

W. G. B.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

RESOLUTION AND ORDER NO. 06-4-5-___) In the Matter of Providing Continuing Comment on the Eugene Parks, Recreation and Open Space ("PROS") Comprehensive Plan and the Proposed PROS Project and Priority Plan.

WHEREAS late in 2005 the Board of County Commissioners reviewed the Eugene Parks, Recreation and Open Space ("PROS") Comprehensive Plan proposed for adoption as a refinement to the Eugene-Springfield Metropolitan Area General Plan ("Metro Plan") and provide comment to the Eugene City Council in the form of a letter attached as Exhibit "A" to this Resolution and Order and incorporated here by this reference; and

WHEREAS, February 13, 2006, the Eugene City Council took action to adopt the PROS Comprehensive Plan by Resolution No. 4858 with a planning area that extends beyond the city limits to include all areas within the urban growth boundary and lands beyond that boundary and outside of the Metro Plan; and

WHEREAS, the Lane County Board of Commissioners does not recognize that plan as part of its planning effort and takes notice of the Eugene City Council expression of intent that the PROS Comprehensive Plan will not be a refinement to the Metro Plan and adoption does not amount to the exercise of any governmental authority or have any legal or regulatory effect on lands located outside of the city limits; and

WHEREAS, without regard to the expressed lack of authority to encumber land outside of its jurisdictional planning authority and based on the PROS Comprehensive Plan, the City of Eugene now proposes to adopt the PROS Project and Priority Plan with a planning area and listed projects extending outside of the city limits to lands within the unincorporated areas of the urban growth boundary and beyond; and

WHEREAS, it is in the mutual interest of Lane County, the City of Eugene and all affected agencies to actively seek participation and coordination of regional and metropolitan area planning efforts before taking action that could lead to specific project implementation outside of the city limits, now therefore, it is hereby

RESOLVED AND ORDERED, that the Board of County Commissioners considers adoption of the PROS Project and Priority Plan premature without significant, active involvement of agencies with jurisdictional authority over the areas covered by the plan to allow for meaningful development of the projects before final action is taken to authorize any implementation of those park plans through the means and methods described in the PROS Comprehensive Plan.

Adopted this 5th day of April, 2006.

Bill Dwyer, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM
Date 3-28-2006 Lane County

Stephen J. Clarke
OFFICE OF LEGAL COUNSEL



Lane County Board of Commissioners

Bill Dwyer
Bobby Green, Sr.
Faye Hills Stewart
Anna Morrison
Peter Sorenson

December 8, 2005

WP bc/am/05074/M

Honorable Kitty Piercy
Mayor of Eugene
Eugene City Council
777 Pearl Street
Eugene, OR 97401

Re: *Metro Plan* and Eugene PROS Comprehensive Plan
Council Bill # 4194

Dear Mayor Piercy and Members of the Eugene City Council:

As a partner in the Eugene-Springfield Metropolitan Area General Plan ("*Metro Plan*"), Lane County wishes to comment on the proposed adoption of the Eugene Parks, Recreation and Open Space ("*PROS*") Comprehensive Plan as a refinement to the *Metro Plan*. Planning for parks in the Eugene-Springfield metropolitan area can lead to significant land use decisions. Since your process does not include co-adoption by the Lane County Board of County Commissioners, we think it appropriate to enter an appearance to express our position and confirm that the Eugene PROS Comprehensive Plan will not constitute a refinement plan to the *Metro Plan* for any area outside of the city. For the record, we want to make it very clear that the Eugene PROS Comprehensive Plan will only have legal and regulatory effect inside the Eugene city limits.

We understand the City of Eugene is in the process of adopting a refinement plan to the *Metro Plan*. The proposed refinement plan is an updated comprehensive plan for Eugene Parks, Recreation and Open Space and would replace the 1989 Eugene Parks and Recreation Plan. When adopted by the City Council, the resolution and the 1989 plan itself carefully described the authority and effect of the action. The 1989 plan stated: "Because Eugene does not have authority outside the city limits, carrying out some of the policies and proposed actions in this plan will depend on the cooperation of agencies responsible for park and recreation activities in those areas." Eugene Parks and Recreation Plan, Introduction, page 5. The Board did not co-adopt the 1989 plan. The current version of the Eugene land use regulations adopted by the Board and made applicable to the urbanizable area west of I-5, however, contain the plan policies from and a reference to the 1989 Parks and Recreation Plan. The described planning area of the 1989 plan in those land use regulations appears to be the urban growth boundary. Until amended by this Board, those land use

Honorable Kitty Piercy and Councilors
December 8, 2005
Page 2

regulations will continue to contain the references to and policies of the 1989 Eugene Parks and Recreation Plan.

In other actions taken since 1989, the Lane County Board of Commissioners adopted the *Howard Buford Recreation Area Master Plan* as a refinement to the *Metro Plan* in 1994. In 2004, the Lane County Board of Commissioners adopted the *Willamalane Park and Recreation Comprehensive Plan* as a refinement plan to the *Metro Plan* for application outside the Springfield City Limits and within the *Metro Plan* Boundary.

The current City of Eugene adoption process for the PROS Comprehensive Plan as a refinement plan to the *Metro Plan* does not include co-adoption by the Lane County Board of County Commissioners. The most recent text of the proposed plan available on the city website includes the following statement:

“Adoption of the PROS Comprehensive Plan does not amount to the City exercising any governmental authority outside of the UGB or outside of the City’s limits. The PROS Comprehensive Plan does not have any legal effect on land located outside City limits. It is a strategy/planning document that is intended as a guide for the City as it moves forward to meet the recreational and park needs of the City’s residents. Staff will rely on voluntary participation of property owners when acquiring land or purchasing conservation easements. A key objective of the plan is to devise strategies that will not infringe upon the rights of property owners and will stress voluntary participation. Most park and open space protection programs rely on responsible negotiations with willing sellers based on appraisals of fair market value to benefit the public’s and owners’ interests. This does not preclude the City Council from exercising its condemnation powers within the city limits.”
PROS Comprehensive Plan, Chapter 1, pages 2-3.

It would appear the PROS Comprehensive Plan is intended to only affect lands within the city limits. On its face, the plan seems to have very little land use planning functionality and findings included with the proposed ordinance before the Council indicate a number of changes were made to the plan in response to concerns raised by the Commissioners at the September 27, 2005 meeting when the plan was presented to the Board. Without more, it would appear adoption of the PROS Comprehensive Plan will not alter the current regulatory field applicable to any parks related activities taking place outside the Eugene city limits. It is difficult to conclude that with any certainty, however, since there are widely varying situations that might lead to city reliance on or utilization of the plan. Without researching specific land use actions that might be necessary or desirable to implement the plan, it is difficult to conclude with certainty that the plan actually will have no legal effect on land outside of the city limits.

The *Metro Plan* review, amendment and refinement procedures are laid out in Chapter IV of the *Metro Plan* and Lane Code Chapter 12. Because the Eugene PROS Comprehensive Plan extends

Honorable Kitty Piercy and Councilors

December 8, 2005

Page 3

beyond the Eugene city limits to include all areas within the Eugene Urban Growth Boundary ("UGB") and extends beyond the UGB, it would require co-adoption by the Lane County Board of County Commissioners for the that plan to have any legal or regulatory effect as a refinement plan to the *Metro Plan* outside the Eugene city limits. It does not appear to amend the *Metro Plan* itself, although the inclusion of areas outside city limits and the UGB creates the impression the plan is intended to guide activities in the entire planning area. In fact, it expressly addresses park facility and program needs within and beyond the urban growth boundary and city staff will be called upon to implement the plan vision and strategies.

Sincerely yours,



Anna Morrison,

Chair, Lane County Board of Commissioners

cc: Dennis Taylor, Eugene City Administrator
Susan Muir, Eugene Planning & Development Director
Lane County Planning Commissioners
Lane County Hearings Officials
Kent Howe, Land County Planning Director