

## MINUTES

Metropolitan Policy Committee  
Springfield City Hall – Library Meeting Room – 225 5<sup>th</sup> Street  
Springfield, Oregon

April 14, 2005  
11:30 a.m.

**PRESENT:** Anne Ballew (Springfield), Chair; Bobby Green (Lane County), Vice Chair; Sid Leiken (City of Springfield), David Kelly, Kitty Piercy (City of Eugene), Judy Volta (City of Coburg), Bill Dwyer (Lane County), Susan Ban, Gerry Gaydos, (Lane Transit District), Tom Boyatt for Robert Pirrie (Oregon Department of Transportation), members; Mike Kelly (City of Springfield), Dennis Taylor (City of Eugene), Bill Van Vactor (Lane County), Jamon Kent (Coburg), Ken Hamm (Lane Transit District), *ex officio* members.

George Kloeppe, Tom Schwetz, Paul Thompson, Petra Schuetz, Ann Mortenson (Lane Council of Governments); Greg Mott, Bill Grile (City of Springfield), Connie Williams (Lane Transit District); Lisa Gardner, Mark Schoening (City of Eugene), Jack Lee (Oregon Department of Transportation).

### 1. WELCOME AND INTRODUCTIONS

Ms. Ballew opened the April 2005 meeting of the Metropolitan Policy Committee (MPC) and welcomed those present. Members of the MPC introduced themselves.

### 2. COMMENTS FROM THE AUDIENCE

**Clint Rahberger**, 5001 Franklin Boulevard, Eugene, Training Coordinator for Operating Engineers Training Programs, urged the committee to amend Resolution 2005-04 to include direction to staff to incorporate provisions for workforce training in the Central Lane Unified Planning Work Program (UPWP). He said that Oregon's workforce was aging and in the next five to ten years perhaps 50 percent of skilled workers could retire and would need to be replaced; including workforce training provisions in planning and policy directives would provide employment opportunities for that training to occur.

**Kevin Matthews**, P. O. Box 1588, Eugene, President of Friends of Eugene, stated that his organization was one of the parties that had announced its intention to file an appeal to the Land Use Board of Appeals (LUBA) of the MPC's December 2005 approval of the Regional Transportation Plan (RTP). He said that significant areas of concern with the RTP included defects in the public involvement process, confusion caused by the overlapping and inconsistent relationship between the RTP and TransPlan, and RTP internal inconsistencies. He welcomed any opportunity to discuss a positive resolution of the current litigation and possibly prevent future litigation on related issues at other levels.

**Mary O'Brien**, 3525 Gilham Road, Eugene, spoke to the MPC's December 9, 2004, meeting during which she and many other citizens testified regarding concerns with the proposed RTP. She said that people's testimony had to be presented in two minutes, which prevented many from explaining the particular transportation issue being raised, and they were told they could submit additional comments in

writing. She said the MPC then proceeded to adopt the RTP and an Air Quality Conformity Determination for the plan without discussion or reading of materials just submitted and that violated federal requirements for explicit consideration and response to public input. She asserted that the committee's violation of those requirements was based on an incorrect claim that the Air Quality Conformity Determination for the RTP would lapse on December 13, 2004, but it would not actually lapse until September 2005 as set forth in a letter from Marianne Dugan. She urged the committee to revisit its approval of the RTP.

**Rob Handy**, 455-½ River Road, commended the public outreach, education, and input efforts in support of TransPlan, which for a long time was the single plan for Eugene and Springfield that satisfied both federal and state requirements. He said that TransPlan was simple and easy to refer to and having one plan offered clarity, accountability and efficiency. He noted that a second plan, the RTP, was adopted in December 2004 and urged the MPC to direct staff to work with the Federal Highway Administration (FHA) and the Department of Land Conservation and Development (DLCD) to determine a way to devise and implement a single plan for the metropolitan area, including Coburg.

**Rob Zako**, 1280-B East 28<sup>th</sup> Avenue, Eugene, representing 1000 Friends of Oregon, said the role of the MPC was to make policy decisions in the best interests of the community, the public, and staff. He noted that the UPWP was on the agenda for adoption and that would satisfy federal requirements. He urged the committee not to do that only to address federal requirements; the purpose of the UPWP was to direct staff activities during the next year and it could be a tool to achieve policy goals in three areas:

- Combine updates of the RTP and TransPlan as there were no technical reasons why the plans could not be combined in a single plan
- Integrate land use and transportation planning
- Surface Transportation Program – Urban (STP-U) funds in the amount of \$3 million could be used flexibly

Ms. Piercy asked if there was an appropriate time on the agenda to discuss the letter from Marianne Dugan. Mr. Kloeppel said the letter could be discussed under agenda item 4.g.1.iii or moved to an earlier point if the committee wished.

Mr. Kelly referred to a March 4, 2005, letter from Jeff Scheick, Oregon Department of Transportation (ODOT) Region 2 Manager and suggested that the item be discussed at some point during the meeting. Mr. Thompson said the letter could be included in the discussion of agenda item 4.a.

Ms. Volta raised a point of order. She said that some members had not seen the letter and asked that copies be provided to all members prior to any discussion.

### **3. APPROVE MARCH 10, 2005, MEETING MINUTES**

Mr. Kelly asked that references to the State Transportation Program – Urban be changed to *Surface* Transportation Program – Urban.

Mr. Kelly, seconded by Ms. Piercy, moved to approve the March 10, 2005, minutes as corrected. The motion passed unanimously.

### **4. METROPOLITAN PLANNING ORGANIZATION (MPO) ISSUES**

**a. OTIA Bridge Bundle Metropolitan Transportation Improvement Program (MTIP) Amendment**

Mr. Thompson explained that the MTIP amendment was requested by ODOT to add a new ODOT bridge “bundle” project using Oregon Transportation Investment Act III (OTIA III) funds and details of the work to be completed were provided in the agenda packet. He pointed out that the project was already fully funded with OTIA III funds and programmed in the Statewide Transportation Improvement Program (STIP) and the MPC action was requested to reflect the project in the MTIP for consistency and that there was no policy or funding decision attached to the action.

Mr. Kelly expressed confusion with ODOT’s request for an MTIP amendment to “...prepare for the flexibility to use federal funds on this and other bridge bundles...” when the project was fully funded with State funds. He asked what the source of the federal funds was and whether the MPC could have a voice in the future about how those federal funds might be used. Mr. Boyatt responded that the “federalizing” of the OTIA III bridge “bundles” inside the MTIP actually reflected the debt service on the bonds that comprised OTIA III that federal modernization dollars might be applied to. He said that in the State’s modernization program part of the OTIA III package was based on the assumption that payback of those bonds would be partially funded out of the State’s modernization program and much of that funding came from the federal gas tax.

Mr. Kelly asked whether the federal modernization funds were at least in part allocated by a process that came from the Metropolitan Planning Organizations (MPOs). Mr. Boyatt replied that the Oregon Transportation Commission (OTC) decided to take the OTIA III funds “off the top” of the federal funds.

Ms. Piercy, seconded by Mr. Dwyer, moved to approve Resolution 2005-02, adopting an amendment to the Central Lane FY2005-2007 Metropolitan Transportation Improvement Program to Add ODOT I-5: OTIA III Bridge Bundle #215. The motion passed unanimously.

**b. Reallocation of Seaside Project Funding – Contingency Planning**

Mr. Thompson related that ODOT had requested the MPC’s consideration of a contingency plan related to timing of federal earmark funding for the Beltline/Interstate 5 (I-5) project. He said that an ODOT project in Seaside might not move forward and a contingency plan for those funds had been put forth by the region and the jurisdictions within the region to recommend alternate use of those funds, including directing some funds to the Beltline/I-5 project.

Mr. Green referred to a pending vote in Seaside in May 2005 and indicated that if the vote was negative Seaside could lose all of the funding associated with the ODOT project. He said the contingency plan was a strategy to keep the funds within the region and the Beltline/I-5 project, which was high priority, was identified as the Eugene-Springfield area project to be funded. He commented that it was prudent to have a plan for the OTC to consider.

Mr. Dwyer, seconded by Mr. Green, moved to endorse the ODOT Seaside project funding reallocation recommendation.

Mr. Leiken said that although the funds could be allocated to the Beltline/I-5 project he would continue to

strongly support the current \$20 million federal earmark.

Mr. Green agreed with Mr. Leiken's comments and noted that the funds would not replace the federal earmark. He asked to have a brief explanation from Mr. Scheick about future STIP funding following the vote on the motion.

Mr. Kelly asked about the source of the \$12.2 million in non-OTIA STIP funds that could become available from the Seaside project. Mr. Thompson replied that ODOT had indicated the funds were from the STIP modernization pool of funds.

The motion passed unanimously.

Mr. Scheick related that he had been working with Region 2 Area Commissions on Transportation (ACT) chairs, vice chairs, and Lane County Commissioners on improvements to the region's all-area process to finalize modernization recommendations to submit to the OTC. He said the intent was to apply the process to the FY 2008-2011 STIP effort that would begin during the summer of 2005. He said that eligibility criteria and prioritization factors from the OTC would provide the baseline and the MPC could apply any additional prioritization factors across projects. He said the goal was clarity of priorities. He said that ODOT was committed to working with the MPC to scope projects earlier in the process to provide greater assurances about the costs and schedules of projects. He said that priorities for modernization from all four areas within the region would be compiled and a draft recommendation based on funding availability would be sent to each area for comment. He said a meeting would be held with chairs, vice chairs and Commissioners to consider comments and develop a final region recommendation. He noted that the prioritization work would commence prior to formal adoption by OTC of prioritization factors and the draft factors from the last cycle would be used. He hoped that the OTC would move forward its timeline for approval of the factors to avoid any complications later in the process.

Mr. Green commented that decisions had often been made quickly in the past because of the timeline and the new process would begin earlier and have more clarity about projects.

Mr. Kelly raised the issue of the potential for a full interchange with Franklin Boulevard as part of the I-5 bridge replacement project. He said the project's scoping would only address construction of a new bridge that would not prohibit construction of ramps or an interchange, but would not include scoping of an interchange. Mr. Scheick said that there had been an ongoing dialogue with City of Springfield leadership about how to move forward with the bridge replacement and interchange project. He distributed copies of his April 13, 2005, letter to Mike Kelly.

Ms. Ballew commented that her understanding was that ODOT was responsible for the bridge replacement but the ramps and environmental studies were the responsibility of the local jurisdictions. Mr. Scheick explained that ODOT was required to complete the bridge construction by 2012 and in order to meet that timeline the environmental process for the design and construction of the permanent bridge would need to begin now. He said that ODOT supported an interchange concept and his letter of April 13, 2005, set forth ODOT's commitment of \$500,000 for system planning work to examine the feasibility of an interchange, gauge local support and explore options with the goal of ultimately including the interchange in local system plans. He said that ODOT was committing \$2.75 million for a National Environmental Policy Act (NEPA) process for a full interchange and that process would likely not be aligned with the bridge replacement process. He noted that funding was also an issue as OTIA III bridge funds could not be used for an interchange. He said the permanent bridge location and design would allow for the inclusion of ramps.

Mr. Leiken thanked ODOT for clarifying that the interchange would be a separate process and not be part of the bridge environmental impact statement (EIS) process. He urged ODOT and the OTC to continue to maintain open communications with local jurisdictions as the bridge project went forward.

Ms. Piercy thanked Mr. Scheick and Mr. Leiken for clarifying the interchange issue.

Mr. Kelly echoed Ms. Piercy's thanks to those involved in clarifying the matter.

Mr. Green thanked ODOT for its commitment of funding for the interchange EIS and noted that if the project was to begin in the next few years it would be necessary for local jurisdictions to begin to examine transportation plans and land use policies and possibly make some difficult decisions.

Mr. Boyatt commented that ODOT was committed to working with local jurisdictions in a collaborative effort to move the project forward.

### **c. MPO Consortium Bylaws and Representatives**

Mr. Schwetz reviewed a legislative version of the draft bylaws containing revisions agreed to by the Oregon MPO Consortium at its March 3, 2005, meeting. He asked the MPC to review the bylaws, indicate support for adoption by the consortium at its early May 2005 meeting, and appoint two local representatives and two alternates to the consortium. He emphasized that attendance at consortium meetings was not limited to the designated representatives.

Mr. Green asked for clarification of Article III, Section 2.c. relating to periodically adopting positions on common policy, regulatory, or funding issues, which he felt assumed that the Central Lane MPO would be aligned with the interests of other MPOs. He noted that Central Lane, while a member of the consortium, was not part of an ACT and might have a different legislative position that required autonomy. Mr. Schwetz said the consortium recognized that members would not always agree on an issue and would not be expected to take a position in that instance. Mr. Thompson commented that the legislative priorities presented by the consortium consisted of six individual resolutions that allowed for a variety of positions within the body.

Mr. Kelly said that the MPO summits provided an opportunity for a good exchange of ideas but he was concerned about formalizing a body that would take a majority vote and based on that vote present a position that represented the MPOs of the state. He was not comfortable with the bylaws revisions that allowed consortium representatives to be elected or appointed officials.

Mr. Dwyer echoed the concerns stated by Mr. Green and Mr. Kelly regarding positions established by majority vote. He was opposed to allowing appointed officials to be representatives to the consortium.

Ms. Volta suggested that the concerns raised by Mr. Green regarding Article III, Section 2.c. could be addressed by changing the word "adopt" to "review" to promote a dialogue instead of adopting a position.

Ms. Ban reminded the MPC of the bigger picture that the consortium was formed to promote recognition that there were major metropolitan issues all along the I-5 corridor and not just in Portland and a joint voice was needed to draw attention to those issues. She said the culture of the three MPO summits to date had not been coercive; rather, discussions focused on shared issues, legislative funding and a fair share of

investments in metropolitan areas.

Mr. Kelly did not object to the model that submitted legislative priorities as six resolutions under a common cover letter, but he was opposed to the model of a consortium voting on adopted positions.

Ms. Piercy encouraged a model that would speak with a common voice only when there was unanimous support of a position by all members and otherwise would present the positions of individual members. She said those operating principles should be in writing.

Mr. Van Vactor asked if MPO staff would be able to absorb the additional workload associated with consortium activities. Mr. Schwetz replied that staff did not anticipate any significant additional workload. He said that other MPOs had also expressed concern about being locked into a position and he would take back to the consortium any recommendations for changes that would address that concern. He encouraged the appointment of consortium representatives who could also share the concern at the next consortium meeting.

Mr. Green concurred with Ms. Volta's suggested to change the wording from "periodically adopt" to "periodically review" that would then require adoption by the individual members. He also agreed with Ms. Ban's comments regarding the bigger picture.

Ms. Piercy cautioned that using the word "review" should not prevent adoption of a position if all members were in agreement.

Mr. Leiken suggested the following language: "Periodically seek OMPOC consensus positions."

Ms. Ballew suggested that the MPC's consortium representatives could be its chair and vice chair, with alternates rotating through the rest of the members.

Mr. Dwyer, seconded by Mr. Green, moved to appoint the MPC chair and vice chair as representatives to the Oregon MPO Consortium, with an MPC member from Coburg and an MPC member from Eugene serving as alternates; with alternates to rotate as the positions of chair and vice chair rotated to assure all jurisdictions were represented. The motion passed unanimously.

Mr. Kelly noted that the motion did not reflect endorsement of the draft consortium bylaws.

#### **d. Programming STP-U Funds and MTIP Amendments: FY06 Planning and Project Development**

Mr. Thompson explained that approval of Resolution 2005-03 would adopt MTIP amendments that would program STP-U funds for planning and project development work in FY06. He said the action would address the gap in the action to program STP-U funds in October 2003. He referred to the table entitled *STP-U Fund Analysis* that illustrated the difference between the initial estimate in 2003 of \$2.7 million in STP-U funds available in FY06 and the more recent estimate of \$3.5 million. He said that difference allowed for programming the 20 percent funding target for planning and project development the MPC adopted in October 2003. He said the recommendation was to program 98 percent of that amount, or \$686,000. He distributed a letter from Eugene City Engineer Mark Schoening that spoke to a discussion at the March 31, 2005, Transportation Planning Committee (TPC) on the topic. He said the City of Eugene

staff moved to recommend to the MPC that all available un-programmed STP-U funds be allocated to the preservation category in accordance with the direction of the Eugene City Council. He stated that the motion failed for lack of support and the TPC then considered and unanimously supported the recommendation before the MPC for allocation of the funds to planning and project development.

Mr. Taylor emphasized that the City of Eugene would prefer to have system modernization and preservation funds lumped together in one category with a 70 percent funding target to provide greater flexibility with regard to the priorities of the jurisdictions. Mr. Thompson pointed out that the table indicated there were almost \$2 million more in STP-U funds currently available over the FY 04-06 period than anticipated in 2003 and, while the recommendation before the MPC was to program \$686,000 to the category of planning and project development that was unfunded in FY06, the TPC would return with a recommendation for the remaining \$1.3 million and those could be targeted toward preservation and modernization.

Ms. Ballew acknowledged Eugene's interest in preservation but that was not necessarily the highest priority in other jurisdictions. She agreed with the staff's recommendation to fund planning activities and suggested that jurisdictions could compete for remaining available resources.

Mr. Kelly stressed that Eugene's adopted council priority was to put flexible dollars like STP-U towards preservation until the preservation backlog was eliminated. He expected to advocate for that position when allocation of the remaining \$1.3 million was discussed and when the MPC established categories for the following three fiscal years. He asked why the allocation of planning dollars to the jurisdictions had remained at the same level as previous years while the Lane Council of Governments (LCOG) allocation had increased by 20 percent. Mr. Thompson said that the work program to be discussed next on the agenda established the work proposed to be undertaken for that level of funding. He said there were activities in the next fiscal year that were new or recently started, such as support for the Citizen Advisory Committee. Mr. Schwetz commented that the planning funds were relatively new, having been available only since FY04, and jurisdictions were still adjusting to how to use them; most jurisdictions had carried over as unspent most of the funds they had been allocated so they did not require additional increases at this time.

Mr. Dwyer suggested combining system preservation and system modernization into one category to include roadway, transit, and bike/pedestrian with a 70 percent funding target. Mr. Thompson remarked that with regard to the \$1.3 million or the following three years of allocations, the federal requirement for programming STP-U funds was that they be programmed by the MPO to projects; funds could not be programmed to a jurisdiction to be used for whatever it wanted.

Mr. Taylor said the point was that for the area it would be the best projects with the highest priorities and not limited by available funds in a particular category.

Mr. Schwetz said that staff could develop a proposal based on Mr. Dwyer's suggestion for consideration at the MPC's May 2005 meeting. The committee agreed to conduct a work session at its next meeting to discuss the proposal and consequences of making such a change.

Ms. Piercy, seconded by Mr. Dwyer, moved to approve Resolution 2005-03 amending the Central Lane Metropolitan Planning Organization FY2005-2007 Metropolitan Transportation Improvement Program. The motion passed unanimously.

**e. Adopt FY06 Unified Planning Work Program (UPWP)**

Mr. Schwetz described the purpose of the UPWP and the review by the Citizen Advisory Committee (CAC). He said the UPWP was required by the Federal Highway Administration and Federal Transit Administration as part of the MPO process to communicate to those federal agencies about how the MPO would operate in compliance with federal requirements and, while it reflected policies and requirements in the operating environment, it did not establish policy. He described the UPWP as an operational plan that identified the process and products associated with MPO activities. He pointed out the list of regional planning activities anticipated during the life of the program and asked if there were any other issues the MPC wanted to see addressed or whether activities should be prioritized. He said the UPWP could be amended to provide greater detail and related a comment from the CAC's review requesting more information about the public involvement process.

Mr. Thompson pointed out that a summary of CAC comments was included in the agenda packet and he also had available documents from Rob Zako and Jan Spencer and staff responses. He said he would provide those documents via email to interested members.

Mr. Green, who participated in the CAC meeting, related that CAC members felt pressured by the short timeline for a UPWP review and did not feel they could fully respond. He said the CAC had indicated that receiving documents in a timelier manner would allow for a quality analysis and review. He said the CAC was a studious group that asked pertinent questions but if the MPC wanted to derive the most benefit from the CAC it should be very specific in terms of direction and expectations.

Mr. Thompson agreed with Mr. Green's comments and added that during the CAC meeting he pointed out that the UPWP reflected many other MPO documents, decisions and processes and the CAC asked to review those documents during the next year to better understand the UPWP when it was again before the committee for review.

Mr. Green urged the MPC to be flexible in working with the CAC and timelines for submission of agenda materials during the next year.

Mr. Kelly, seconded by Ms. Piercy, moved to approve Resolution 2005-04 adopting the FY06 Unified Planning Work Program.

Mr. Kelly remarked on the scarcity of resources in terms of funding, staff and time and urged that the Regional Transportation Plan (RTP) and Transportation System Plan (TSP) be combined instead of remaining two separate plans with separate processes.

Mr. Kelly, seconded by Ms. Piercy, moved to amend the Unified Planning Work Program to merge the individual work plan items of revising the Regional Transportation Plan and the Transportation System Plan into a single work plan item that would result in a single document satisfying both Regional Transportation Plan and Transportation System Plan requirements.

Ms. Ballew expressed reservations about combining the work plan items without more information on whether it was feasible.

Mr. Schwetz said it was not clear whether DLCD or FHWA would agree to a single plan. He explained that in other MPOs the cities and counties did separate TSPs to satisfy state requirements and the MPO did the RTP to satisfy federal requirements. He said the Central Lane MPO had one plan until December 2004 because the Metro Partners had one plan and a common process for updating it and the MPO synchronized with that process. He said that the addition of Coburg to the MPO plan meant that the MPO plan no longer aligned physically with the Metro Partners' plan. He agreed that the MPC should explore ways to resolve that issue and proposed that staff provide a full analysis of the issues and include representatives of the cognizant state and federal agencies in the discussion of possibilities.

Mr. Kelly agreed to revise his amendment to state that the work plan item was to pursue a single RTP/TSP document as a single work plan item. He asked staff to provide him with a copy of the email from the FHWA that addressed the agreement to update the RTP to 2030.

There was a general discussion of the issues involved in attempting to merge plans, including differences between the state and federal adoption procedures, time horizon, geography and decision-making process.

Mr. Kelly restated his motion: Amend the Unified Planning Work Program to include a work plan item to pursue a single work plan item that results in a single document that revises both the Regional Transportation Plan and the Transportation System Plan. Ms. Piercy agreed to the revised motion. The motion to amend the UPWP as restated passed unanimously.

The main motion to adopt the UPWP as amended passed unanimously.

Mr. Leiken and Mr. Dwyer left the meeting at 1:20 p.m.

#### **f. Congestion Mitigation Program**

Ms. Williams said the regional Commuter Solutions program, which was designed to reduce reliance on single-occupant vehicles, was expanding rapidly with the addition of the Smart Ways to School and Congestion Mitigation programs. She used a slide presentation to illustrate how the Congestion Mitigation program was used to guide community education and promotion of travel options during and after major regional infrastructure projects.

#### **g. Follow-up and MPO Calendar**

##### **i. Land Use Board of Appeals (LUBA) Notice of Intent to Appeal MPC Adoption of 2025 RTP**

Mr. Thompson clarified that an appeal had not yet been filed although there had been a notice of intent to appeal. He said that LCOG had filed the record, responded to objections to the record and added one document to the record. He said that LUBA was currently considering the plaintiff's objections to the record and once that ruling was made an appeal would have to be filed within a specific timeframe. He indicated that until an actual appeal was filed the basis of the appeal and its merits could not be determined. He said that a recent letter to the U.S. Department of Transportation from Marianne Dugan would be distributed once there was a response from the Department, which he expected to occur during the next week.

Ms. Piercy suggested that a discussion with individuals from both sides of the issue could resolve concerns and avoid litigation. She asked if MPC members were interested in having such a conversation.

Mr. Green said it might be better to wait for the U.S. Department of Transportation's response.

Mr. Kelly did not think that lack of a response or details of the legal grounds for the appeal should prevent action. He saw advantages to requesting staff to meet with the appellants for a preliminary discussion.

Mr. Kloeppe said that LCOG staff was not reticent to have discussions with the intent of pursuing solutions with the appellants, but until directed otherwise was bound to follow the process and defend the actions of the MPC. He noted that an appeal had not yet been filed and it could be premature for the MPC to direct staff to pursue a negotiated settlement before an appeal was on the table.

In response to a question from Mr. Kelly, Mr. Kloeppe said it was his understanding there were two respondents to the petitioners notice of intent to appeal: Lane Council of Governments and the Metropolitan Policy Committee. He said that any action relating to the appeal would have to be agreed upon by both respondents.

Ms. Ban observed that there seemed to be an assumption that the point of having a conversation would be to change a direction that the MPC, as multiple jurisdictions, had adopted as policy and that could not occur without the jurisdictions agreeing. She said that Ms. Piercy's suggestion related more to a conversation that could clarify the issues and improve communication regarding policies.

Ms. Piercy agreed with Ms. Ban's clarification.

Ms. Volta remarked that she was not opposed to a conversation but was concerned that sometimes it could hurt a legal process that might or might not be forthcoming. She said the MPC was awaiting information from federal authorities and instigating a conversation before that was received could have negative consequences.

Ms. Ballew agreed with Ms. Volta's remarks and was not willing to make any agreements or concessions until more information was available.

Mr. Green asked if the MPC, as one of the respondents, could obtain legal advice from LCOG's attorney at its next meeting and whether that discussion could occur in an executive session.

Mr. Van Vactor pointed out that the matter was complicated by lack of information about the basis for the appeal.

Mr. Kloeppe stated that more information with respect to the federal response and possibly details of the nature of the appeal would be available by the May 2005 MPC meeting and a conversation with legal counsel could be very constructive.

Ms. Ballew adjourned the meeting at 1:45 p.m.

(Recorded by Lynn Taylor)

