

MINUTES

Metropolitan Policy Committee
Eugene Public Library – Bascom-Tykeson Room – 100 West 10th Avenue
Eugene, Oregon

January 12, 2006
11:30 a.m.

PRESENT: Anne Ballew (City of Springfield), Chair; Bobby Green, Bill Dwyer (Lane County), Christine Lundberg (City of Springfield), David Kelly, Kitty Piercy (City of Eugene), Judy Volta (City of Coburg), Susan Ban (Lane Transit District), Jane Lee (Oregon Department of Transportation), members; Dennis Taylor (City of Eugene), Ken Hamm (Lane Transit District), David Garnick for Bill Van Vactor (Lane County), Cynthia Pappas (City of Springfield), *ex officio* members.

George Kloeppel, Tom Schwetz, Paul Thompson, Ann Mortenson, Jamon Kent, Byron Vanderpool, Kathi Wiederhold, Milo Mecham (Lane Council of Governments); Jeff Scheick, Tom Boyatt (Oregon Department of Transportation), Randy Papé (Oregon Transportation Commission), Bob Keefer (Willamalane Park and Recreation District), Greg Mott, Nick Arnis, Len Goodwin (City of Springfield), Jim Carlson, Lisa Gardner, Pam Berrian (City of Eugene), Tom Stinchfield (Lane County), Stefano Viggiano, Anita Yap (Lane Transit District), David Cox (Federal Highways Administration), Robert Schroeter (Comcast), Terry Connolly (Eugene Chamber of Commerce), Rob Zako (1000 Friends of Oregon), Rob Handy, Linda Swisher, David Sonnichsen, guests.

WELCOME AND INTRODUCTIONS

Ms. Ballew opened the January 2006 meeting of the Metropolitan Policy Committee (MPC) and welcomed those present.

Members of the MPC introduced themselves.

APPROVE DECEMBER 8, 2005 MINUTES

Mr. Green, seconded by Ms. Ban, moved to approve the December 8, 2005, minutes as submitted. The motion passed unanimously, 9:0.

ELECTION OF OFFICERS

Ms. Ban, seconded by Mr. Dwyer, moved to nominate Mr. Green as chair and Ms. Piercy as vice chair.

There being no further nominations, the motion passed unanimously, 9:0.

Ms. Volta, seconded by Ms. Ban, moved to express the Metropolitan Policy

Committee's appreciation to Ms. Ballew for her service as chair for the past year.
The motion passed unanimously, 9:0.

COMMENTS FROM THE AUDIENCE

Bob Keefer, representing Willamalane Park and Recreation District, testified in support of Resolution 2006-1 adopting amendments to the FY05-07 Metropolitan Transportation Improvement Program (MTIP). He said one of the amendments would add a Willamalane project, the Middle Fork Willamette River Loop Path, to the MTIP. He said the project was included in the Rivers to Ridges Plan, the Springfield Bike Plan, TransPlan and the Willamalane Comprehensive Plan and the project was a trail that would run from Dorris Ranch to Clearwater Park and eventually connect to the Mill Race. He said when completed it would be an eight mile loop trail and funding for the first three-mile section was secured with the support of United Front partners. He said in order for the project to proceed it needed to be included in the MTIP and urged the MPC to support the resolution.

METROPOLITAN PLANNING ORGANIZATION (MPO) ISSUES

Report from the MPO Citizen Advisory Committee (CAC)

Mr. Green, as the MPC's liaison to the committee, reported that two guest speakers at the January 4, 2006, meeting had discussed public outreach techniques and the role of research in designing an outreach plan. He was impressed with the information that was presented and said that the CAC would devote the next two meetings to reviewing and revising the draft Public Involvement Plan. He said that staff would work with the CAC's officers to design an efficient review process.

Mr. Green said that a group composed of him, Mr. Kelly, Ms. Ballew, CAC co-chairs Dan Egan and Rex Redmon and CAC vice chair Sylvia Shaw would act as the recruitment committee for new members to fill CAC vacancies. He commented that CAC members still had some concerns regarding their role and functions and in part that related to the timing of CAC meetings in order to provide timely input to the MPC. He said one member had expressed the desire to see the MPC respond to the CAC's input and indicate whether it had been of any value.

Ms. Wiederhold said that the current CAC monthly meeting date appeared to be the only time that would work for all members, although she was open to any suggestions for an alternate date. She said the MPC had agreed to the composition of the recruitment committee last fall and she had prepared for review recruitment materials modeled on those used previously. She hoped to place advertisements and distribute recruitment materials in the next two weeks. She said that recruitment would remain open until mid-March and close in time to have recommendations before the MPC at its April 2006 meeting. She said a focus of this recruitment would be enhanced outreach to special interests within the community such as environmental justice groups.

Mr. Kelly suggested that a meeting of the recruitment committee be scheduled as soon as possible.

Amendments to FY05-07 Metropolitan Transportation Improvement Program (MTIP)

Mr. Thompson stated that the proposed FY05-07 MTIP amendments resulted from the MPC's direction at

its last meeting for staff to prepare amendments to the existing MTIP for projects that needed action before June 2006. He said that staff determined which actions were administrative and could be acted on by the Transportation Planning Committee (TPC) and which required action by the MPC. He said the six amendments before the MPC for adoption in Resolution 2006-1 were summarized in his January 4, 2006, memorandum and project details were attached; those materials were included in the agenda packet. He noted that there were three other amendments that would require MPC action but staff did not have sufficient information to prepare them for the January meeting. He said those would be presented at the February 2006 meeting.

Mr. Dwyer, seconded by Ms. Piercy, moved to approve Resolution 2006-1 adopting amendments to the Central Lane MPO FY05-07 Metropolitan Transportation Improvement Program. The motion passed unanimously, 9:0.

Mr. Kelly noted that over the past two months he had stated his strong support of all of the projects in the draft FY06-09 MTIP except for one.

West Eugene Parkway Collaborative Process Update

Ms. Piercy reported that she had met with representatives of the Federal Highways Administration (FHWA) and the Institute for Environmental Conflict Resolution and was prepared to establish a group composed of representatives from MPC members and other stakeholders to select a facilitator from the Institute's list of facilitators. She hoped to have that person selected within six weeks. She said the collaborative process would then begin with an assessment of the situation and interviews with interested parties. She said that FHWA and the City of Eugene would each contribute half of the funding for the collaborative process. She distributed informational materials on the Institute that described how it functioned and its successes.

Ms. Ballew commented that most projects required significant lead time to meet federal and state requirements before construction began and asked staff to prepare a report to the MPC on what projects still needed to be acted upon in the near future. Mr. Thompson replied that he could prepare an update of the project table that was presented at the December 2005 meeting that would identify the remaining changes between what was now the adopted FY05-07 MTIP and the FY06-09 MTIP as proposed in October 2005, including the time sensitivity of projects.

Mr. Papé recognized David Cox of FHWA, who was in attendance. He asked if the City of Eugene and the other jurisdictions were prepared to support whatever conclusion resulted from the collaborative process, which he understood to be part of the National Environmental Policy Act (NEPA) process. He said the Oregon Transportation Commission (OTC) wanted to know if MPC members were prepared to support the results of the process.

Ms. Piercy said her hopes for the process did not presuppose the end before it began.

Mr. Cox said the collaborative process was structured so that it was not part of the NEPA process and would not replace any of the NEPA process steps. He said there would still be a public hearing and his hope for the collaborative process was that it would provide input to the public hearing so that FHWA could consider it as a part of the NEPA process, along with other input obtained during the public hearing. He said given the effort and cost involved, the collaborative process input would carry significant weight.

Mr. Papé said he still wanted to know whether there would be an end result that MPC jurisdictions would support if the collaborative process proceeded. He asked if there would still be objections to a result that significantly impact wetlands.

Mr. Kelly, speaking for himself, said the first step was MPC member jurisdictions' support of the process. He said regarding the outcome of the process it was ultimately FHWA that would issue the record of decision, not one of the MPC jurisdictions. He said Eugene's representatives to the MPC were bound by the position of the City Council in their votes so it would be impossible for either him or Ms. Piercy to guarantee in advance the council's support of an outcome when the process had not yet begun.

Mr. Papé asserted that the OTC would have difficulty supporting the process if there was no agreement that whatever the outcome was it would be supported.

Mr. Kelly asked if Mr. Papé was suggesting that each jurisdiction take a vote to endorse the outcome before the process began.

Mr. Papé said he thought there needed to be something specific that said jurisdictions were going to go through the process and live with the results. He compared it to going through a judicial process where both sides went to court and lived with the decision. He said going through the collaborative process would consume time, effort and energy and as a group MPC members should agree to support the outcome, whatever it might be, otherwise it was just an extension of deliberation.

Ms. Piercy felt that Mr. Papé's request contradicted her understanding of the concept of a collaborative process, which meant people came to the table and tried to find ways to move forward together with nothing presupposed.

Mr. Cox said that regardless of the outcome of the process FHWA and ODOT wanted to present a project that all members could support. He said if a project had negative impacts those impacts would be offset with positive features such as wetlands mitigation.

Mr. Green said as a representative of the Board of County Commissioners he did not know how he could commit to an outcome when he was not yet certain if a majority of the board was even committed to the process.

Mr. Papé asked if the process would go forward if Lane County did not participate.

Mr. Green deferred to Mr. Cox for a response.

Mr. Cox said that FHWA was conducting a collaborative process at the MPC's request and if the MPC did not wish to proceed the process would not happen.

Ms. Lundberg said she did not speak for the entire City Council but personally thought that Springfield was not committed to participating in the collaborative process. She said any outcome would be part of the overall accepted process and Springfield would take that into consideration, but she could not assure it would be supported. She said it was Springfield's policy recently to reduce processes. She was not particularly interested in going through the process and whether the outcome would be accepted was open for discussion.

Mr. Dwyer used labor union terms to describe the issue. He said arbitration could be either compulsory or

binding; compulsory arbitration compelled the parties to meet and discuss but did not bind them to a decision and binding arbitration bound the parties to the decision, although it was not compulsory. He did not want to be bound to a decision before he knew what the process or decision would be. He noted that he and Mr. Green would need to abide by the direction of a majority of the Board of County Commissioners just as other MPC members had to respond to their governing bodies.

Mr. Papé pointed out that according to the December 2005 minutes the MPC did not direct FHWA to go through a collaborative process; it was being done at the City of Eugene's request.

Mr. Cox agreed that the request was at the local level and FHWA was willing to proceed if there was a benefit to the collaborative process, which he assumed there would be.

Mr. Green asked Mr. Papé to clarify what he was seeking from the MPC.

Mr. Papé said from the OTC's standpoint there was no objection to the collaborative process if that was the collective opinion of the MPC; however, there should be some reason for going through that process and it should not be just another process that would result in yet another collaborative process because members did not like the results of the first one. He asked members to clarify their expectations of the process. He noted the lengthy history of the West Eugene Parkway project said the commission wanted to be clear about intentions, whether it was to have a collaborative process that just discussed and presented options but no particular resolution or whether it would result in an ultimate resolution.

Ms. Piercy said it was Eugene's belief that it was attempting to act in a collaborative fashion by moving along transportation projects in the MTIP amendments. She hoped that a well-respected process that had been used effectively with good results at the national level and throughout the country could bring MPC members to a positive resolution in order to move forward and that was a good deal for everyone; it was not just an exercise that would waste time. She had come to the meeting with a good spirit and moved forward the first group of projects and now was asking members to help select a facilitator and go through the collaborative process. She said that the City of Eugene was paying for the process and only asking for mutual participation to try to get to a better place.

Ms. Volta felt that the process should move forward and members could see what the results were. She said it might not make a difference in the final vote but she was impressed by the Institute's credibility and thought the process should proceed.

Ms. Ban said that the decision was a balance between hope and cynicism and suggested the MPC move forward in ambiguity. She said the more involvement that MPC members had the more useful the process would be and even if there was not clear direction at the end there would be that much more information available. She said that Eugene's good faith effort to move MTIP projects forward should be met with a good faith response to support the process.

Ms. Piercy said the recommended next step was for representatives of the MPC member jurisdictions meet to discuss the process and select a facilitator. She hoped that part of the process could be completed within six weeks.

Review of MPC Bylaws

Mr. Vanderpool summarized the quorum and voting requirements in the current bylaws. He said the MPC

functioned in four separate roles with four different sets of rules and those roles were:

- Address Metro Plan issues – voting members: Eugene, Springfield, Lane County (2 each); quorum: not fewer than four members including at least one representative each voting member jurisdiction; voting: simple majority of those present with at least one affirmative vote from each voting member jurisdiction
- Address local, not federal, transportation issues – voting members: Eugene, Springfield, Lane County, Lane Transit District (2 each); quorum: not fewer than five members including at least one representative from each voting member jurisdiction; voting: simple majority of those present with at least one affirmative vote from Eugene, Springfield and Lane County
- MPO federal responsibilities – voting members: (2 each) Eugene, Springfield, Lane County, LTD, 1 each) Coburg, ODOT; quorum: not fewer than five voting members including at least one representative from Eugene, Springfield, Lane County and LTD; voting: simple majority of those present with at least one affirmative vote from Eugene, Springfield and Lane County
- Regional Parks and Open Space – voting members: (2 each) Eugene, Springfield, Lane County, Willamalane Park and Recreation District; quorum: not fewer than five members including at least one representative from each voting member jurisdiction; voting: simple majority of those present with at least one affirmative vote from Eugene, Springfield and Lane County

Mr. Vanderpool referred to Article VI related to bylaws amendments and said the language was ambiguous regarding the quorum and membership requirements for voting on amendments and whether the affirmative veto applied, although he felt the veto provisions did apply. He said that a 30-day advance written notice to MPC members and the governing bodies of member jurisdictions was required prior to any action on the bylaws. He said any objections to the proposed amendments should be forwarded to the MPC. He noted that his memorandum of January 4, 2006, contained in the agenda packet highlighted areas of the bylaws the MPC might wish to review for possible amendment.

Mr. Dwyer asked why the subject of amending the bylaws was being raised; it appeared that the affirmative veto was the issue. He said that when LTD was included as an MPC member it was with the understanding that it would be involved only on mass transportation issues and Willamalane was included with the understanding they would be involved only on regional parks issues. He did not see any reason to change the bylaws or remove the prerogative to disagree. Mr. Vanderpool explained that the issues of the affirmative veto and lack of clarity in the bylaws were raised at the last meeting. He said he was not proposing any changes, merely responding to a request for information.

Mr. Dwyer said the MPC was structured so that each entity had the independence to be able to disagree with something that affected it. He said the question was whether there was a process that allowed members to reach agreement on an issue and did the affirmative veto apply to that process. He said if the affirmative veto applied, then agreement could not be reached and there was nothing wrong with the bylaws.

Mr. Hamm said it was his understanding that federal law related to establishing an MPO required that transit districts be voting members. He asked if the affirmative veto also applied to LTD's votes on transportation issues related to MPO functions as he thought that had been the practice but it was not clear in the bylaws. Mr. Vanderpool replied that federal guidelines for an MPO did require participation by the affected jurisdictions, any transit authorities and the state transportation authority. He was not certain if that was invalidated by a specific voting requirement, but MPOs across the country used a variety mechanisms and federal regulations allowed considerable discretion in defining how the MPO operated. Mr. Cox stated that federal requirements said the transit provider had to be a part of the body but did not

dictate the voting structure.

Mr. Dwyer said the MPC was clear when it included LTD that LTD's opinion was sought on issues of mass transportation but not on issues of regional transportation that did not concern mass transit. He said the understanding was that LTD did not have the ability to exercise an affirmative veto.

Ms. Volta said that she had raised the question of the affirmative veto at the last meeting and while the system worked well enough at some times, Lane County was changing. She was not aware that any other MPO had a similar voting structure and felt there was a need to make changes that would allow the MPC to move forward on issues instead of being gridlocked because of the rules. She asked staff if there were other MPOs with a similar structure. Mr. Vanderpool said that staff had identified a variety of MPO structures but none that were exactly like the MPC's affirmative veto by a subset of the membership.

With regard to regional transportation issues, Ms. Volta remarked that there were emerging cities around the metropolitan area such as Veneta, Cottage Grove, Pleasant Hill and other outlying communities that were affected but had no voice. She urged MPC members to consider whether their decisions would serve future needs well. She did not feel that the affirmative veto was the most effective way to come to consensus and take action on transportation issues.

Mr. Kelly said the bylaws clearly stated that when the MPC was dealing with transportation, not just mass transit, LTD was a voting member and that was appropriate. He did not recall any issue on which LTD had cast a sole veto that negated a vote as that did not appear to be consistent with the bylaws. He said that the bylaws could be amended to clarify who the members were for purposes of amendments.

Ms. Ballew said she found Mr. Vanderpool's presentation very informative in terms of functions, membership and voting and perhaps the bylaws could be amended to present the information in a more readable format. She agreed that there were sections that could be made clearer if the MPC wanted to pursue amendments.

Mr. Dwyer said that any constructive amendments proposed to the bylaws that would allow it to function should not dilute responsibility and authority. He used the example of the United Nations and the veto power of the Security Council. He noted that outlying communities did have a voice through the County and the County's Roads Advisory Committee.

Mr. Kloeppe said that the MPC today appeared to be a very different entity than when it was originally established and MPO responsibilities now tended to dominate its time and attention. He said the MPC could consider whether it had reached a point at which MPO activities were such that they deserved an exclusive, dedicated body comprised consistent with state and federal regulations to attend to those MPO responsibilities. He said that was a question that the LCOG board would also need to ask because ultimately the MPO responsibility was borne by the board. He said in addition to MPO duties, the MPC had metropolitan park, recreation and open space issues, metropolitan cable television commission responsibilities and other issues that had been added to the MPC's portfolio over the years and yet, month after month, the MPO tasks tended to dominate.

Mr. Green observed that initially the MPC was the metropolitan dispute resolution body and the lack of resolution on recent MPO issues was frustrating. He discussed the MPC's earlier structure, which was more conducive to collaboration and asked what the intent of introducing the affirmative veto had been.

Mr. Carlson said that the MPC emerged from the Urban Service Policy Committee (USPC) in the mid-

1980s. He said at the time there was a USPC composed of representatives from Eugene, Springfield and Lane County, a Metropolitan Plan Policy Committee (MPPC) composed of elected officials that had responsibility for dispute resolution as defined in the Metro Plan, a Metro Cable Television Commission and a Metropolitan Area Transportation Committee (MATC). He said the MATC had some delegated MPO responsibility from the LCOG board, as did the MPC when it was created. He said dispute resolution was one of several MPC functions and initially there was a shared governance model based on trust and a willingness to work together to resolve difficult and delicate issues, but not enough trust that any two members could overpower the other member. He recollected that Springfield had requested the affirmative veto requirement because it felt like the smallest entity but over his 30 years of observing the MPC the balance of power had shifted among members and on issues. He said that only the three units of general purpose government had been given veto power and that was not extended to members that had been added over the years.

Mr. Kelly commented that the shared governance and dispute resolution model had worked well on some issues in the past and asked if there had been significant dispute resolution issues in recent years that were not brought to the MPC because there was not sufficient time on the agenda to address them.

Mr. Green said that might have occurred because of the amount of time the MPC spent on MPO transportation issues.

Mr. Kelly suggested that the MPC could consider any additional significant issue by sometimes having a three-hour meeting.

Mr. Papé remarked that he did not see how the MPC could function as a dispute resolution body when one or more member jurisdictions made a decision about an issue prior to the meeting and its representatives were unable to change that position.

Mr. Kelly commented that Mr. Papé had misunderstood the dispute resolution function. He said the MPC served as the forum for a discussion across jurisdictions about ways to resolve an impasse and members then took that information back to their respective governing bodies to see if votes might be changed.

Mr. Papé said that his experience with other MPOs was that none of their members came to the table with a fixed position from their governing bodies.

Ms. Volta said she did not expect any changes to the MPC's structure as Eugene, Springfield and Lane County did not perceive there to be a problem. She compared the MPC to a family system, which was not a democracy as the adults might solicit opinions but not respond to them. As one of the "kids" who was happy to be at the table, she asked whether the structure would still work well for the future or should it receive an impartial review.

Mr. Dwyer said he did not see the MPC's structure as being able to mediate a position when one of the affected members was adamantly opposed and fortunately there had been very few disputes over the years that the MPC had not been able to resolve while still recognizing the independence of members. He was not opposed to looking at other structures but the reality was that one member was unlikely to agree to something being imposed in it that it did not want. He referred to the union practice of voting membership instead of allowing each person at the table an equal vote.

Mr. Dwyer departed the meeting at 12:45 p.m.

Mr. Green determined that there was no interest at the present in changing the bylaws beyond possibly reformatting to make them more readable.

Ms. Ban suggested that Mr. Vanderpool's document, which laid out the membership, quorum and voting structure for each function, could be attached to the bylaws as an explanatory appendix. Mr. Vanderpool said that a document could be appended to the bylaws as informative material without being binding or opening the bylaws for amendment.

Status of Transportation Planning Rule (TPR) Update

Mr. Schwetz reported that the Land Conservation and Development Commission (LCDC) was engaged in considering amendments to the TPR and held a public hearing on December 1, 2005, at which staff provided testimony on the subject of clarifying coordination between state and federal transportation planning processes. He said that the amendments would be helpful in clarifying the relationship between state and federal requirements. He said that LCDC was scheduled to take action on February 1, 2006, and another public hearing would be held at that meeting.

Oregon Department of Transportation (ODOT) Update

Ms. Lee distributed copies of *Oregon's STIP: A Citizen's Guide*. She said it was a primer on the State Transportation Improvement Program process and made it much more understandable to the general public. She said that additional copies were available through ODOT. She announced that the OTC would meet in the Springfield area on March 14-15, 2006, and MPC members would be receiving an invitation to a dinner on the evening of March 14.

Mr. Scheick announced that a ConnectOregon website had been created and encouraged members to visit it. He distributed the page related to application requirements and pointed out that applications were due to ODOT by February 17, 2006. He said that application materials were on the website. He emphasized that the OTC would select projects at its July 2006 meeting and was interested in projects that would enter the construction phase by the start of the next legislative session in 2007. He reviewed the timeline and structure for application review.

Mr. Schwetz cautioned MPC jurisdictions that were submitting an application to carefully review the project criteria.

Continuing, Mr. Scheick said that awards would be in the form of grants and loans and for grants there was a match requirement.

Ms. Lee said that an email had been sent out to those planning to submit an application regarding formatting and asked everyone to respond.

Mr. Scheick reported that 2006 would be a record-setting construction season for the State highway system with many bridge projects in Region 2 and numerous construction sites on Interstate 5 and Highway 58. He said that ODOT wanted to make presentations in March or April summarizing the construction projects and congestion mitigation plans.

Mr. Thompson noted that the ODOT update would be a standing item on each agenda.

MTIP Administrative Amendments

Mr. Thompson stated that the 16 MTIP administrative amendments resulted from the MPC's direction to process those projects through June 2006 that required attention. He said the TPC had reviewed and unanimously adopted the amendments.

MPO Calendar

There were no questions or comments.

Ms. Volta and Mr. Papé departed the meeting at 1:05 p.m.

METROPOLITAN CABLE FRANCHISE RENEWAL

Mr. Green relayed a request from Mr. Dwyer to defer action on the franchise renewal item until more information was available.

Mr. Mecham explained that there was a provision in the franchise for a renewal process and Comcast had initiated that process. He said the MPC had authorized staff to engage in further discussion with Comcast and during those discussions the issue was raised of whether the MPC could give a guarantee in the form of a resolution to Comcast that the validity of how the process was initiated would not be debated. He said that was the reason for the resolution before the MPC. He said the agenda packet contained an explanatory memorandum, the resolution and a January 4, 2006, letter from Comcast. He indicated that an additional letter from Comcast was received on January 11 and had been distributed that to MPC members.

Mr. Green determined that staff concurred with Mr. Dwyer's request to defer the item to the next meeting and there were no objections. He asked that the item be addressed at the beginning of the February 2006 agenda.

Mr. Kelly asked for guidance from staff on how, if at all, to take into account as part of the renewal process some of the significant issues that arose during the current franchise. Mr. Mecham said discussions with Comcast had already raised those issues and staff had identified questions related to demonstrating compliance with material provisions of the franchise that would be addressed in the renewal process.

Mr. Green announced that the next meeting was scheduled on February 9, 2006, at the Springfield Library meeting room.

The meeting was adjourned at 1:20 p.m.

(Recorded by Lynn Taylor)