

MINUTES

Joint Planning Commissions
Springfield, Eugene and Lane County
Regular Session
Springfield Library Meeting Room
225 5th Street, Springfield, OR 97477

April 20, 2004
6 p.m.

PRESENT: Steve Moe, Chair; William Carpenter, Vice Chair; Lee Beyer, James Burford, Gayle Decker, David Cole, Greg Shaver, Springfield Planning Commission members; Charles Rusch, President, John Lawless, Vice President, Adell McMillan, Rick Duncan, Jon Belcher, Anne Marie Levis, Mitzi Colbath, Eugene Planning Commission members; Juanita Kirkham, Chair; Steve Dignam, Vice Chair; Edwin Becker, James Carmichael, Chris Clemow, Mark Herbert, Vincent Martorello, Marion Esty, Lane County Planning Commission members; Kent Howe, Lane County Planning Manager; Stephanie Schulz, Lane County staff; Gary Darnelle, Lane Council of Governments Planning staff; Susan Muir, Kurt Yeiter, Eugene Planning staff; Greg Mott, Len Goodwin, Susie Smith, Springfield Planning staff; Meg Kiernan, City of Springfield Attorney.

ABSENT: Jacque Betz, Lane County Planning Commission member.

1. **Open Joint Meeting, Declaration of Conflicts of Interest and *Ex Parte* Contacts**

Mr. Moe asked the Commissioners to declare any conflicts of interest or *ex parte* contacts. It was deemed there were none.

Mr. Moe called the Springfield Planning Commission to order.

Ms. Kirkham called the Lane County Planning Commission to order.

Mr. Rusch called the Eugene Planning Commission to order.

2. **Staff Presentation**

Greg Mott, City of Springfield Planning Manager, provided an overview of the proposed amendments to the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) and Public Facilities and Services Plan (PFSP) initiated by the Springfield City Council. He said the proposed amendments included Chapter III, Section G Public Facilities and Services Element and Chapter V Glossary, of the Metro Plan; several tables and maps in the PFSP and a new Chapter VI "Amendments to the Plan.". He added that the specifics of the amendments were included in the staff report which he entered into the record.

Mr. Mott explained the public hearing process. He said each of the jurisdictions would establish the public record through the conduct of the public hearing with the planning commissions. He said there had been a request to keep the public record open for an unspecified time. He added each of the Planning Commissions would reconvene in their respective jurisdictions to deliberate and develop a recommendation to their respective elected officials. He said no decision would be made at this meeting. He said a public hearing of the joint elected officials was tentatively scheduled for June 22, 2004 to consider the amendments.

Mr. Mott said that the proposed changes in the Metro Plan had been reviewed by the Joint Planning Commissions during the 6:00 p.m. work session. He identified the following errors in the Metro Plan amendment proposal that was included in the staff report as Findings, Appendix A and Appendix B:

- Staff report Page 1-5, the population should be 297,585.
- Staff report Page 1-13, change the last sentence to read **Services to Development within the Urban Growth Boundary: Waste water**
- No errors in Appendix A.
- Appendix B, page 1-17, Table 4a, add project number 302, Beneficial Reuse Project.
- Appendix B, Page 1-17, Table 4b. change project numbers from 302, 303, 304 to 303, 304, 305.
- Appendix B, page 1-19, paragraph three, change October 7, 2003 to April 12, 2004.
- Appendix B, page 1-19, 5. change Lon-Term Service to Long-Term Service.
- Appendix B, page 1-20, change Table 16a to read

Project Number	Project Name/Description	Cost *(\$)	Estimated Completion Year
300	WPCF Treatment Project	\$120,500,000	2025
301	Residuals Treatment Project	\$6,000,000	2018
302	Beneficial Reuse Project	\$25,000,000	2018
303	Willakenzie Pump Station	\$6,000,000	2010
304	Screw Pump Station	\$2,000,000	2010
305	Glenwood Pump Station	\$500,000	2012

- Appendix B, page 1-21, B.2, National Environmental Policy Act of 1996 should be Policy Act of 1969

Mr. Mott entered the following pieces of correspondence into the record:

- An e-mail from Terry Connolly
- An e-mail from Roxie Cuellar.
- A letter from Jim Welsh.

Mr. Moe opened the public hearing. He said speakers would be limited to five minutes for their testimony.

Roxie Cuellar, 2053 Laura Street, Springfield, Oregon. Ms. Cuellar stated she represented the Home Builders Association (HBA). She said she was concerned with the amendment process as a rate payer. She expressed concern about a \$160 million project list that no one knew anything about. She expressed an interest in generating more public interest by keeping the record open. She said the OARs required that facility plan amendments contained project titles and referred the members to the Metropolitan Area Transportation Plan (TransPlan) for examples of the appropriate level of project detail. Referring to a handout she had distributed earlier entitled *MWMC Wastewater Proposed 20-Year Project List (Draft)*, she said the project titles identified on the document should have been included in the amendment process. She said the MWMC was scheduled to meet on April 22, 2004 to review the list and forward a recommendation to the elected officials. She said the correct procedure was for the MWMC to make a recommendation to the Joint Planning Commission for review and recommendation to the elected officials. She asked that the public record be kept open until May 7, 2004.

Bill Kloos, 576 Olive Street, Eugene, Oregon. Mr. Kloos distributed a letter dated April 20, 2004 regarding *Metro Plan Text Amendments; Public Facilities and Services Plan Amendments April 20, 2004 Joint Public Hearing* to Metro Area Planning Commissions. Mr. Kloos addressed the issues identified in his letter related to Goal 11 of the Metro Plan. Mr. Kloos said that the Joint Planning Commissions were both creating process for handling future major and minor changes to the PFSP, and amending substantive provisions of the Metro Plan and the PFSP. Mr. Kloos questioned the validity of the plan for wastewater treatment extending to the year 2025 while the Metro Plan extends to the year 2015. Citing various elements of OAR 660-011-0010 through 660-011-045, Mr. Kloos said the amendment process required an inventory of and general assessment of the condition of significant aspects of existing wastewater treatment system, as well as a list of specific projects, related costs, and

identified funding mechanisms. Mr. Kloos likewise suggested that the project list in TransPlan provided guidance on the appropriate level of detail.

Mr. Beyer asked how long the record should remain open, what pressures existed on the adoption of the proposed amendments, and if there was a need for a more definitive project list.

Mr. Mott replied that the record could remain open for as long as the Planning Commissioners felt was necessary, for a minimum of seven days, depending on the nature of the requests. Mr. Mott said keeping the record open impacted the entire timeline for response and deliberation of the Planning Commissions.

Ms. Smith said staff was under tremendous pressure through the facilities planning process that occurred over the last year, construction on facilities to upgrade peak flow capacity needed to commence by July 1, 2005 to meet the discharge permit requirements. She added that failure to complete construction could result in the system overflow of raw sewage into the basements of homes, into the streets, and into the rivers.

Ms. Smith said issuance of a new discharge permit in 2002 contained significant changes and limitations for peak wet weather management facilities that resulted in stepping up the pace of the implementation timeline.

Ms. Kieran stated that Metro Plan was a broad, comprehensive plan that was intended to be in place for a long period of time. She added that the definitions and list were intentionally broad. She said that nothing could be financed that did not fit under the umbrella projects.

Mr. Goodwin said that TransPlan had among many projects, one project, titled I-5. He noted that the project subsumes a number of identifiable capital construction projects. He said if the level of detail in the Metro Plan were too high, it would no longer be a planning document but a programming document. He added that the Metro Plan was a document intended to provide broad planning for urban services.

Ms. Smith said: "There's a lot of overlap in the processes that are going on right now for us. One is establishing a new SDC methodology and adopting a charge for the next year and the Commission has just undertaken quite a process to update that methodology to comply with all of the new statutory changes that will go into effect July 1, and are aiming, under a settlement agreement with the Home Builders, to put a new charge in place for July 1, because the cities and the Commission and the Home Builders agreed to work diligently to get that to happen...."

In response to a question from Ms. Levis, Mr. Mott offered clarification on extending the timeline for public testimony, saying May 10 was the last day for public testimony to meet a June 22 public hearing date.

Ms. Levis said she understood there had been a significant amount of planning and the new permit was driving the timeline to reach compliance.

Ms. Smith added that it the purpose was to be in compliance with the requirements of the new permit as well as the completion of the previously scheduled projects in the MWMC plan to meet the conditions of the old permit.

In response to a question from Ms. Colbath regarding plant capacity, Ms. Smith said there were four measures of capacity that the plant's processes served. She added that the project components were aimed to meet all aspects of capacity.

Responding to Ms. Colbath, Ms. Kieran said the intent of rough cost estimates under OAR 660-011-0300 was to provide an estimate of the fiscal requirements to support the land use designations in the acknowledged comprehensive plan, and for use by the facility provider in reviewing the provider's existing funding mechanisms for possible alternative funding mechanisms.

Mr. Dignam said he understood Mr. Kloos to say that the PFSP was not perfect. Mr. Dignam asked if the respective Planning Commissions could adopt the proposed amendments while recognizing that the entire document was not perfect.

Mr. Mott affirmed Mr. Dignam's query, that the PFSP was part of the periodic review. He said the amendment proposal included components of the PFSP, specifically to include tables, maps and text changes that had originally been omitted or needed to be updated. He added that the proposed amendments were intended to make no other changes. He said the changes needed to comply with the law based upon the findings. He observed that Mr. Kloos did not feel the findings were adequate.

Mr. Goodwin said that there was no specific discussion in the proposed amendments of financing alternatives because Chapter 5 of the PFSP, as currently in effect, included a discussion on both the existing and alternative financing strategies.

Noting the previously identified level of urgency to commence construction by July 1, 2005, Mr. Duncan asked what the ramifications of being in violation of the permit would be.

Ms. Smith responded there was the possibility of untreated, raw sewage being dumped in the streets, basements and river creating a public health issue. She said the wet weather flow management plan approved by MWMC and the cities would be violated, thus raising the possibility of dissatisfaction and potential claims by citizens, and potential water quality violations based upon the existing water quality standards.

Ms. Smith stated that there would be a violation of the National Pollutant Discharge Elimination System ("NPDES") discharge permit that could result in one of several outcomes, including:

- Issuance of a notice of non-compliance or a notice of violation that could result in the agency being placed on a compliance schedule to correct the problem approved by the DEQ.
- Direct enforcement action by the EPA, which had recently occurred in Portland, resulting in significant fines.
- Significant fines equal to the cost of building the facility could be levied if the agency knowingly failed to comply with the permit requirements.
- Third party law suits related to stormwater discharges and combined sewer overflows could result in both monetary and civil penalties.

Ms. Smith concluded that the result would be a dissatisfied public, legal defense costs incurred, and regulatory review costs in addition to costs to build the required facility.

Mr. Herbert asked how much of the \$157 to \$160 million addressed the compliance issue. He questioned what appeared to be an inconsistency between the Metro Plan extending to the year 2015 and the FSFP extending to the year 2025. He suggested undertaking a greater level of review by the Joint Planning Commission before forwarding onto the respective Planning Commissions. He asked if specific project elements could be isolated to meet the permit requirements.

Ms. Smith said that from the wastewater utility's perspective, facilities plans by definition were 20 year plans to meet approval criteria by DEQ, in order to do cost effective long-range planning. She added that significant planning was done to prepare a schedule that would result in a cost effective construction schedule that would be as easy as possible for rate payers to fund. Ms. Smith said only a few specific items were not compliance related, including changes to the disinfection system made in response to policy decisions to meet homeland security and employee safety requirements because the system was aging significantly. She said there had been leaks requiring responses by the Hazardous Materials Team. She added that there were no projects she could think of without reviewing the list in the first ten years except the disinfection system, which were not related to permit compliance.

Ms. Levis said she understood that the charge of the Joint Planning Commission was to make updates to the plan rather than rehashing the plan.

Ms. Kieran said the MWMC had conducted an extensive review process that included public input that resulted in proposed changes. She added that the wastewater projects list should have been included in the original Public

Facilities and Services Plan, and the action before the Joint Planning Commission was a housekeeping task to correct the oversight.

In response to a question from Mr. Martorello, Ms. Smith replied that the MWMC would be in compliance upon completion of the projects to enable the operations of the plant to meet the discharge permit requirements, rather than when the changes were approved. She added that construction of projects scheduled to be on line in 2005 and 2006 needed to commence by July 1, 2005.

Ms. McMillan said she understood that there would be further opportunity for public input regarding cost issues before the MWMC for inclusion in the MWMC CIP.

Mr. Belcher asked when any arguments made by the HBA, the realtors in the plan would be addressed. He asked if there were other components of the Metro Plan that were not tied to 2015. He requested that each of the commissioners be provided with copies of the PSFP. He asked if the projects could be placed in the CIP for the coming year.

Ms. Kieran replied that this would be the appropriate time to make any changes to Chapter 3 of the Metro Plan if the JPC was so inclined. She said the process was driven by specific OARs.

Mr. Mott noted that inventories were based on population and employment projections on 2015 outcomes. He added that review of the data was ongoing.

Ms. Smith said staff preferred to move ahead knowing they were in compliance with the letter and the spirit of local ordinances and adopted comprehensive plans, and the SDC methodology.

Mr. Carpenter asked if there had been a legal opinion or a change in State law that required incorporation into the PSFP. He said he knew there were communities out of compliance with pollution discharge permits that had been given years to achieve compliance. He asked if the permit required a construction start date of July 1, 2005 to remain in compliance with the existing 2002 permit.

Ms. Smith said the existing permit had incorporated the adopted wet weather flow management plan that laid out the CIP to meet peak flow requirements. She added that there was not a specific condition written into the permit requiring identified construction by a specific date. She opined that DEQ would do nothing to the agency if construction did not commence by July 1, 2005.

In response to Mr. Carpenter's question about the ramifications of a two week delay in construction start up, Ms. Smith replied that from a construction standpoint, the time could be made up. However, she said from a funding standpoint, implementation of the SDC charges on July 1 was necessary to provide for collection of sufficient revenues to fund the projects.

Responding to Mr. Becker's question that there would be subsequent NEPA style environmental analysis that would involve public involvement at later date, Ms. Smith replied that the plan undertaken by the commission was consistent with the DEQ required guidelines that were published for community wastewater facilities plans. She added that the commission review process had taken place over a year, with the public review process including advertised evening open houses and work sessions with interactive input with the commission that began in November 2003. She added that most of the analysis had been completed by October 2003.

Mr. Goodwin said a public hearing before the MWMC was scheduled for April 22, 2004, followed by public hearings at both city councils. He added there would be additional public hearings when capital budgets incorporated the projects.

Ms. Decker said the list in some way confused the discussion, since the overall scope being considered was not intended to be project specific. She added that she did not have a problem with the very general table for the various sites.

Mr. Beyer said he understood the importance of reaching a decision soon was not to approve specific projects, which may change and would receive extensive review by the MWMC, but to get the general projects on the list so that imposing methodology for the SDCs could proceed. He summarized his understanding that the request was to approve the concept that some time in the next 20 years, the capacity of the Metro Plan needed to be expanded at a cost of \$100 million in a manner to be determined.

Ms. Kieran confirmed Mr. Beyer understood.

Mr. Belcher said he understood that if individual projects were included in the Metro Plan, would it be necessary to revise the Metro Plan each time an individual project was added or deleted.

Mr. Moe closed the public hearing for the Springfield Planning Commission.

Ms. Kirkham closed the public hearing for the Lane County Planning Commission.

Mr. Rusch closed the public hearing for the Eugene Planning Commission

Following a brief discussion regarding a date to hold the public record open,

Mr. Herbert, seconded by Mr. Dignam, moved to keep the Lane County Planning Commission public record open until May 7, 2004 to allow for appropriate time for staff to respond to the issues raised at the April 20 public hearing. The motion passed unanimously, 8:0.

Ms. McMillan, seconded by Ms. Colbath, moved to keep the Eugene Planning Commission public record open until May 7, 2004 to allow for appropriate time for staff to respond to the issues raised at the April 20 public hearing. The motion passed unanimously, 7:0.

Mr. Beyer, seconded by Mr. Shaver, moved to keep the Springfield Planning Commission public record open until May 7, 2004 to allow for appropriate time for staff to respond to the issues raised at the April 20 public hearing. The motion passed unanimously, 6:0.

Mr. Moe adjourned the meeting for the Springfield Planning Commission at 8:40 p.m.

Ms. Kirkham adjourned the meeting for the Lane County Planning Commission at 8:40 p.m.

Mr. Rusch adjourned the meeting for the Eugene Planning Commission at 8:40 p.m.

(Recorded by Linda Henry)

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