

W. 17.b.

TO: Board of Commissioners

FROM: Craig Starr, Interim Manager
Land Management Division

SUBJECT: ORS 190 Agreements

DATE: August 20, 2007

At a recent meeting, you had a discussion where it was proposed that the County initiate termination of the ORS 190 Urban Transition Agreements transferring planning and building responsibilities from Lane County to the two cities in the area between the city limits of Eugene and Springfield and the UGB. These agreements were made a little over 20 years ago as part of a broader process for the transitioning of services within the Eugene-Springfield Metro Plan area. They were based on the policy foundation and the fundamental principles in the Metro Plan that the cities were the logical providers of urban services. I have attached a copy of the ORS 190 Agreement with Springfield and there is a very similar agreement in place with Eugene.

The concern that apparently caused your discussion to be initiated, collection of Parks SDC's, wasn't even a consideration when the agreements were made. However, as indicated by Commissioner Dwyer, these agreements can be terminated unilaterally by one party giving the other party 12 months advance written notice. As an example, I have attached a draft of a letter form that could be used to provide written notice to Springfield of the County's intent to terminate the ORS 190 Agreements for planning and building services. A very similar letter could be drafted to provide the same notice to Eugene if that is the direction from the Board.

Eugene, Springfield and Lane County are interconnected by geographic, social, economic and political ties through a 50-year evolution of land use planning and policy development. The major current challenge is planning for future generations in a meaningful way and providing for stable governmental services in the aftermath of Measures 5, 47 and 50. In the County's case, there is also the uncertainty whether the Secure Rural Schools Act will be extended and, if so, at what level.

While the matter of collecting the Parks SDC's is obviously significant to our Parks Division, it is not in the same policy category as the many issues that are involved in the ORS 190 Agreements. These agreements go to the basic policy questions that are important to the Eugene-Springfield metropolitan area, including:

1. What is urban and what is rural?
2. Where is urban and rural growth going to occur?

3. Who is going to control (manage) urban growth?
4. What are urban level services?
5. Who is going to provide urban level services?
6. How does the community function as a region?
7. When the region has completed the state-driven Periodic Review, what local planning efforts and improvements should the region undertake?
8. How are government services going to be funded?

I have attached a list of metro planning issues needing consideration by Eugene, Springfield and Lane County that I believe was presented to the Board in 2005. In particular, issues 1, 4 and 7 from that list all revolve around the matter of responsibility for urban service provision. These matters all need broad, regional policy discussion and consideration. While I understand that there may be frustrations around the current status of metro-area planning, it seems likely that a unilateral proposal to terminate the ORS 190 Urban Transition Agreements for planning and building will complicate matters, harden positions, and just generally make it more difficult to have a cooperative and considered discussion around the major policy issues.

In addition, it should be considered that the various urban transition agreements, taken as a whole, were likely a matter of give and take between the parties. That is, an agreement on one transition topic might be to the benefit of one party over another, but that may have been offset by another agreement with the opposite effect regarding a different transition topic. Consideration should be given to the impacts on County government if a unilateral proposal to terminate the ORS 190 Urban Transition Agreements for planning and building should cause tit-for-tat proposals for termination of other, similar agreements.

- att. (1) ORS 190 Agreement with Springfield
(2) Draft List of Metro Issues in Need of Examination (August 2, 2005)
(3) Draft Termination Letter to Springfield

cc: Bill VanVactor, County Administrator
Teresa Wilson, County Counsel
Ollie Snowden, PW Director

AGREEMENT REGARDING THE TRANSFER OF BUILDING AND
RESPONSIBILITIES WITHIN THE URBANIZABLE PORTION (CITY)
SPRINGFIELD URBAN GROWTH BOUNDARY

ORD. NO. 16-86

EXHIBIT 'C'

THIS AGREEMENT is entered into pursuant to the authority granted in Chapter 190 of Oregon Revised Statutes and in accord with the policy guidance provided by the Eugene-Springfield Metropolitan Area General Plan, by and between the CITY OF SPRINGFIELD, a local municipality of the State of Oregon, hereinafter called the "City," and the COUNTY OF LANE, a political subdivision of the State of Oregon, hereinafter called the "County," as the parties hereto to provide for the transition of responsibility for certain services from the County to the City.

RECITALS

WHEREAS, the City and the County are subject to the policy mandates of the Eugene-Springfield Metropolitan Area General Plan, hereinafter referred to as the "Metro Plan;" and

WHEREAS, this Agreement is intended to implement the policy mandates of the Metro Plan; and

WHEREAS, the City and the County have adopted policy resolutions which call for the transition of urban services in the urbanizable area from the County to the City; and

WHEREAS, the intergovernmental Urban Services Policy Committee has approved a concept paper outlining the conditions of the transfer of building and land use responsibilities; and

WHEREAS, the following Metro Plan "Growth Management and Urban Service Area" policies support the administration of City authority within the urbanizable portion of the Springfield Urban Growth Boundary:

1. Policy #2, page II-B-3, requires that the location, timing and financing of major public investments that directly influence the growth form of the metropolitan area be planned and coordinated on a metropolitanwide basis.
2. Policy #7, page II-B-4 provides that land within the projected urban service area may be converted from urbanizable to urban only through annexation to a city.
3. Policy #12, page II-B-5, requires that any development taking place within an urbanizable area shall be designed to the development standards of the city which would be responsible for eventually providing a minimum level of key urban services to the area. This policy further provides that with the exception of areas designated "special light industrial" the minimum lot size within the urbanizable area shall be 10 acres.
4. Policy #13, page II-B-5, requires that the creation of lots of under five acres in size in the urbanizable area shall require a city-county Agreement. This Agreement shall be subject to certain ownership, locational and size standards imposed by this policy.
5. Policy #14, page II-B-6, provides that Lane County shall review the siting of all residences on urbanizable lots served by on-site sewage disposal systems.

6. Policy #15, page II-B-6, provides that Lane County shall have the responsibility of approving on-site sewage disposal systems for urbanizable area uses; and

WHEREAS, the City and the County wish to implement the "Growth Management and Urban Service Area" policy considerations of the Metro Plan by transferring building regulation and land use responsibilities for the urbanizable portion of the Springfield Urban Growth Boundary from the County to the City; and

WHEREAS, ORS 190.003 et seq provides for intergovernmental agreements between units of local government, including the City and the County, to allow the performance of functions or activities of one unit of local government for another; and

WHEREAS, ORS 190.003 et seq requires that an intergovernmental agreement contemplating the performance of functions or activities by one unit of local government for another shall specify the responsibilities between the parties;

NOW, THEREFORE, PURSUANT TO THE PROVISIONS OF ORS 190.003 et seq, THE CITY AND COUNTY AGREE AS FOLLOWS:

AGREEMENTS

ARTICLE I: PURPOSE

- A. To enable the City to provide municipal services where it is logical and efficient to do so, and to enable the County to reduce the provision of these services in order to enhance the provision of County-wide non-municipal services.
- B. To provide for the orderly transition of municipal services delivery from County to City.
- C. To enable the City and the County to better implement the goals and policies of the "Growth Management and Urban Service Area" section of the Metro Plan.
- D. To provide for the transfer of certain land use and building regulation responsibilities from the County to the City for the urbanizable portion of the Springfield Urban Growth Boundary.
- E. To avoid the duplication of governmental effort and public confusion concerning land development processes and standards.

ARTICLE II: DEFINITIONS

- A. Building Regulations: For the purposes of this Agreement, building regulations shall be the City's currently adopted version of the State Building Specialty Codes and applicable Oregon Administrative Rules. These regulations shall include, but shall not be limited too, the following:
1. Structural Specialty Code and Fire and Life Safety regulations.
 2. Council of Americal Building Officials One and Two Family Dwelling Code.
 3. Mechanical Specialty Code and Mechanical Fire and Life Safety regulations.
 4. Plumbing Specialty Code.
 5. OAR 814-23-055 to 814-23-080, Mobile Home Installation, Tiedown and Accessory Building Requirements.
 6. Uniform Code for the Abatement of Dangerous Buildings.
 7. Electrical Specialty Code and Oregon State Electrical Code for 1 and 2 family dwellings.
 8. OAR Chapter 837, Division 40, Fire and Life Safety Code.
- B. Hearings Officer: As used in this Agreement, the hearings officer means an individual or individuals appointed to implement Type III development procedures through a quasi-judicial decision-making process and to hear and render decisions regarding violations of the land use regulations applied within the urbanizable portion of the Springfield Urban Growth Boundary.
- C. Land Use Regulations: Those regulations, as defined by ORS 197.015(11), applicable to the urbanizable portion of the Springfield Urban Growth Boundary. For the purposes of this Agreement, land use regulations shall include, but shall not necessarily be limited to, the Springfield Development Code.
- D. Springfield Urban Growth Boundary: All land within the urban growth boundary, as defined by the Eugene-Springfield Metropolitan Area General Plan, east of I-5 excluding the area known as Glenwood (bounded on the north and east by the Willamette River and the west and south by I-5).
- E. Urbanizable Land: Urbanizable lands, as defined by the Eugene-Springfield Metropolitan Area Plan, are those unincorporated lands between the Springfield City Limits and the Springfield Urban Growth Boundary.

ARTICLE III: BUILDING SERVICES TO BE TRANSFERRED

A. The County shall, as of November 1, 1986:

1. Transfer to the City the responsibility and authority to administer building regulations, with the exception of the Electrical Specialty Code and the Oregon State Electrical Code for 1 and 2 family dwellings, within the urbanizable portion of the Springfield Urban Growth Boundary.
2. Assist in the transfer of the authority from the State of Oregon to the City for the administration of the Electrical Specialty Code and the Oregon State Electrical Code for 1 and 2 family dwellings.
3. Assist in the transfer of the authority from the State Fire Marshall to the City for the administration of the Fire and Life Safety Code for the urbanizable portion of the Springfield Urban Growth Boundary.
4. Adopt the building regulations of the City.
5. Retain authority over the administration of on-site sewage disposal systems within the urbanizable portion of the Springfield Urban Growth Boundary.
6. Continue to process permits accepted prior to the effective date of this Agreement.

B. The City shall, as of November 1, 1986:

1. Have the responsibility and the authority to administer its building regulations within the urbanizable portion of the Springfield Urban Growth Boundary.
2. Assume all building inspection and plan review responsibilities within the urbanizable portion of the Springfield Urban Growth Boundary and shall receive all fees required for that service.
3. Specify required building permit fees in the Springfield Building and Safety Codes. These fees may differ from fees charged for similar permits inside the City or in the remainder of the County and may be adjusted in the future to more closely reflect the fee schedule for urbanizable lands within the Springfield Urban Growth Boundary.
4. Process appeals of administrative decisions through the Springfield Building Board of Appeals. Appeals from the Building Board shall be to the Oregon Department of Commerce.
5. Hold harmless and indemnify the County from the administration and enforcement of building regulations within the urbanizable portion of the Springfield Urban Growth Boundary.

ARTICLE IV: LAND USE SERVICES TO BE TRANSFERRED

A. The County shall, as of January 1, 1987:

1. Transfer to the City the responsibility and authority to administer land use regulations within the urbanizable portion of the Springfield Urban Growth Boundary.
2. With the City, jointly develop land use regulations to be applied to the urbanizable portion of the Springfield Urban Growth Boundary. Following at least one hearing on these regulations by the planning commissions of Springfield and Lane County, the Springfield City Council and the Lane County Board of Commissioners shall adopt identical versions of these land use regulations.

These jointly developed land use regulations shall include an overlay zoning district which shall require, except in the case of existing single-family residences, "consent to annexation" and "waiver of remonstrance" agreements for all Type II-IV development permits and Type I development permits with respect to new single family residences and duplexes and site plan reviews.

3. Transfer to the Springfield Planning Commission the legislative land use authority for the urbanizable portion of the Springfield Urban Growth Boundary currently exercised by the Lane County Planning Commission.
4. Continue processing permits accepted prior to the effective date of this Agreement.

B. The City shall, as of January 1, 1987:

1. Administer, in conformance with the Metro Plan, the land use regulations jointly developed between the County and the City.
2. Refer each development request pertaining to the urbanizable portion of the Springfield Urban Growth Boundary to the County for comment.
3. Accord the County automatic party status for all development requests administered within the urbanizable portion of the Springfield Urban Growth Boundary and shall exercise final decision-making responsibility only after the County has been provided a reasonable opportunity to make timely recommendations.
4. Assume permit issuance and site inspection duties necessary for the administration of the jointly developed land use regulations within the urbanizable portion of the Springfield Urban Growth Boundary.
5. Have the authority to set all fees for land use regulation and shall receive all fees associated with the implementation of these regulations. These fees for applications affecting urbanizable lands may differ from fees charged for applications inside the City.

6. Prosecute violations of the jointly developed land use regulations as a City Infraction. Prosecution shall be pursuant to the City's administrative hearing procedures and determination before a hearings officer, as provided by Article V of this Agreement.
7. Establish and receive all fees concerning appeals of hearings officer decisions regarding the issuance of land use permits within the urbanizable portion of the Springfield Urban Growth Boundary.
8. The City shall provide for the position of a hearings officer in appropriate code provisions. The City shall remunerate the hearings officer for appeals of administrative decisions made by Springfield in the implementation of the jointly developed land use regulations.
9. Hold harmless and indemnify the County from the administration and enforcement of land use regulations within the urbanizable portion of the Springfield Urban Growth Boundary.

ARTICLE V: APPEALS

- A. Appeals of administrative decisions made by Springfield in the implementation of the jointly developed land use regulations and violations of the City's land use regulations shall be reviewed by a hearings officer.
- B. The position of hearings officer shall be mutually agreed upon and appointed by the City and the County for a period of four years.
- C. A person charged with a violation of the City's land use regulations may appeal a final adverse ruling by the hearings officer through the Writ of Review process provided by ORS Chapter 34 or through other legal mechanisms as appropriate. The City shall defend such appeals as appropriate.
- D. Decisions by the hearings officer regarding the issuance of land use permits within the urbanizable portion of the Springfield Urban Growth Boundary shall constitute the final level of local appeal. Appeals of hearings official decisions regarding the issuance of land use permits shall be to the Oregon Land Use Board of Appeals. The City shall accord the County automatic party status during the prosecution of these appeals.

ARTICLE VI: DISPUTE RESOLUTION

City and County planning and building officials shall attempt to informally resolve any disputes regarding either party's performance or decisions under this Agreement, or regarding the terms, conditions or meaning of this Agreement. Disputes which are not resolved through this informal process shall be resolved by arbitration. Either party may request arbitration upon ten (10) days' prior written notice. If the parties cannot agree to a single arbitrator within ten (10) days of the notice, each party shall have five (5) additional days to select a person to represent the party and the two representatives shall, within five (5) days, select an impartial third person to complete a three-member arbitration panel. The panel shall conduct the arbitration in accordance with the provisions of ORS Ch 33 or the future corresponding provisions of any such

law. The arbitrators shall assess all or part of the cost of arbitration, including attorney's fees, to one or both parties. The decision of the arbitrator shall be final and shall be filed as a judgment in Circuit Court.

ARTICLE VII: AMENDMENT

This Agreement may be modified by mutual consent of both parties according to the procedure outlined in Section B of Article IV of this Agreement. It is recognized that the City may renegotiate the provisions of Section D, Article V of this Agreement, in the event the County and the City of Eugene execute a similar agreement where the role of the Lane County Board of Commissioners in the appeal process differs substantially from the terms of this Agreement.

ARTICLE VIII: TERMINATION

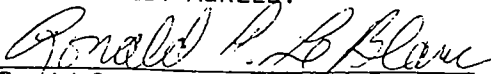
Failure by the County to adopt the City's land use and building regulations within the timeframes specified within this Agreement for the transfer of services shall, without prejudice, automatically terminate this Agreement. This Agreement may be terminated at will until the provisions of this Agreement have been implemented. Following the implementation of the provisions of this Agreement, this Agreement shall continue indefinitely unless terminated by either party upon twelve (12) months advance written notification provided to the other party.

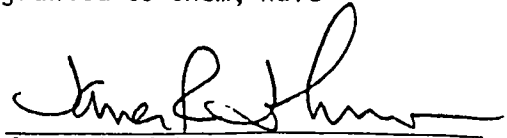
ARTICLE IX: SEPARABILITY

If any Article, section, subsection, clause or phrase of this Agreement is determined by any court or arbitrator of competent jurisdiction, to be invalid or unenforceable for any reason, such determination shall not affect the validity of the remaining Agreement, which shall continue to be in effect.

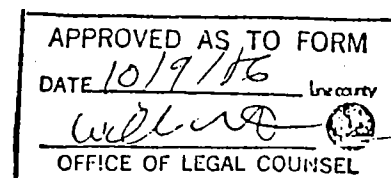
IN WITNESS WHEREOF, the authorized representatives of the City and County, as parties hereto, acting pursuant to the authority granted to them, have

HEREBY AGREED:


~~David Campbell~~ Ronald P. LeBlanc
Acting City Manager
City of Springfield


James R. Johnson
County Administrator
Lane County

clgdagr3



Draft List of Metro Issues in Need of Examination
Board of County Commissioners
August 2, 2005

1. **Plan Architecture/Structure – 1 Metro Plan or Separate Plans?**
 Should the jurisdictions dissolve the Metro Plan and adopt separate comprehensive plans for the City of Eugene and Springfield? The Board requested staff develop a matrix of the pros and cons of the Metro Plan.
2. **Metro Plan/refinement plan amendment procedures**
 The Board expressed interest in reviewing the Metro Plan amendment procedures and requested staff to compile a table of information on the plan amendments processed during the last 5 years. Are there Plan amendments that are located wholly within Eugene or Springfield City Limits that are regional in character? If so, should all three jurisdictions, or the initiating city and the county jointly make the decision?
3. **Regional impacts – County/other City roles inside City Limits**
 The Board is interested in reviewing significant development proposals that have a regional impact, even if they are located within the City Limits. An example is ODOT's request for \$8 million match for I-5/Beltline improvements arising out of the agreement with PeaceHealth.
4. **Urbanizable Land (inside UGB, outside City Limits) Administration**
 - a. **Who does planning and building permits?**
 The Board is interested in looking at the Urban Transition Agreement that delegated the planning and building permitting authority to the two cities inside the UGB.
 - b. **Representation of citizens inside UGB, outside City Limits**
 The Board wants to explore ways to improve how County citizens can be effectively dealt with by the City elected officials under the Urban Transition Agreement. Are differential fees for applications within and outside the city for the same permit appropriate? Should land owners between the City Limits and UGB have a right of appeal to their elected representatives?
5. **Statutory Coordination Role – LCOG or Lane County?**
 Currently, the county has to be involved with all 12 cities for amendments to comprehensive plans located between the City Limits and the UGB. Does this result in duplication of service? The Board wants to look at the coordination role currently being provided by the LCOG and determine if it would be in the city's and county's interest to return the coordination role to Lane County.
6. **Role of MPC – Policy Development and Dispute Resolution**
 The Board recalls when the role of MPC was policy development and dispute resolution. However, now when a dispute resolution comes up, the approach seems to be that each representative goes back to its governing body to determine a position rather than seek to resolve the dispute at the MPC table. MPC has also been consumed by the MPO role for transportation issues in the Metro area. The Board wants to look at the appropriateness of MPC in that function.
7. **Fundamental Principles**
 - a. **Compact Urban Growth?**
 The Metro Plan is approaching 30 years of age. No UGB expansions are even on the horizon. Whereas, satellite communities such as Junction City, Creswell, Coburg and Veneta are growing rapidly and all but Veneta have recently expanded their UGB's. Portions of the Metro Area's infrastructure are enduring stress (roads) and others are expanding (MWMC). Do the compact urban growth policies still work today?
 - b. **With Measures 5, 47/50, are cities logical providers of urban services?**
 Recently Eugene, Springfield and Lane County are learning that property tax revenue growth is not adequate to maintain current service levels. Are there certain services best provided by a district, be it special or county service to alleviate the steady erosion in service levels?

8. Inventory Development (Responsibility and Methodology)

- a. Residential, Commercial and Industrial land**
- b. Goal 5 Natural Resources**

Recently Eugene, Springfield and Lane County have developed separate inventories since they couldn't agree on significant criteria or who should conduct the inventory. Private parties are using the LCOG data to produce their own inventories. One of the advantages of the Metro Plan is avoiding duplication on these sorts of work tasks. Are we getting away from this advantage of the Metro Plan?

9. RTP / TransPlan

The effort involved with three jurisdictions having both a regional and a comprehensive transportation plan for the Metro Area seems duplicative. Can one transportation plan meet both the local and regional needs and requirements?

10. Effects of Ballot Measure 37

Identify mutual city/county issues of BM37 claims adjoining the UGB such as the effects new, urban-type uses may have on the fiscal and social health of the nearby city; the impacts such claims might have on current metro initiatives/questions regarding adequacy of commercial/industrial/residential inventories; the Goal 14 rule-making establishing new UGB amendment procedures; and the potential domino effect on surrounding land and the need for urban service extension.

11. Metro Plan area outside UGB

Should the Metro Plan boundary extend beyond the UGB? If so, the same issue is relevant in reviewing significant development proposals that have a regional impact, even if they are wholly located in the county jurisdiction, outside the UGB.

September __, 2007

Gino Grimaldi, City Manager
City of Springfield
225 5th Street
Springfield OR 97477

RE: Termination of ORS 190 Agreement
Transferring Building and Land Use
Responsibilities Within the Urbanizable
Portion of the Springfield Urban Growth
Boundary

Dear Gino:

In 1986, Lane County and the City of Springfield entered into an agreement pursuant to the authority granted in Chapter 190 of the Oregon Revised Statutes (ORS) to transfer authority to administer building and land use regulations for the urbanizable portion of the Springfield Urban Growth Boundary (UGB) from Lane County to the City. Article VIII of that agreement provides that either party to the agreement may terminate the agreement upon twelve (12) months advance written notification provided to the other party. Following direction from the Lane County Board of Commissioners at their September __, 2007 meeting, I am hereby providing the City of Springfield with notice that Lane County will terminate the subject ORS 190 Agreement effective October 3, 2008.

Please feel free to contact me at 682-4203 if you have any questions regarding this matter.

Sincerely,

William A. Van Vactor
County Administrator