions attached to the discretionary use approval by the Springfield Planning Commission were:

- The staff's of ODOT, City of Springfield, and Willamalane will jointly prepare a construction management plan that will address, at a minimum, ingress and egress to the site; hours of operation; noise, dust, vibration, and lighting; run-off and hydrology; and bicycle and pedestrian safety in the construction area.
- ODOT, City of Springfield, Willamalane and other appropriate state and federal agencies will jointly prepare a habitat protection plan that will mitigate any identified adverse impacts to the Whilamut Natural Area caused during and after bridge construction.
- ODOT, City of Springfield, and Willamalane staff will jointly prepare a restoration plan for the area impacted by the temporary bridge, including a "return to equal or better than" current condition as a baseline; elimination of invasives; plant salvage; and a monitoring schedule to assess ongoing success. A member of the Citizen Planning Committee will be asked to participate in these efforts in an advisory capacity.

Mr. Mott noted the importance of continuing the conditions throughout the process and monitoring the success of mitigation because one of the standards of the exception process is the effect the exception would have on the Greenway values.

Commissioner Colbath asked if the restoration plan in the third condition would occur both after construction of the temporary bridge and destruction of the temporary bridge. Mr. Mott replied that the plan emphasized minimizing the effects of construction, but no restoration was proposed while the bridge was in place.

Commissioner Dignam asked if measures were proposed for boater safety. Mr. Mott said boater protections had not been discussed, but boater safety could be included in the construction management plan. Commissioner Belcher remarked that both the Willamette River and canoe canal should be covered by the

plan.

Commissioner Clemow asked about the design and duration of the detour bridge.

Tom Boyott, ODOT Regional Planner, said ODOT's intent was to replace the existing bridge, but because of the length of time involved in going through a National Environmental Policy Act (NEPA) process, selecting a new design, and the public involvement attached to those, the decision was made to construct a temporary detour bridge in order to restore normal Interstate 5 (I-5) truck traffic as quickly as possible.

Commissioner Lawless asked about the timeframes for the temporary and new bridges. Mr. Mott replied that the temporary bridge would take between twelve and sixteen months to complete. He said the NEPA process, stakeholder participation, and design and funding of the new bridge would take a minimum of seven years. He said it could be ten to twelve years before the detour bridge was removed.

Commissioner Dignam observed there appeared to be some disagreement about whether an exception to Goal 15 was required and asked why the planning commissions were being asked to take action. Mr. Mott explained that staff determined the detour bridge did not fit the definition of routine operations and maintenance. Further, he said staff had determined that the detour bridge was not a water-related or water-dependent use and Policy #13 of the Metro Plan was specific that such a use within the setback required a goal exception. He said the goal exception under consideration applied only to the I-5 detour bridge and ODOT's right-of-way where it crossed the Greenway Setback Line.

Commissioner Belcher asked why it was necessary to establish a setback and whether Willamette River setbacks were not defined upstream through Springfield. Mr. Mott replied that the gap in the setback existed a setback line doesn't need to be established until a request is made as a result of proposed development. The activities on the publicly owned land in that area had, until the detour bridge project, been consistent with the Greenway Plan.

Mr. Boyott said ODOT was requesting an exception to Statewide Planning Goal 15 using the Metro Plan amendment process specified in the Springfield Development Code, which was consistent with similar provisions in the Eugene and Lane County development codes. He introduced Jeff Shike, ODOT Northwest Region II Manager.

Mr. Shike reiterated that ODOT's goal was to restore normal I-5 traffic as quickly as possible and to accomplish that by replacing the Willamette River Bridge and the two bridges at the McKenzie River north of Springfield. He said the period of time for designing and building the new bridges was estimated at roughly seven years. He said typically the design and building of detour bridges would be done as part of the permanent bridge project, but the need to restore truck traffic to I-5 necessitated immediate construction of the detour bridges. He estimated the cost of lengthy detours to the trucking industry if there was no temporary bridge at \$38 thousand per day. If the typical process was used, the estimated cost if a new bridge was not in place until 2007 was \$62 million. He said the total cost of the three detour bridges was \$38.6 million for construction and mitigation. He said ODOT was committed to working with local government to reduce the environmental impacts of the bridge replacement work and intended to use a collaborative effort for the new bridges similar to that used for the I-5/Beltline project.

Commissioner Belcher asked if these were the only two bridges along I-5 that needed to be replaced and, if not, would the other projects use detour bridges. Mr. Shike said that there were a significant number of cracked bridges and ODOT was working with the Legislature to develop strategies for addressing the statewide problem of deteriorating bridges. He said each bridge was unique and some would be repaired,

some would be replaced, and some would use shorter detour routes and not require a temporary structure.

Mr. Boyott stated that ODOT recognized the value of the Willamette River Greenway and Statewide Planning Goal 15. He said the goal focused on residential, commercial, and industrial land and its development on the riverbanks and did not anticipate bridges, highways, or rights-of-way as uses, which complicated ODOT's efforts to repair bridges. He acknowledged the value of the process in bringing state and local public policy to the table.

Mr. Boyott said that ODOT concurred with the Springfield Staff Report and conclusions and briefly reviewed the four core approval criteria for siting a use in the Willamette River Greenway. He said ODOT did not believe the project represented an intensification of use based on Goal 15 language, but intended to comply with Policy #13 in the Metro Plan. The criteria and ODOT's responses were:

- The use will not have a significant adverse affect on the Greenway values of the site or surrounding lands or water areas – ODOT: The right-of-way exists within the Greenway at this location, the right-of-way is not zoned and is there for the exclusive purpose of the I-5 freeway, including the bridge, both of which existed prior to Goal 15 and are not new uses. The detour bridge will have a minimal impact on Greenway values because of its location east and adjacent to the existing bridge and within the right-of-way. The small amount of fill on Willamalane land for toe of slope will be restored to better than pre-existing condition under an agreement with Willamalane and conditions imposed by the Springfield Planning Commission's discretionary use approval.
- The detour bridge will not reduce sites for water-related or water-dependent uses within the jurisdiction – ODOT: The right-of-way is not a site available for newly developed water-related uses. Elevation of the bridge allows access to the river and that situation will continue with the detour structure.
- The detour bridge provides significant public benefit – ODOT: Restoration of normal I-5 traffic is a significant public benefit.
- The detour bridge must be consistent with the legislative findings and policies in Oregon Revised Statutes (ORS) that directed ODOT to do greenway planning – ODOT: At the time the statute was enacted, ODOT had state parks within its operation. The Greenway is only minimally impacted by the detour bridge, the right-of-way and bridge are pre-existing uses, and the detour is normal required maintenance for the freeway corridor and therefore not considered an intensification from ODOT's perspective.

Mr. Boyott concluded that each of the criteria was met by the facts and findings in the Staff Report and application and requested a recommendation of approval for the Plan amendment.

Dean Fuller, ODOT Project Manager, provided an update on the project and responded to questions raised during previous presentations. He said ninety-five percent of the design phase was completed, the biological assessment had been submitted to the National Oceanic and Atmospheric Agency (NOAA) Fishers and U.S. Fish and Wildlife and biological opinions were expected by the end of June, wetland fill permits from the U.S. Army Corps of Engineers Division of State Lands had been submitted, and negotiations were underway to develop the plans required by the Springfield Planning Commission's discretionary use conditions.

According to Mr. Fuller, two restoration plans were being developed: a short-term plan for the Willamalane area to be used for fill and construction activities, and a long-term plan for rehabilitation of the area following removal of the detour bridge. He said boater safety requirements would be imposed on the construction contractor to both permit access and protect boaters during construction. He listed some of the construction specifications of the detour bridge and said the design allowed bridge components to be reused on other projects. He estimated the life of the detour bridge at ten years.

Concluding, Mr. Fuller said the location of the detour bridge was based on the fact that the location of the existing bridge is the ideal location for a bridge structure. Locating the replacement there would have minimal impact; building a full standard structure next to the existing bridge could require purchase of residential properties, relocation of commercial entities, and purchase park land, Mr. Fuller said.

Commissioner Betz asked about the cost of the temporary and permanent bridges. Mr. Fuller said \$58 million was the base estimate and could increase depending on the final design. He said the cost of the Willamette River detour bridge was \$30 million, with \$8.6 million for the McKenzie River Bridge. He said the \$38,000 per day cost to the trucking industry mentioned earlier by Mr. Shike was only for the Willamette and the McKenzie detours. Commissioner Betz asked if the trucking industry was helping to fund the bridge project. Mr. Fuller replied that weigh mile taxes supported highway repair and maintenance.

Commissioner Clemow said it appeared that the impacts of constructing a permanent structure on the east would be limited and noted the high cost of the detour bridge.

Commissioner Belcher asked when the detour bridge would be taken down and if there was a guarantee that it would be demolished. Mr. Fuller said the detour bridge would not be built to permanent bridge standards and would not be able to handle future traffic volumes. In response to a further question from Commissioner Belcher, Mr. Fuller and Mr. Shike said ODOT would not be comfortable agreeing to a specific date for detour bridge demolition, and removal of the detour bridge would be part of the permanent replacement bridge project.

Commissioner Beyer asked why the permanent bridge couldn't be built as a split bridge, with the detour bridge as half of that structure. Mr. Fuller replied that it was because of the length of time required for design and construction of a permanent bridge. He said I-5 truck traffic would be rerouted for a much longer period of time without a detour bridge. Mr. Shike added that further cracking on bridges could increase restrictions on truck traffic.

In response to a question from Commissioner Herbert, Mr. Boyott said that the replacement bridge project could be completed in seven to twelve years, depending on the design and process. Commissioner Herbert confirmed that ODOT's plan for a detour bridge would save approximately forty-five percent of the cost to consumers and the trucking industry, was the most cost effective site, and satisfied the four criteria in the statutes. Mr. Boyott agreed.

Commissioner Decker asked if the McKenzie River and Willamette River structures would be built simultaneously. Mr. Fuller said the permanent McKenzie structure would be built first as there were fewer issues to be addressed.

#### **b. Public Testimony**

**David Sonnichsen**, 2435 Skyline Boulevard, Eugene, chair of the Citizen Planning Committee (CPC) for the Whilamut Nature Area of Alton Baker Park, said in 1992 a countywide vote dedicated the park to passive recreation and a management regime favoring natural values. The CPC was established to provide oversight for the park and develop the park master plan. He said he was neither in favor or opposed to the request for a goal exception. He said the CPC favors the broadest possible public participation in the bridge project, with no exceptions. He commended ODOT's willingness to be inclusive in its process, but urged commissioners to assure that language was incorporated in every document regulating every contractor and subcontractor on the project.

**Charles Biggs**, 540 Antelope Way, Eugene, expressed concerns about the detour bridge project sidestepping NEPA and other process that would be required for a permanent bridge. He also questioned whether the detour bridge might become permanent if funding was not available for a replacement bridge. He commented that the extra fill in the Greenway would raise the flood level in the flood zone and spread the flood area further into the impacted areas of housing and park land. He did not think that deconstruction of the existing bridge should be coupled with deconstruction of the detour bridge. He thought the environmental standards would be more severe for deconstruction of the existing bridge and impacts on the river would be greater. Mr. Biggs concluded by suggesting that the railroad could carry freight during design of a permanent replacement, rather than moving quickly to restore truck traffic to I-5.

**Bonnie Ullmann**, 3350 Oriole Street, Springfield, vice chair of the Citizen Planning Committee (CPC) for the Whilamut Nature Area of Alton Baker Park, thanked Mr. Mott for the staff analysis of the project. She asked that commissioners include a provision, as a condition for approval, for including the CPC's input in the project. She expressed concerns that the many contractors and subcontractors involved in the project might not be fully aware of the assets and values of the Whilamut Natural Area. She complimented Dean Fuller on his efforts to inform the CPC of the project's progress.

**Rob Handy**, 455-1/2 River Road, Eugene, reflected on the values that make Oregon a special place and the history land use legislation that preserved natural assets. He appreciated ODOT's willingness to work with local government and all stakeholders and agreed that the costs to the trucking industry should be considered. He asked how other values, not as easily quantified, should be considered, such as the airshed and watershed, livability values related to parks and wildlife habitat. He urged that broad public participation in the project continue in order to protect these values in the future.

**Kevin Matthews**, 120 W. Broadway, Eugene, president of Friends of Eugene, listed three concerns. He questioned the concept of temporary and the estimated duration of the detour bridge. He said it was being constructed to carry load during another planning process, not just during construction of a replacement bridge. He asked that the findings address timing and the specific exception language have some legally meaningful definition of temporary. He said the findings did not adequately discuss the impact of the construction staging area, which had as much impact as construction of the bridge itself. His third concern related to language in the proposed Metro Plan Text Amendment to Policy #13, "...and future capacity or safety improvements..." He said the language did not appear to relate specifically to the temporary bridge, but rather was global in nature covering anything I-5 might need in the future. He asked that the language be stricken.

**Jozef Zdzienicki**, 1025 Taylor Street, Eugene, noted, in response to earlier comments about the impact on the trucking industry, that only three hundred permits per day were being issued. He said that was because Oregon permitted over 86,000 pounds of weight to be pulled by a truck, which was different from requirements in adjoining states. He commented that no figures had been provided regarding the cost to remove the detour bridge and asked if it was economical to spend \$38 million to construct a temporary bridge. He asked why the temporary could not be made permanent to accommodate increased traffic volume.

**Thomas W. Koenig**, 63390 Old Deschutes Road, Bend, submitted written testimony, distributed by Mr. Mott, relating to the I-5 detour bridge project.

Mr. Boyott responded to issues raised during testimony and noted that many remarks were outside of the decision criteria. He affirmed that the CPC would be more involved in the project. He said that the replacement bridge would be designed for a longer life than the current bridge and deconstruction of the

current and temporary bridges would be part of the replacement bridge project and subject to the full NEPA process. He said there was no cost yet for the replacement bridge, but deconstruction would be included in the project cost.

Continuing, Mr. Boyott said that he could not address the issue of the rail industry transporting freight. He said that ODOT's contract inspectors would assure that contractors and subcontractors adhered to agreements. He said ODOT felt it was redundant to ask for another exception for work done in the same right-of-way that was accepted once and he believed the City of Springfield had determined that another exception would not be required for the permanent bridge structure. He said the detour was not being designed as a permanent bridge and was intended to be removed when the permanent bridge was completed.

The public hearing was closed.

**c. Questions from Planning Commissioners**

Commissioner Colbath said the exception being requested was for a temporary purpose and considered from the perspective of temporary purpose. She asked why another exception would not be required for the more complex replacement bridge project. Mr. Leahy cited the proposed language, which incorporated constructing a temporary detour bridge, replacement of the existing I-5 bridge, removal of the temporary detour bridge, and future capacity or safety improvements. He said the exception was not limited to a temporary purpose because the projects were so interrelated.

Commissioner Belcher asked if the exception would apply in the future to, hypothetically, a twenty-lane structure with solid fill to the riverbank. Mr. Mott replied it would as long as activities were confined to the right-of-way. Commissioner Belcher asked if there was a problem with removing the language referring to future capacity or safety improvements. Mr. Mott said that any language should be clear about intent regarding changes to a replacement bridge related to capacity contained within the right-of-way or the structure.

Commissioner Herbert asked if restoration of the construction staging areas to pre-existing condition could be included in the mitigation plan and if a limit of one hundred forty-four months could be placed on the life span of the detour bridge to address concerns over its temporary nature. Mr. Leahy suggested that establishing a "drop dead" date after completion of the replacement bridge might be more legally defensible. Commissioner Herbert said that establishing a time period would assure construction moved forward, whereas tying the removal to a terminal event could create a permanent bridge if the replacement bridge was not constructed in a reasonable time period.

Commissioner Decker questioned what would happen if the replacement bridge was not completed in one hundred forty-four months and the detour bridge had to be removed.

Commissioner Dignam said he was less concerned over the temporary nature of the detour bridge, but did share a previous speaker's concern about impact of the construction staging area. He added that the Springfield Planning Commission addressed the issue through conditioning that the construction management plan be jointly prepared by city staff, ODOT, and Willamalane. He noted that impact on the Whilamut Natural Area would be limited to an acre of land. He asked that boater safety issues be incorporated in the management plan.

Commissioner Herbert clarified that he did not have specific concerns regarding the duration of the temporary bridge; his proposal to limit the life of the detour bridge was in response to concerns from the public and other commissioners.

Commissioner Shaver asked if the construction contract could impose boater safety requirements on ODOT. Mr. Leahy replied that Springfield was providing recreational access to the river and boater safety represented a legitimate concern. Commissioner Shaver said he wanted to see boater safety language added to any agreements with ODOT.

***Commissioner Belcher moved, seconded by Commissioner. Colbath, moved that the phrase “protect boaters using the Willamette River and canoe canal” be inserted at the end of page 7 of the Staff Report and Findings, between the phrases relating to bicyclists and pedestrians, and wildlife habitat. The motion passed, 7:0.***

Ms. Childs suggested that boater safety language could more appropriately be added as a separate sentence to the first paragraph on page 7, which described conditions imposed by the Springfield Planning Commission related to bicycle and pedestrian safety during construction. She said the language could specify boater safety as a condition imposed by the three planning commissions, if all agreed.

***Commissioner Belcher moved, seconded by Commissioner Levis, to rescind the motion to incorporate boater safety language. The motion passed, 6:0.***

***Commissioner Belcher moved, seconded by Commissioner. Levis, that the Eugene Planning Commission impose a condition on ODOT to require protection of boaters using the Willamette River and canoe canal.. The motion passed, 7:0.***

***Commissioner Clemow moved, seconded by Commissioner Dignam, that the Lane County Planning Commission impose a condition on ODOT to require protection of boaters using the Willamette River and canoe canal and that language be amended to the end of paragraph 1 on page 7 of the Staff Report and Findings. The motion passed, 5:0.***

***Commissioner Beyer moved, seconded by Commissioner Shaver, that the Springfield Planning Commission recommend approval of Journal LRP 2003-0012 Metro Plan Text Amendment to Policy #13, Chapter III, Section D, as the text wording appeared in Exhibit 2 introduced into the record of the proceedings, and the approval of Goal 2, Part II(c) reasons exception to Statewide Planning Goal 15 Willamette River Greenway, and including the changes previously approved by the Eugene and Lane County planning commissions. The motion passed, 6:0.***

***Commissioner Belcher moved, seconded by Commissioner Colbath, that the Eugene Planning Commission recommend approval of Journal LRP 2003-0012 Metro Plan Text Amendment to Policy #13, Chapter III, Section D, as the text wording appeared in Exhibit 2 introduced into the record of the proceedings, and the approval of Goal 2, Part II(c) reasons exception to Statewide Planning Goal 15 Willamette River Greenway, and including the changes previously approved by the Eugene and Lane County planning commissions. The motion passed, 7:0.***

***Commissioner Dignam moved, seconded by Commissioner Clemow, that the Lane County Planning Commission recommend approval of Journal LRP 2003-0012 Metro Plan Text Amendment to Policy #13, Chapter III, Section D, as the text wording appeared in Exhibit 2 introduced into the record of the proceedings, and the approval of Goal 2, Part II(c) reasons exception to Statewide Planning Goal 15 Willamette River Greenway, and including the changes previously approved by the Eugene and Lane County planning commissions.***

*The motion passed, 5:0.*

Mr. Leahy suggested the concerns expressed over the language relating to future capacity or safety improvements in the proposed Metro Plan Text Amendment be carried forward to the elected officials with a recommendation to modify the language.

*Commissioner Shaver moved, seconded by Commissioner Beyer, that the Springfield Planning Commission recommend to the elected officials that language in the proposed Metro Plan Text Amendment relating to future capacity or safety improvements be modified to address concerns about expanding upon use of the Greenway beyond the construction of the temporary bridge and a designed replacement bridge, and its maintenance as designed. The motion passed 6:1, Commissioner Decker opposed.*

*Commissioner Colbath moved, seconded by Commissioner Duncan, that the Eugene Planning Commission recommend to the elected officials that language in the proposed Metro Plan Text Amendment relating to future capacity or safety improvements be modified to address concerns about expanding upon use of the Greenway beyond the construction of the temporary bridge and a designed replacement bridge, and its maintenance as designed. The motion passed, 7:0.*

Mr. Mott clarified that the motions related to the phrase on line 5 of Exhibit 2, "...and future capacity or safety improvements..." and the commissioners were concerned the language was too open-ended. He further clarified the exception should only apply to the interior of the constructed replacement bridge and elected officials should consider whether future expansion should require another exception under then existing rules. Commissioners concurred with Mr. Mott's understanding of intent.

*Commissioner Clemow moved, seconded by Commissioner Kirkham, that the Lane County Planning Commission recommend to the elected officials that language in the proposed Metro Plan Text Amendment relating to future capacity or safety improvements be modified to address concerns about expanding upon use of the Greenway beyond the construction of the temporary bridge and a designed replacement bridge, and its maintenance as designed.*

Commissioner Dignam spoke in opposition to the motion. He stated it appeared to be an unnecessary complication to the process.

*The motion passed, 3:2, Commissioner Dignam and Commissioner Betz opposed.*

Commissioner Colbath asked for clarification that the construction staging area would be included in the construction management plan, including mitigation. Ms. Childs said the primary construction staging area was on the Eugene side of the river, but not within the Greenway setback. She said that city staff were working with ODOT on an agreement, similar to the one being developed by Springfield, to address the same issues.

Commissioner Levis left the meeting at 7:35 p.m.

## **2. Metro Plan Periodic Review Text Amendments**

The public hearing was opened.

**a. Staff Presentation**

Carol Heinkel, Lane Council of Governments (LCOG) Principal Planner, stated that the proposed amendments to the Metro Plan text and Metro Plan Diagram, when final, would result in a completely revised and reprinted 2003 Metro Plan document and a tax lot-specific adopted Metro Plan Diagram. She said text amendments were the subject of the hearing and the Metro Plan Diagram amendments would be considered at a hearing on June 17. She identified planning staff from Springfield, Eugene, and Lane County who were present to answer questions.

Ms. Heinkel she said the proposed text amendments would bring the metropolitan area very close to completion of the 1995 Metro Plan Periodic Review Work Program. She said that Periodic Review was the process used in Oregon to update comprehensive plans and ensure they were current, consistent with new state laws and administrative rules, and responsive to changing local conditions. She stated that a Periodic Review Work Program task was considered completed when it was adopted locally and acknowledged by the Department of Land Conservation and Development (DLCD). She reported that eight of the eighteen tasks in the original 1995 Work Program had been completed. She said one task had since been removed from the program and the proposed text and diagram amendments, when final, would complete six of the remaining nine tasks. She said the requested action was to hold public hearings and recommend to Springfield, Eugene, and Lane County elected officials approval of the requested amendments to the Metro Plan text and approval of a tax lot-specific Metro Plan Diagram, with the proposed amendments. She also requested that the hearing be kept open and continued until June 17 to allow the public to provide additional testimony on the text amendments, as well as the diagram amendments.

Ms. Heinkel stated there were three categories of text amendments to the Metro Plan to bring it into compliance with statewide planning goals and administrative rules and make the Plan internally consistent:

- Goal 5 (Natural Resources) Metro Plan Text Amendments
- Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands) Text Amendments
- Housekeeping Text Amendments

Ms. Heinkel commented that the housekeeping amendments made the format and text internally consistent and clarified and updated the text. She said changes included format changes for all chapters, objectives were eliminated, and findings and policies amended throughout the Plan to reflect previously updated Plan elements, such as the residential land study, and referred to Attachment D in the Staff Report which contained the Metro Plan housekeeping revisions in legislative format.

According to Ms. Heinkel, testimony would be taken at the June 17 hearing on three categories of Metro Plan Diagram amendments:

- Diagram housekeeping changes for tax lot-specific amendments
- Diagram amendments for refinement plan consistency
- Diagram removal of urban reserves designations, as directed by elected officials and DLCD, because they do not comply with current Oregon Administrative Rules

Ms. Heinkel stated all of the proposed amendments were legislative, government initiated, the text amendments were Type I amendments, and the diagram amendments were Type II amendments. She said a joint public hearing would be held by Springfield, Eugene, and Lane County elected officials in the fall and comments from a public workshop held on May 7 were included in Attachment G. She further stated that notices were sent to property owners affected by the proposed diagram amendments and to interested parties. She said five thousand five hundred newsletters were sent out and notices to property owners were included in

three thousand, eight hundred and eighty-four of them. In addition, she said, notices were posted in the *Register-Guard* and *Springfield News* and all materials were posted on the LCOG and City of Eugene websites. She said through the month of May, there were five thousand, one hundred and sixty-five downloads of Eugene property owner tables and thirty-eight downloads of the urban reserve property owner tables.

Ms. Heinkel concluded by citing the criteria for evaluating the proposed Metro Plan amendments in the Springfield, Eugene, and Lane County development codes. She said based on the criteria and evaluation in the Staff Report, staff found the proposed Metro Plan text amendments were consistent with relevant state-wide planning goals, did not make the Metro Plan internally inconsistent, and recommended approval of the proposed text amendments.

Kathi Wiederhold, LCOG Senior Planner, explained the natural resources study was a metro-wide study extending to the Plan boundary and addressing three resources: wetlands, riparian corridors, and wildlife habitat. She said the purpose of the study was address Goal 5 requirements and increase development certainty for property owners.

Ms. Wiederhold said the Goal 5 task was divided into four components: one for each local jurisdiction and a metro-wide component. She said commissioners were considering the metro-wide component and, separately by the Lane County Planning Commission, the Lane County component. The components were being processed concurrently for efficiency, which may have led to some confusion over proposed language that was written "as if" some actions had already been taken.

Ms. Wiederhold highlighted the major policy change required to comply with the Goal 5 rule for the area outside of the Urban Growth Boundary (UGB). She said the Lane County portion had new findings and policies written "as if" that portion had been completed and adopted. She noted the component dealing with areas outside of the UGB used the Safe Harbor methodology, which had different meanings for each of the resources and whether it was applied to inventory or protection. She said that did not result in a major change to current county practices implementing Goal 5 for those resources, but did slightly reduce the riparian setback for certain zones. She said staff would prepare a summary of comments from the hearing, with staff responses, to be provided to each commission when they met individually to further consider the proposed amendments.

Commissioner Dignam asked what was meant by increasing the development certainty for property owners. Ms. Wiederhold replied that it meant to clearly identify the inventory of significant sites and what protection measures needed to be taken.

Commissioner Belcher what process was used to remove objectives from each chapter and who was involved. Ms. Wiederhold said the objectives were duplicative of the language and goals. Ms. Childs commented that in addition to being duplicative, applications often referenced objectives, which had no legal status, instead of policies. She said that Planning Directors from the three jurisdictions recommended eliminating the objectives and local elected officials concurred.

Kent Howe, Lane County Planning Director, said that state law for farm and forest lands embodied in Goal 3 and Goal 4 and their respective rules have codified what Lane County needed to adopt in the form of policies for the rural Comprehensive Plan. He said the Board of County Commissioners adopted revisions to rural policies last summer and those same policies adopted for the rural Comprehensive Plan were folded into the Metro Plan. He said the policies would apply only outside the UGB.

Ms. Heinkel reiterated the housekeeping amendments were contained in Attachment D of the Staff Report and clarified existing text, rather than proposing new policies.

Responding to a question from Commissioner Clemow, Mr. Howe said Goal 3 and Goal 4 policies did not apply inside the UGB, or outside the Metro Plan boundary.

**b. Public Testimony**

**Rob Handy**, 455-1/2 River Road, Eugene, said that Oregon's land use heritage was larger than individual interests and questioned whether some of the proposed changes would weaken some community interests. He said findings and policies could not be based on assumptions of what might happen. He urged that the natural resource inventories be adopted.

**Jeff Steyaert**, 32260 Highway 34, Tangent, stated that a quarry currently owned and operated by the Morris brothers, was started in the early 1940s. He said in 1981 Lane County designated the quarry property as Sand and Gravel – GR10 – Gravel Mining and in 1986 gave jurisdiction authority for the property was given to Springfield. He said when Morris brothers purchased the quarry in 2001, a major mapping error was found during due diligence. Forty-five acres of Tax Lot 3101 was erroneously designated PLO zone. According to Mr. Steyaert, he was working with City of Springfield staff to resolve the problem, but the public review notice indicated that zoning mistakes could be corrected in the Periodic Review process when the Metro Plan Diagram was adjusted. He said an alternative was to provide assurance that the Morris brothers had the right to continue mining of the entire site as a nonconforming use.

**Jan Wilson**, 1260 President Street, Eugene, said she had been unable to review all of the information contained in the proposed amendments and could not comment on specific details, but felt the amendments were premature and some of the changes referred to the completion of things not yet done. She questioned the lack of findings to support the fact that the Goal 5 process was completed. She listed some examples of policy changes that were buried in housekeeping amendments, such as the change in forest land from multiple uses to timber production, and asked where habitat would be preserved. She felt that the Safe Harbor provisions under Goal 5 would create problems under other laws without documenting findings, citing backtracking on riparian setbacks as an example.

**Tom Bowerman**, 33707 McKenzie View, Eugene, asked commissioners not to lose sight of the valley for the land. He said that a recent trip to Italy showed him how seventy centuries of unbroken habitation and fifty-seven million people in a space barely larger than Oregon could still result in a high quality of life and tourism as an economic force when comprehensive regional land use regulations were coupled with inclusive design review, and quality of life, rather than making and possessing money, was the driving force. He expressed astonishment with the number of development proposals that resulted in Metro Plan amendments within a year of processing, while inventorying and adopting natural resource designations and implementing policy language consistent with Goal 5 had languished for over fifteen years. He encouraged wise stewardship of natural resources to support wise growth and urged planning commissions to provide leadership.

**Nena Lovinger**, 40093 Little Fall Creek Road, Fall Creek, commented that the proposed changes to the environmental policy element of the Metro Plan would too little to protect and preserve the natural environment. She said the Goal 3 provision related to agricultural land that would allow marginal lands designation in the area outside the UGB and inside the Metro Plan boundary was contrary to Goal 2 of the environmental resource element. She said marginal lands designation in that area would effectively provide for urbanization, but not open space. She asked that information on uses and land divisions permitted on marginal lands be provided to the public. She stated the riparian protections being proposed outside of the UGB were too weak to address Goal 4 of the environmental resource element. She said the proposal for seventy-five feet riparian setbacks did not accommodate the requirements of the Clean Water

Act or the Endangered Species Act. Further, Ms. Lovinger said proposed findings for the riparian corridors, wetlands, and wildlife habitat related to Goal 5 indicated that identification of significant sites had been completed, yet development continued. She said that existing policy regarding buffering and protecting of agricultural lands on the urban fringe had not been addressed and the proposed designation of marginal and nonresource lands made agricultural lands more vulnerable to development.

**Kevin Matthews**, 120 W. Broadway, Eugene, questioned whether it was appropriate to approve amendments to the Metro Plan when there was confusion around language in the proposed amendments that stated an activity or task had been accomplished when it had not. He quoted Finding 11 on page III-C-14 related to Goal 5 inside the UBG and said it was somewhat deceptive to suggest the inventories had been done when in fact the inventories had not been approved by elected officials. He cited an amendment that removed a policy stating Goal 5 requirements would be completed by the next Metro Plan update and substituted that the requirements should be completed with no time element. He commented that there were other parts of the Plan in which a time requirement was removed. He noted the statement “The Confluence Island heronry has been planned and zoned as Natural Resource” and said the Eugene land use code as it currently existed stated Natural Resource zone was not applicable to acknowledge Goal 5 resources, so in theory the land was zone Natural Resource, but in effect that zoning had an exemption for acknowledge Goal 5 resource. Mr. Matthews said that was the sort of nonprotection of natural resources the Metro Plan policies should avoid.

**Lauri Segal**, 120 W. Broadway, Eugene, representing 1000 Friends of Oregon, said one of the house-keeping elements was citizen involvement with the goal of maximizing the opportunity for meaningful, ongoing citizen participation in the community’s planning process. She remarked that bringing so many changes forward in one forum did not maximize opportunities for comment. She identified several concerns and asked that they be considered, including:

- The proposed findings related to the environmental resource element include language supposedly resulting from actions required by Goal 5, however the new and amended findings are based on assumptions rather than fact.
- The requirements of the Goal 5 rules for adopting a Natural Resource Inventory had not been met by Eugene or Springfield, thus proposing findings and policies in lieu of compliance with a more substantive Goal 5 requirement for a Natural Resource Inventory is putting the cart before the horse.
- Proposed language said the emphasis was protection of waterways as an irreplaceable component of the natural resource system and ignored the concurrent need to protect wildlife habitat
- Proposed policies meant to remove unrealistic timelines related to adding sites to the Natural Resource Inventory actually remove all meaningful timelines.
- The tasks associated with Goal 15, the Willamette River Greenway, had not been addressed in their entirety, however proposed policy changes address how local governments implement Goal 15. A finding explaining how Goal 15 is being implemented should be included.

**Jozef Zdzienicki**, 1025 Taylor Street, Eugene, said the commissioners were chosen by elected officials as members of advisory committees, to act as a conduit from the public to elected officials. He felt that, particularly for Lane County, the conduit was more for developers and development fees. He expressed disappointment with the commissioners.

### c. **Questions from the Planning Commissioners**

Commissioner Betz asked if it was necessary for Eugene and Springfield to adopt natural resource inventories in order to proceed with Periodic Review. Ms. Heinkel said DLCD had amended the timelines for Periodic Review to indicate partial completion by June 30, 2003, with a caveat that accepted the Natural Resource Inventory tasks because of the need to conduct Eugene wetlands work in the spring.

Resource Inventory tasks because of the need to conduct Eugene wetlands work in the spring. She said it was unlikely that the Periodic Review would be completed by June 30, but DLCD would consider the good faith effort to proceed through the adoption process.

Commissioner Clemow asked if there was a move to exclude the wildlife areas within the cities and use more of a Safe Harbor process for the natural resource inventories, possibly also extending to the riparian corridors or the wetlands. Mark Metzger, Springfield Planner, said he was working with the Springfield Planning Commission and City Council on the natural inventory adoption process. He said there had been discussion about the draft inventory and staff was working to reconcile differences between staff recommendations and Planning Commission deliberations. Ms. Childs said the Eugene City Council had conducted a work session on the Natural Resource Inventory and significance criteria and more information was requested about the Safe Harbor provisions in Goal 5. She said specific direction would not be provided to staff until after a public hearing next week.

Commissioner Carpenter remarked on the volume of material presented to commissioners and asked how many changes had been made to each section of the Metro Plan. Ms. Heinkel acknowledged the amount of information contained in the agenda packet and said staff recommended leaving the hearing open until June 17 to give commissioners more time to review the proposed changes. She said the Metro Plan changes were intended housekeeping, rather than policy changes, to clarify language, delete objectives, and create a consistent format. For that reason, she said, staff had not provided a detailed explanation of each individual change.

Commissioner Carpenter noted that the public had commented that removing deadlines constituted a policy change. Ms. Heinkel acknowledged that there were policy changes in Chapter IIIC and a separate document, Attachment B of the Staff Report, was provided to detail those changes. She said the Chapter IIIC changes were the substantive changes proposed for Goal 3, Goal 4, and Goal 5 in the Metro Plan.

Commissioner Carpenter asked staff to provide a document that contained only the proposed changes, rather than using the legislative format, and an explanation of each change. Ms. Heinkel proposed a summary of changes in each chapter, with an explanation of the changes, to avoid repetitious information, such as an individual reference to each deleted objective.

Commissioner Carpenter asked what period of time the public had access to the proposed changes. Ms. Heinkel said the proposed changes were posted on the LCOG website in April and a public workshop on the changes was held on May 7. In response to a suggestion from Commissioner Carpenter, Ms. Heinkel said that staff could prepare an executive summary that explained the changes.

Commissioner Herbert questioned the need to process the Metro Plan amendments by June 30 if there were no sanctions attached to proceeding at a slower pace. Ms. Heinkel said that the State did require completion by June 30, but would accept a good faith effort and recommended that commissioners take the time they needed to feel comfortable with the process. She said staff could provide whatever additional information was needed to assist commissioners with their review of the material.

Commissioner Herbert expressed concern over references to processes to be completed at a future, undefined point. He observed that failure to adopt natural resource inventories was identified during public testimony as a major point of concern. Ms. Wiederhold said that two pieces of the natural resources study, outside the UGB for Chapter IIIC, were being processed together. The plan was for elected officials to take action in the fall, and if the outside the UGB part was not adopted, those references in Chapter IIIC would have to be removed.

Commissioner Herbert asked why staff did not wait until action by elected officials to process the Metro Plan amendments. Ms. Wiederhold said that for efficiency, to save time and money, the pieces were processed concurrently. Commissioner Herbert expressed his continued discomfort with the process.

Commissioner Dignam commended staff for the progress toward Metro Plan amendments. He noted the timing was controversial, some speakers said the process was too slow and others said it was too fast, and said it was difficult to digest the volume of material in the packet.

Commissioner Colbath said she was unable to cross reference policies to deleted objectives in the proposed changes. Ms. Childs said there was no one-to-one correlation between policies and objectives; objectives were deleted because they were not adopted as policy and there was confusion over their legal status to justify land use applications. Ms. Heinkel said that policies had legal standing in the land use application process and were used to justify or object to proposed action. Commissioner Herbert clarified that the deleted objectives were simply deleted, not converted into policies.

Commissioner Shaver asked if Lane County's decision to use the Safe Harbor method precluded the ability to adjust riparian setbacks. Mr. Howe replied that the Goal 5 rule required a jurisdiction that used the Goal 5 Safe Harbor implementation provisions to use them exactly and precisely as prescribed in state law, without modification.

Commissioner Clemow commented that for each Goal 5 resource, a jurisdiction could choose whether to use the inventory or Safe Harbor approach. Mr. Howe agreed.

Commissioner Shaver asked how the Springfield Planning Commission could encourage Lane County to use a different implementation provision. Mr. Howe replied that encouragement could be provided through public testimony and recommendations to elected officials.

In response to a question from Commissioner Shaver, Ms. Heinkel replied that there were three types of changes to the Metro Plan Diagram:

- Removal of urban reserves
- Adoption of a tax lot-specific Metro Plan Diagram by elected officials
- Refinement plan adjustments

Kurt Yeiter, Eugene Principal Planner, explained that over time, when refinement plans were created to refine the Metro Plan, new land use designations were invented that better described the intent for small parcels. He said that resulted in hundreds of refinement plan designations that did not coincide with those in the Metro Plan. He said to create a tax lot-specific Metro Plan Diagram, staff attempted to interpret those refinement plan designations, make the best match with Metro Plan designations, and notified property owners of the new designations.

Mr. Mott said the process in Springfield was to establish the boundaries of a refinement plan area and apply what the Metro Plan Diagram and policies to what was effectively was a zoning map. In adopting refinement plans, he said, one of the findings was consistency with both the Metro Plan Diagram and text and if there was a departure, refinement plan adoption included amendment of the Metro Plan Diagram. He observed that the Metro Plan Diagram stated a general level and the refinement plans were tax lot-specific. He said challenges arose when staff attempted to determine the Metro Plan Diagram's site-specific application in areas that had not been studied.

In response to procedural questions from Commissioner Belcher, Ms. Heinkel said staff would respond to

the questions raised in the hearing and by commissioners. Ms. Childs said the public and written record would remain open until the June 17 hearing and suggested that the commissions could come together for a joint work session to share information and responses to public testimony as a group. Mr. Belcher and Commissioner McMillan agreed that a joint work session had been effective in other adoption processes.

Commissioner Kirkham asked if Lane County could choose Goal 5 resources for alternatives to Safe Harbor provisions. Mr. Howe responded that the Goal 5 rules allowed options. He said the Board of County Commissioners had directed staff to use the Safe Harbor implementation and inventory approach for the Metro Plan area outside the UGB. Commissioner Kirkham asked if that direction could be changed. Mr. Howe replied that the Lane County Planning Commission could make a recommendation to the elected officials.

Commissioner Kirkham asked LCOG staff to highlight policy changes v. housekeeping changes. Ms. Heinkel replied that the only policy changes occurred in Chapter IIIC and a policy change to when the Public Facilities and Services Plan could be amended in Chapter IIIG.

Commissioner Herbert commented that deleting time-specific elements was a policy change. Ms. Heinkel agreed and noted those changes occurred in Chapter IIIC.

*Commissioner Beyer moved, seconded by Commissioner Shaver, that the Springfield Planning Commission hold open the record and continue the public hearing until June 17. The motion passed, 6:0.*

*Commissioner Colbath moved, seconded by Commissioner Duncan, that the Eugene Planning Commission hold open the record and continue the public hearing until June 17. The motion passed, 7:0.*

*Commissioner Clemow moved, seconded by Commissioner Dignam that the Lane County Planning hold open the record and continue the public hearing until June 17. The motion passed, 5:0.*

The Springfield Planning Commission and Eugene Planning Commission adjourned at 9:15 p.m.

## **LANE COUNTY PLANNING COMMISSION PUBLIC HEARING**

### **1. Lane Code Amendments for Goal 5 Metro Plan Policies**

Commissioner Herbert opened the public hearing.

#### **a. Staff Presentation**

Mr. Howe referred to the May 23, 2003 Draft Class I Stream Riparian Regulations document explained that the text on pages 7 through 10 contained provisions that would apply inside the Metro Plan boundary and outside the UGB. He highlighted key provisions of added text in Section 6(a)(i-ii) that addressed the riparian corridor boundary setbacks for streams with flows greater than and less than 1,000 cubic feet per second. He noted in the Metro Plan area, only the Willamette River and McKenzie River met the larger stream flow definition and the setback would be seventy-five feet. For all other fish-bearing streams in the Metro Plan, he said the setback would fifty feet.

Mr. Howe said the added text on pages 10 through the remainder of the document was the code to be inserted in each zoning district to reflect the riparian regulations applicable inside the Metro Plan boundary, outside the UGB.

Commissioner Herbert noted that language on page 10 referred to a one hundred-foot setback. Mr. Howe said the one hundred foot setback applied in the rural areas outside of the Metro Plan boundary; the fifty and seventy-five foot setbacks applied inside the Metro Plan boundary and outside the UGB.

*Commissioner Dignam moved, seconded by Commissioner Betz, to set the adjournment time at 9:45 p.m. The motion passed, 5:0.*

#### **b. Public Testimony**

**Robert Emmons**, 40093 Little Fall Creek Road, Fall Creek, expressed concern about proposed language amending Lane Code 16.253 addressing riparian buffers. He said the Safe Harbor provisions did not provide the protection necessary to prevent take of threatened or endangered species. He cautioned that this left public agencies responsible for such protections vulnerable to legal challenge for violation of the Endangered Species Act and the Clean Water Act. He commented that the County had previously worked with stakeholders to create a critical habitat conservation zone to strengthen riparian setbacks. According to Mr. Emmons, the Lane County Planning Commission ignored those recommendations for larger riparian setbacks and opted for a minimum setback. Subsequently the elected officials tabled the document. He showed photographic documentation of violations that occurred in the county in the absence of clear policy direction and enforcement efforts for stream protection. He urged the Commission to adopt language for riparian corridors that met the requirements of rules to protect endangered species and preserve clean water.

**Lauri Segal**, 120 W. Broadway, Eugene, representing 1000 Friends of Oregon, said it took more than a seventy-five foot setback to protect Class I streams and comply with the Clean Water Act. She said it was now the time to make the necessary changes to protect Class I streams and doing the minimum possible under the Goal 5 rule would not address take and provisions of the Clean Water Act.

Commissioner Herbert closed the public hearing.

*Commissioner Betz moved, seconded by Commissioner Dignam, moved to extend deliberation on the Goal 5 Lane Code Amendments until the beginning of July. The motion passed, 3:1:1, [REDACTED] opposed, Commissioner Clemow abstaining.*

Commissioner Betz said the purpose of her motion was to allow further discussion of the Safe Harbor issue.

In response to a question from Commissioner Herbert, Mr. Howe said that the direction to use the Safe Harbor approach came from both the Board of County Commissioners and the Metropolitan Policy Committee, which represented elected officials from the three jurisdictions.

#### **Adjournment**

Commissioner Herbert adjourned the Lane County Planning Commission at 9:49 p.m.

(Recorded by Lynn Taylor)

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