

## MINUTES OF THE METRO COUNCIL MEETING

October 14, 1999

Metro Council Chamber

Councilors Present: Rod Monroe (Presiding Officer), Susan McLain, Ed Washington, Rod Park, Bill Atherton, David Bragdon, Jon Kvistad

Councilors Absent: None

Presiding Officer Monroe convened the Regular Council Meeting at 2:00 p.m.

### 1. INTRODUCTIONS

None

### 2. CITIZEN COMMUNICATIONS

Art Llewellyn, 3205 SE 8<sup>th</sup> #9, Portland, presented testimony about his objections to ODOT (Oregon Department of Transportation) plans for the Southeast side of town starting with the Ross Island Bridge. He said that the upcoming resurfacing is an inadequate project that will lead to grievous complaints from the public. He said that he did not support the project; the bridge and surrounding area needs much more than that. He disagreed completely with ODOT and its plan on how to fix the westside bridge ramps. He said as far as the Grand Avenue viaduct rebuild they have not considered how to improve the very dangerous eastside ramps. He also disagreed with the widening of McLoughlin Blvd. He said that all of these plans are inadequate and he is testifying before this agency because in the future, as ODOT carries forward these plans, people will say that Metro had the chance to say something; and if it had maybe ODOT would have done a better job. He had one more complaint about ODOT regarding lightrail. He is on record as saying that light rail through the south corridor is possible and he thinks that is the way it should go. He has advocated leaving it on the eastside and not going downtown, saving money, building a regional system. He said that ODOT has prevented an eastside alignment because they plan to widen I-5 directly into the path where lightrail would enter the Rose Garden area. He stated that he believes it is ODOT that has killed the eastside alignment. He also said that he thinks that the acronym, ODOT doesn't fit them anymore; it should read more like the Oregon Department of Automobile Only Transportation. When planning is only done for automobiles it makes it harder to walk, harder to bike and harder to build a mass transit system. He hoped that by expressing his opinions Metro would understand where he is coming from.

### 3. EXECUTIVE OFFICER COMMUNICATIONS

None

### 4. AUDITOR COMMUNICATIONS

None

### 5. MPAC COMMUNICATIONS

**Councilor McLain** reported that the MPAC meeting last night discussed the UBR (Urban Boundary Report) Update and what were the important issues in the material. There was quite a discussion about getting hung up on numbers versus goals and vision for the 2040 Growth Concept. She said the committee plans to continue the discussion over the next 2-3 meetings since the Council will not be taking up these issues before at least November 18. The discussion last night centered on full communities that care about the texture and quality of their neighborhoods. She said that no decisions or motions were made, just healthy conversation.

## 6. CONSENT AGENDA

**Motion:** **Councilor McLain** moved to adopt the meeting minutes of the October 4, 1999 and October 7, 1999 Regular Council Meeting.

**Seconded:** **Councilor Bragdon** seconded the motion.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

## 7. ORDINANCES – FIRST READING

7.1 **Ordinance No. 99-820**, For the Purpose of Granting a New Metro Yard Debris Composting Facility License to Clackamas Compost Products, LLC and Rescinding License Number YD-0197, and Declaring an Emergency.

**Presiding Officer Monroe** assigned Ordinance No. 99-820 to Councilor Washington and the RIM committee.

7.2 **Ordinance No. 99-822**, For the Purpose of Amending Metro Code 2.04 by Increasing Purchasing Thresholds and Making Other Required Changes.

**Presiding Officer Monroe** assigned Ordinance No. 99-822 to Councilor Washington and the Metro Operations Committee.

## 8. ORDINANCES - SECOND READING

8.1 **Ordinance No. 99-823**, For the Purpose of Amending Metro Code Chapter 5.02 to Modify Charges for Direct Haul Disposal, to Modify Metro System Fees, to Create Additional Regional System Fee Credits, and Making Other Related Amendments.

8.2 **Ordinance No. 99-824**, For the Purpose of Amending Metro Code Chapter 7.01 to Modify and Adjust Excise Taxes and making other Related Amendments.

8.3 **Ordinance No. 99-825**, For the Purpose of Amending Metro Code Section 5.02.025 to Modify the Disposal Charge at the Metro South and Metro Central Transfer Stations.

**Presiding Officer Monroe** opened hearings on the Solid Waste Savings issue. He explained the procedures for the public hearing. First there will be opportunity for Councilor comment, then a public hearing where those who have signed up can speak to any one of the ordinances, or speak to any of the proposed amendments that are summarized on a sheet in the back. He also noted to the Council that any additional amendments Councilors might wish to have considered must be submitted to Mr. Stone, no later than 5:00 PM tomorrow, Friday. Next Thursday, October 21,

motions will be accepted on various amendments and amend the ordinances appropriately, then by rule the ordinance must be set over for at least an additional week. Final action is anticipated for October 28. This does not delay the implementation date previously discussed of February 1, 2000.

**Councilor Kvistad** said as Council is well aware, his philosophy on the dollars available that it is his hope to return the money to the people who paid it and not put into the Metro general fund, or spent on more government. He said his goal is to support his own, or other Councilor amendments that advance this philosophy.

**Councilor Washington** said throughout the process of dealing with the funds, this Council had listened to a lot of people at committee and it was a thorough and open process. He stated that it seems like every day there is a new surprise, either in the paper or from someone somewhere. There has been so many conflicting points on this money, one would think Metro was carrying \$50 million bags of money around instead of \$60 million. The Council has gotten mixed messages. This morning an in-house letter was received that challenged what Council is trying to do, while members of other governments whose policy makers are saying one thing has staff saying another. This Council has respected all viewpoints, even when disagreeing. He asked everyone to please read *The Oregonian* editorial regarding this issue: many stories have been printed; some have been accurate, many not really accurate at all. Many have made an attempt to define what Metro is trying to do. What Metro is trying to do is the right thing: listen to the many viewpoints, try to find a way to help growth, help parks, and help the citizens. He said that since so many seem to desire it, he is going to put forth an amendment before deadline tomorrow asking Council to return every red penny back to voters. If Metro Council were to give money back, he would ask it be given back in the form of a kicker, directly to citizens. The first year \$3.75 would go back the first year and for the 9-years thereafter citizens would get \$8.50 per household per year, or a grand total of \$80.25 over the next 10-years. He said that this would give back the entire \$60 million, however the rates would probably need to be increased within the next 3-years by a minimum of \$3.00. He stated that it is not a curse to serve the public, but it has been a curse to deal with this process.

**Councilor Bragdon** said he would second the motion when it came forward. He would like to make friendly amendment to this proposed motion even though he may not support it—one is that when savings are calculated, other than the capital fund that the savings be truly stated as savings, not inflation rate for general fund, it has to be clear. Second, is there a way they can choose when they get these checks, can they send them back for greenspaces if they so choose.

**Councilor Washington** said whatever the council decides. He said he is a strong supporter of greenspaces, but not an advocate of being beat up every day while trying to do the right thing.

**Councilor Bragdon** said Executive Officer Burton submitted his letter regarding his view of long standing on the tipping fee. He said in all fairness, his comments to MPAC, in *The Oregonian* and his submission to us in briefing book is all based on the \$62.50 tipping fee.

**Councilor Atherton** said he believes that the problem lies with counting garbage dollars before they are hatched. He believes that the Council should remember what caused the \$60 million bonus. It was some luck and pluck here in the agency, but also change within the industry. Council should recognize those changes and look into the future, provide for these liabilities and pay them off. He suggests paying the \$32 million in debt on transfer stations before using that money for anything else. This would result in saving for the region of some \$6-8 million over 4-

years. It may sound good to try to turn it back, but at best it would be \$.50 a month at the can. He said that with turning the savings back, there are processing costs, and they would be significant. Metro will be challenged in the near future on flow control, people are recycling more and the industry is moving towards smaller transfer facilities; therefore, he said, it is more prudent to pay down that debt.

**Councilor Park** said he hoped Councilor Washington's presentation would include an accurate fiscal impact in its accompanying analysis. Second, he echoed Councilor Bragdon's frustration with Mr. Burton's recent letter. To come back with a 5 o'clock memo the day before Council's discussion based on information the Council had not heard before or background on what the projection is based upon. He expressed frustration with some of the number chasing he has done in an effort to get a solid 10-year projection of what rate Metro is using reserves, and what may or may not be prudent.

**Councilor McLain** thanked the Presiding Officer for his decision to delay voting in order to give the councilors time to review the amendments. Second, she said that there seem to be lots of things in flux today. Therefore she wanted to revisit something the Council holds constant. The first thing she heard is that the Council wants to live up to their responsibility to meet recycling rate. The first and foremost goal with solid waste dollars is that the money be reinvested in recycling programs that increase the recycling rate and secondly, stabilizing the rate paid by the rate-payer. She felt that these 2 areas of agreements are important to remember as the amendments are reviewed. She said that even with a cursory reading of these amendments, that 6 out of the 9 amendments will not allow the Council to accomplish these goals that have been agreed to. She wanted Councilor Washington to know that she cannot support returning all the funds to the ratepayer at this point; that doesn't help recycling at the local level through the haulers' programs and it doesn't help the programs at this building. She said she appreciated the reason he brought the amendment forth, but believed it cannot fulfil either of the areas of support she had indicated support for.

**Councilor Kvistad** also wanted to follow up on what Councilor Bragdon and Park said regarding the letter from Executive Officer Burton. He felt it was disingenuous, and untrue. Historically from 1995, he said, when he chaired the Solid Waste committee, the Council talked about this agency taking millions of dollars and scraping it off the top for multi-million dollar contingency funds. Specifically the committee said that the rate should reflect the cost, or maybe cost plus overhead expenses instead of millions. It was agreed to lower the rates; it took years to agree to that. The Council took one rate reduction and found that there was still a major surplus; and went for another rate reduction. Now the Council is looking at this situation and the recycling rate again. He stated that recycling is a straw man here, recycling will not be ruined. There is plenty of money coming in to the solid waste system the way it is set up to deal with recycling, work with local governments and help them put on programs, rather than Metro starting a whole new program at the regional level. He stated that recycling is best done locally, that cities and garbage haulers already do a great job and do more every day. Metro is not the king of recycling but rather is here to help local governments and haulers do a better job.

He stated that in 1995 the Council looked at contract amendment 4 and sued the Executive Officer because a majority of the Council then (which has since changed) felt that the decision was wrong and not in best interest of the region. This is the second round of negotiations. He gave the Executive and the committee members credit for their negotiations with Waste Management. However, he asked that it not be forgotten that Metro was looking at \$120 million in savings at that time. Now it is \$60 million that was advocated by the same Executive Officer

who sent this letter who talked then about spending every dime and putting it back in Metro general spending for “stuff”. He said that people’s money should be used when it is needed for programs that they have paid for. They don’t expect more planners, more programs, more general government and more employees. He said if the rate must be raised later because of higher costs, so be it, but to stabilize a rate that Council doesn’t understand is not somewhere he will go. Recycling is not the issue here; money is the issue.

**Presiding Officer Monroe** stated that his goal throughout was to have an open process; to allow input from every interest group, individual and government in the region. He believes that this has been done. There will be 3 more opportunities in a row to come before Council and give input before the final decision is made. He said that in terms of his own view, as a fiscal conservative he is interested in stability. That means one of the things that would be most beneficial to guarantee would be a stable garbage rate that would not increase for a number of years. He also stated that he is a strong advocate of recycling. He wants to not only maintain our current recycling efforts, but increase the opportunity for citizens, organizations and corporations to reach Metro’s 50% recycling goal. He hopes to get there on his watch. If there are other resources available he wants to hear from the public on how they want the Council to invest them; not in more government, but in things that directly benefit the people such as parks and open spaces, rest rooms, trails, etc. He also thought it important to look at facilities and make them less expensive for children of the region to visit the zoo. In addition, Metro has mandates on local governments that they must meet on 2040 guidelines. It may be appropriate to provide some assistance in the form of grants to help with their planning efforts. He said he is not interested in increasing the bureaucracy of this agency, not interested in making Metro bigger; he is interested in investing any savings that Metro has to the greatest benefit of the people of this region.

**Presiding Officer Monroe** opened a public hearing on the Solid Waste Savings issue at 2:37. The public may speak to any aspect of the issue and the Ordinances, Numbers 99-823, 99-824 and 99-825; or the amendments listed on a sheet available at the back table. There will be not one, but two public hearings today. The second one will come later and has to do with some of the UGB (Urban Growth Boundary) issues that are also before the Council.

**Amanda Fritz**, 4106 SW Vacuna St., Portland, said she thought it was terrific that Metro has \$60 million to figure out what to do with. She thanked staff and Council for making this happen – that needs to be remembered. She read from a Metro publication, “garbage dollars pay for parks, planning and recycling”. She said that if this money is refunded Metro is saying that there is plenty of money for parks, planning and recycling; her contention is that there is not. She supports Councilor Bragdon’s option that would pay for parks, planning and recycling and promote partnerships with local jurisdictions and individual citizens. She stated that especially at Metro good works are needed and good publicity to let folks know what Metro does. She passed around a picture that she must take back that reminds her of what Metro does. Metro gave \$3,200 for a Watershed Education Grant to Marquam School. It was used to dig up the lawn, replanted and now, 3 years later it is a beautiful garden. Every year they have several cleanups in the garden, there is a sign there made by a Boy Scout that says “Metro’s money made this happen”. She said please don’t not give me back 70 cents a month, something like this garden can’t be done on 70 cents a month, but with \$60 million all kinds of wonderful projects like this garden could be done; she thinks that Metro should.

**Mike Houck**, 5151 NW Cornell Rd., Portland, representing the Audubon Society of Portland and Coalition for a Livable Future (CLF), stated that he and his organizations strongly support and

urge adoption of the Dakota option. They agree with philosophy embodied in this proposal. Solid Waste is one element of our ecological footprint on the natural environment of the Portland metropolitan region. He respectfully disagreed with Councilor Kvistad in that there is a very direct connection in our mind between the solid waste stream and people's impact on the region. A lot of people would like to see a drip tax increase in gasoline to reflect the true ecological impact of the transportation system. This is effort to move in that direction in the solid waste arena. He said they believe that if Metro Council clearly identifies, and this is crucial, how it will use the fund, and use for very specific and measurable purposes related to priorities that the area's residents have indicated in numerous surveys and by electing the council members to office. His groups believe that the Dakota option is best that has been reviewed so far. The establishment of a separate earth restoration protection fund is something they feel would enjoy wide public support.

Mr. Houck responded to Councilor Washington's comments, saying he was tired of hearing from others that the public should vote on everything, they elected the Council to represent them – it is representative democracy. The Council is in the best position to understand the desires of Metro's constituency. People have made it abundantly clear through countless surveys just what they want; they want Metro to protect the environment; using these funds for that purpose is the logical nexus. He said he is hopeful Council will move in that direction.

**Don Baack**, 6495 SW Burlingame Pl., Portland, Chair of SW Trails, said he shared many of the comments made so far, but thinks that stewardship of what Metro has purchased is a key issue. In his view government is to do things, not just sit and move money back and forth. He spoke strongly in support of the Dakota option. He said he has personally walked a number of the green spaces and have been out in them. Some of the trails there are terrible - they are degrading our watershed. He said that staff is overextended and does not have time to talk about the problems, let alone solve them. Staff are nice willing people, but they are so overloaded they haven't got time to address the existing problems. He stated that more staff is not the answer, but if they could work with citizen-led efforts together we could make things happen. There are minimal trails and need good ones. This property wasn't bought just to sit there; people want to be able to enjoy it.

Mr. Baack said that Metro has been derelict in its duty as to when lands are acquired a plan should be in place as to how it will be managed; that hasn't been done but needs to be. These lands have no route markers, no bridges, and volunteers could do a lot of this work. What is needed is guidance from Metro staff. He stated that managing open areas is serious problem, trails need to be built, existing trails need to be brought up to Title 3 standards, (which means relocating them out of stream bottoms. That work will take money and time, but it needs a plan, and planning takes time and energy. He and his group are willing to come to table, we have plans for SW Portland Metro property in hand, and just need Metro's blessing when the plans are further refined. He suggested Metro's trail coordinator should be freed up of busy work and work mainly with community groups to put together a comprehensive view of trails. He said that once this was done 3 years later they could plan to put on a National Conference on trails that would be fantastic.

**Barbara Walker**, 40-Mile Loop, stated that she too supports the Dakota plan. She also wanted to recognize Metro's fantastically successful Greenspaces program that was funded by the voters and has acquired as much land as there is in Forest Park. One example out of many is off the Springwater Corridor Trail there is a piece of property purchased with Greenspaces funds that connects to Barton State Park. There is no access from the trail to the park for the public except

through the Metro property. If there was a trail from the Springwater Corridor to the Park, think what we could offer people. She said she agreed with Councilor Monroe, give people back what they asked for; they asked for protection of these Greenspaces for wildlife and for people. These trails can be used to educate people as to how to use them properly. She totally agrees with Mr. Baack, we need to make sure trails are correctly placed in ecologically sensitive areas and not where we used to walk, in the streambeds. There are examples throughout the region that are just bursting with people willing to back and work with Metro. She asked Council to please make sure that when Greenspaces is looked at in the future, people won't say they locked it up and there was no provision for anyone to use it.

**Jerry Rust**, 3417 N Russet St., Portland, stated that attached to his letter of testimony is a copy of notes he used when he testified at the April 15 budget hearing. The testimony and notes are included in the meeting record.

**Councilor Kvistad** said that if the Council were doing as Mr. Rust suggested, he wouldn't have a problem, what he is unhappy with is what the Council received from the Executive Officer who had recommended restoring programs cuts that had been made in the past but that had nothing to do with solid waste. He said he agreed with Mr. Rust in principle. He referred to Councilor Washington's proposal that all the money be returned to the ratepayers, noting that returning it would be preferable to using it the wrong way.

**Mr. Rust** said he still hoped the Council would pull together and do the right thing. He said Councilor Atherton's proposal came closest to the one he preferred. He said he'd prefer that all the money be put into the solid waste program, then decide how to allocate it from there. He warned against long-range, unforeseen problems in the solid waste arena. He said he sympathized with the challenge of having state mandates without state money to carry them out.

**Larry Harvey**, Friends of the Regional Facilities, 22830 SW 93rd, Tualatin, said he empathized with the Council. They have a difficult job to do. He had reviewed all the recommendations. He saw a kernel of truth in all positions. He said he was not certain what an "excise use tax" was. He suggested addressing the meaning of collecting a "use" tax. He said people who pay zoo admission also pay a tax, as do those who pay to get into the Expo. He said if Metro was going to provide tax relief, it should be fair. He suggested the Council might use this an opportunity to be a good steward for the entire region. He expressed his appreciation to the Council for being willing to listen. He said he understood the frustration. He urged support for Councilor Bragdon's position.

**Jackie Dingfelder**, 2124 Northeast 54<sup>th</sup> Avenue, Portland, spoke in support of the Dakota proposal. She said it presented a win/win solution. She said it demonstrated that Metro was accountable and fiscally responsible, committed to its existing missions. She agreed with Mr. Harvey, that all the points of view expressed contained elements of truth. She urged more support for waste-reduction and recycling efforts. She supported using the funds for environmental purposes. She said the public has indicated its support for investing more in natural resources through passing the greenspaces bond measure and, last year, Measure 66. She urged more support for and technical assistance to local jurisdictions to help them meet the mandates in Title 3.

**Jayne Cronlund**, Executive Director, Three Rivers Land Conservancy, 398 Tenth Street, Portland, urged the Council to support the Dakota plan. She said the Conservancy supports the previous testimony of the Coalition for a Livable Future and that of Ms. Dingfelder. She added

that using the \$60 million surplus could be used to build a bridge to local communities by providing local communities with incentives to comply with natural resource and waste-management obligations. She said the more Metro was seen as supplementing local resources rather than creating new obligations, the less necessary public relations campaigns would be. She said passage of Measure 66 demonstrated that the public supports using money for open space and parks acquisitions.

**Doug Drennen**, Lakeside Reclamation Landfill, 14930 Southwest Vandermost Road, spoke to Ordinance 99-824, which would change the excise tax from a percentage to a per-ton rate. His company's concern was that the conversion would impact market conditions with respect to the competition. He said the company did not have a problem collecting the tax, as it was currently built into the rate structure. Paying on a per ton basis means not only that more money must be collected to pay the charge, but also it would affect the difference between what his company pays and what the competition pays. He suggested that any conversion to a per ton basis be revenue-neutral, recognizing the market it would affect. He said his company did not agree with the suggestion that this would be an administrative problem. He said the company currently has a designated facility agreement with Metro that specifies its per unit cost. If that were to change, the company would need to change its accounting system, raise its rates, and notify its customers of the change. That would increase administrative costs for them.

**Jim Edelson**, Portland Supported Employment, Post Office Box 1011, Portland, said Portland Supported Employment is a small recycling company that employs disabled workers. The company has been working under a Metro grant on a program to divert corrugated cardboard from the landfill into the recycle stream. He said Metro small grant makes a huge difference in the amount of cardboard that is recycled just in the one mall where the company is located. It makes a big difference to the tenants of the mall and in the lives of the disabled people the company hires. The company would urge Metro to use some of the savings to provide more grants like this. Mr. Edelson said he disagreed with Councilor Kvistad that the businesslike thing to do would be to reduce the rate. In his view it would be the wrong thing to do. He said recycling was not a market opportunity because the waste-disposal and use of natural resources has been heavily subsidized by government economic forces. He urged Metro not to reduce the rates, but rather to use the money for recycling programs.

**Councilor Park** asked Mr. Drennen if he had any suggestions for setting an amount per ton to equalize the amount that residents from Hillsboro, Wilsonville, and Gresham pay.

**Mr. Drennen** said he had not had time to think about alternative impacts. He said the customer base has responded for years at the current rate. He said the existing facilities have the current system figured in. He said he understood Councilor Park's point about fairness. His point was that converting the system modifies the system, which currently has the amount built in.

**Councilor Kvistad** said he wanted it on the record that supports recycling. He said he had worked with Councilor McLain to save the recycling grants programs when they were nearly cut a few years ago. He said recycling was being used as the straw man. He said the proposals he objected to would keep the money but spending it on things that had nothing to do with recycling.

**Mr. Edelson** said he did not mean to suggest that Councilor Kvistad was opposed to recycling. He said his point was that Councilor Kvistad's efforts to reduce the rate provided the wrong market signal; it would encourage disposal in the landfill rather than recycling. He said he appreciated Councilor Kvistad's support for recycling.



**Presiding Officer Monroe** closed the public hearing.

**Councilor Bragdon** said the Council had received considerable advice on both the revenue and the expenditure sides of this issue. On the revenue side—the tip fee—the issues are subtle and confusing. Officials from the same jurisdiction have disagreed—some advising Metro to keep the tip fee where it is while other have advised Metro to cut the tip fee. Within Metro, the Executive Officer has advised the Council both to cut it and to keep it where it is. The Council has received conflicting advice. He said his own view was that cutting the tip fee by too much would hurt recycling. He would also prefer the rate remain stable over the next two or three years. He would like to ensure that the capital fund could replace expensive equipment or do expensive repairs. He said would advocate drawing down the slush funds. On the expenditure side, he said although he would not support it, he appreciated Councilor Atherton's proposal because it was coherent and explainable to people. He said the same was true of Councilor Kivistad's and Councilor Washington's. The main point was that the money be kept and used in a way that can be identified—that it not just disappear into a general fund to be turned into office furniture. He said the intention of his Dakota option was to remain consistent with this agency's mission and work in partnership with other agencies and jurisdictions within the region.

**Councilor Atherton** said it was clear that the Councilors had differences of opinion and it behooved them to provide clear explanation. He said his proposal would keep almost all of garbage money in garbage system. He said there are benefits in doing that, including the fact that it would keep faith with the public. He said if you covert fees paid for garbage to something else, it becomes a tax. He said people are concerned with how the tax money would be used. He said sending the money to local jurisdictions to do planning for growth instead of charging developers for it represents a kind of tax many people would not support. Using garbage money for parks would be a tax. He said he recognized the need to create a steady source of funding for parks, but this was not it. He said he had suggested the option of creating a legacy fund and a system development fund for parks. He said his proposal also would provide incentives for recycling in ways that would remain consistent with public testimony. It would support the food bank's efforts to remove usable food from the waste stream; it would enhance investment with recycling businesses; and it would pay down debt. Paying down debt would be particularly important in this time of uncertainty in the solid waste industry. He said he would keep the money, but use it all within the solid waste system. He thought that would be the most logical for people.

**Councilor Washington** said he wanted to make sure people understood his intentions in proposing his plan to return all the money to the ratepayers. He said he believed it was important to have all the options out on the table, and giving all the money back was one of them. He said he had gotten more calls from people about this \$0.80 than he had on anything else since he had been at Metro. He said he hoped those who did not want their yearly "big Mac and fries" would make that known. But that option should be on the table. He said he had always supported recycling. He said the record would speak for itself regarding his support for greenspaces. The purpose was to simply put that on the table.

**Councilor Park** said fiscal prudence was key to the all the options. No one wanted the money to evaporate so that people could not identify where the money went. He said he wanted to make the \$60 million question clear. He said that although there would be a \$60 million savings, accompanying that would be a \$20 million liability. He said reserves have been drawn down to sustain current programs. He said people needed to be aware that one-third of the money has already been committed. He said one of his questions has been, what is a sustainable rate? He

said some of the plans that have been presented would draw the reserves too low. He said the Dakota plan would not do that, but others might put the agency into deficit spending. He said this would be a 10-year contract. He would prefer to have a 10-year projection to see the net effect. He said the current Council might be gone in four years, and the next Council could be left with no money in the funds to serve the region. He said that would be irresponsible. He said good projections were necessary to make good policy decisions. He thanked the Council for its hard work and the public for its input.

**Presiding Officer Monroe** announced that resolutions would be considered next.

## **9. RESOLUTIONS**

9.1 **Resolution No. 99-2835**, For the Purpose of Expressing Council Intent to Amend the Region 2040 Growth Concept Map to Designate the City of Milwaukie as a Town Center.

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2835.

**Seconded:** **Councilor McLain** seconded the motion.

Councilor Bragdon said it was important to remind the Council and the public that the 2040 Growth Concept was not just a map drawn at Metro, but a reflection of what was actually happening in the community. He said Milwaukie has a downtown redevelopment plan that fits the characterization of a town center. The city government had asked Metro to designate Milwaukie as a town center as part of the 2040 growth concept. It had previously been designated as a regional center. He said the Growth Management Committee had voted unanimously in favor of this resolution.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed unanimously.

9.2 **Resolution No. 99-2840**, For the Purpose of Confirming the Reappointment of Herbert S. Plep and the Appointment of Brian R. Williams and James C. Aalberg to the Investment Advisory Board.

**Motion:** **Councilor Atherton** moved to adopt Resolution No. 99-2840.

**Seconded:** **Councilor Washington** seconded the motion.

Councilor Atherton presented Resolution No. 99-2840. (A staff report to the resolution includes information presented by Councilor Atherton and is included in the meeting record.)

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed unanimously.

9.3 **Resolution No. 99-2942**, For the Purpose of Authorizing the Executive Officer to Extend the Termination Date of Existing Intergovernmental Agreements with Local Parks Providers who are Implementing the Local Share Component of Metro's Open Spaces, Parks and Streams Bond Measure.

**Motion:** **Councilor Kvistad** moved to adopt Resolution No. 99-2942.

**Seconded:** **Councilor Washington** seconded the motion.

Councilor Kvistad presented Resolution No. 99-2942. (A staff report to the resolution includes information presented by Councilor Kvistad and is included in the meeting record.)

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed unanimously.

9.4 **Resolution No. 99-2834A**, For the Purpose of Granting Time Extensions for the Cities of Milwaukie and Gladstone for Compliance with Title 3 of the Urban Growth Management Functional Plan.

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2834A.

**Seconded:** **Councilor Atherton** seconded the motion.

Councilor Bragdon presented Resolution No. 99-2834A. (A staff report to the resolution includes information presented by Councilor Bragdon and is included in the meeting record.)

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

9.5 Resolution No. 99-2844, For the Purpose of Granting Time Extension for the City of Gresham for Compliance with Title 3 of the Urban Growth Management Functional Plan.

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2844.

**Seconded:** **Councilor McLain** seconded the motion.

**Councilor Bragdon** said this resolution is similar to the previous one, but has been presented separately at the request of one of the Councilors, who wished to abstain on it. He said the city of Gresham has its plan in place to comply with title 3 by October of 2000. The Growth Management Committee approved this by a majority vote of two, with one abstention.

**Councilor Park** stated he would be abstaining on this vote because of a potential conflict of interest.

**Councilor Atherton** said he had received a letter today from Mr. Scott Forrester. The letter said this would allow nearly a year of development to occur without substantial compliance with Title 3. He asked for responses from the rest of the Council.

**Councilor McLain** said the Council had offered extensions so that jurisdictions would not ask for exceptions. She said the request was not for an exception but for an extension, to enable the jurisdiction to complete work already begun.

**Larry Shaw**, Senior Assistant Counsel, said that Title I of the Urban Growth Management Functional Plan prohibits actions inconsistent with any title of the plan during the period in which full compliance plans are being prepared. That means that although further development can occur under the existing comprehensive plan, but no large changes can be made in the comprehensive plan nor can zoning be instituted that would be incompatible. Metro can intervene if any city council appears likely to make a decision otherwise.

**Councilor Atherton** said most of his concern went to comments about enforcement. He said local jurisdictions would be relied upon for enforcement—most specifically for erosion control at construction sites. He asked how Metro would respond to inadequate enforcement on the local level.

**Mr. Shaw** said enforcement was a separate issue. That would imply that the functional plan provision in question had already been adopted. He said Metro has no provisions for enforcement on the local level once the local jurisdiction's comprehensive plan has been brought into compliance.

**Councilor Atherton** said just because laws are on the book does not mean they will be followed. He asked if it was still true in Oregon that citizens who sue the government cannot recover attorney's fees.

**Mr. Shaw** said that that Oregon law generally does not provide for recovery of attorney's fees unless a specific statute provides for them.

**Vote:** The vote was 6 aye/0 nay/1 abstain, and the motion passed.

Presiding Officer Monroe opened a public hearing on Urban Growth Boundary issues at 3:38 PM.

#### **10. PUBLIC HEARING ON URBAN GROWTH BOUNDARY ISSUES**

- Urban Growth Report update and its potential impact on Urban Growth Boundary (UGB) Decision
- Urban Reserve Areas that could potentially come into the UGB
- Should Metro request a time extension to act on UGB pending new federal ESA listing

**Wendie Kellington**, Schwabe Williamson and Wyatt, representing Home Builders Association and Partnership for Sensible Growth, read testimony into the record. A copy of her written testimony is included in the meeting record, and includes information presented to the Council. She said there were substantial flaws in the Urban Growth Report (UGR) update, which was being used to determine the urban growth boundary (UGB) expansion at the end of 1999. She said while the Urban Growth Report contained a lot of documentation, it read like a syllogism: all fish can swim, Wendie can swim, therefore Wendie is a fish. She noted a map of Dunthorpe showing all land which the UGR determined to be vacant, and noted that among the "vacant" parcels were multi-million dollar estates, road right of ways, the Franciscan Retreat, property owned by Lewis and Clark College, and the Protestant Episcopal property. She said the Grotto on the Mayfield Park map was also determined by the UGR to be vacant, subject to redevelopment or development in the 20-year planning horizon. There was an additional map demonstrating that land under television and radio towers in the Skyline area were also determined to be vacant. She said that was the first critical assumption the UGR used to then apply a number of variables to determine what land was actually available for development. She submitted to the Council that the initial assumption was wrong.

Ms. Kellington said second, the Urban Growth Report subtracted less lands for schools than it subtracted previously: it assumed more kids being crammed into greater classrooms, despite good evidence from educators that this was the wrong paradigm for the next 20 years in order to avoid

Columbine disenfranchisement for kids. It also refused to acknowledge that kids needed to have ball fields: there was nothing in the UGR that provided ball fields for kids, or buffers for neighborhoods to avoid the adverse impacts associated with those activities. She submitted that the region had to plan for kids for the next 20 years. She asked, what about parks? Should Metro assume adequate parks for kids and the rest of the region's population over the 20-year planning horizon? Fifty-seven percent of the new parks to accommodate the multitude of children will be outside of the UGB, and a large percentage of those will be passive parks under Metro's greenspaces acquisition program. She submitted that those were not parks suitable for kids; adding that it was against the law to have parks outside the UGB.

Ms. Kellington said finally, she submitted a map of the Johnson Creek Watershed, demonstrating that the region did not consider existing environmental zoning that currently applied to land that was otherwise considered to be vacant. The purple areas were the areas within Johnson Creek that had environmental protection (EP) or environmental conservation (EC) zoning applied to them by the City of Portland. Property owners can do nothing in the EP zoning, and almost nothing in the EC zoning. She said the existing UGR did not really consider that or other tree cutting ordinances or sensitive lands ordinances.

**Steve Clark**, Vice President, Westside Economic Alliance, said his organization represented businesses with a combined employment of 40,000 people on the west side of Portland. The purpose of the Alliance was to advocate for a healthy business environment, one that was conducive to business and personal growth, and healthy community livability. Because of its interest in the continued economic vitality of the area, and its reservations regarding the conclusions of the Urban Growth Report, it formed the Partnership for Sensible Growth, a coalition of interests supporting growth management policies that preserve the region's affordability and economic appeal. He said they supported Metro's Region 2040 Concept of well planned communities. Well planned meant finding real solutions to existing and future problems. The Partnership for Sensible Growth believed managing the region's growth meant good planning based upon facts and common sense. To make decisions based upon facts, good data was needed. They were concerned about the validity of Metro's proposed update on its Urban Growth Report that concluded that the region had adequate space to meet future housing needs. The Partnership Commission hired EcoNorthwest to analyze the update. He said in general, the report overlooked real problems such as 1) market factors affecting land availability for affordable housing, 2) housing near jobs, 3) industrial land near existing housing, and 4) adequate room for urban open spaces, parks, and school sites. This report simply failed to accord for, let alone anticipate, the region's future growth needs.

**Mr. Clark** said in their view, there were far greater risks in failing to account for and anticipate growth than by underestimating its potential effects. A recently completed industrial lands survey warned that the Portland region may deplete its available Tier A industrial land in less than 10 years. Even the perceived absence of quality industrial land could mean the loss of attractive family-wage jobs that will be critical to supporting Oregon's economy and generating the tax revenues to pay for crucial services, including public schools. If Metro did not appropriately expand the urban growth boundary to account for and anticipate the region's growth, it would not be managing growth; it would be deflecting it elsewhere. The real losers would be the families who would be shoved outside the metropolitan area to find affordable housing, then forced to commute long distances to go to work. Ironically, other losers would be farmers in the Willamette and Tualatin Valleys who were watching as more families were pushed out of the metropolitan area into outlying communities, putting pressure to expand boundaries in those small towns into adjoining farmland. The region could not afford to leave its needs unmatched in

this way. He urged the Council to take a smart approach to growth that matched solutions to problems and gave the best assurance that there was land for a wide range of housing, parks, schools, and quality jobs. In closing, he did not believe that the Council and the Partnership for Sensible Growth were that far away in concept or in goal, as evidenced by the Regional Transportation Plan (RTP) policies adopted by the Council. He urged the Council to read the RTP goals and match them to the planning for the Urban Growth Report.

**David Rohr**, Portland Metropolitan Association of Realtors and Partnership for Sensible Growth, read from written testimony, a copy of which is included in the meeting record.

**John Godsey**, President, Home Builders Association of Metropolitan Portland, and Partnership for Sensible Growth, read from written testimony, a copy of which is included in the meeting record.

**Councilor McLain** thanked Betty Atteberry and the Westside Economic Alliance, and Mr. Godsey and the Partnership for Sensible Growth for their time and work. She said she thought it would be appropriate to ask Elaine Wilkerson, Director of Growth Management Services, to answer the questions posed by the people who testified. She said the Growth Management Committee had directed staff to review the reports and comments that have been presented by both the Westside Economic Alliance and the Partnership for Sensible Growth, and to take the reports for review to the Metro Technical Advisory Committee (MTAC) and the Metro Policy Advisory Committee (MPAC).

**Councilor Washington** called for a point of order. He said this was a public hearing, and he preferred to hear from everyone who wished to testify before asking Ms. Wilkerson to respond.

**Stephan Lashbrook**, Planning Director, City of Wilsonville, read from written testimony, a copy of which is included in the meeting record.

**Councilor Atherton** asked whether bringing in all of the urban reserves in the Wilsonville area (UR 36, 37, 35, 41, 42, and 39) would provide the lands necessary to satisfy the current jobs/housing imbalance to which Mr. Lashbrook referred.

**Mr. Lashbrook** said he did not think that even that combination would achieve a total balance, but it would certainly help a lot. He said it was somewhat premature to talk about the areas on the east side of Wilsonville, even though there were six urban reserves around Wilsonville, and the City was committed to planning for all of them. He said the City of Wilsonville had not even started planning for the area northeast and north of town because there was no expressed interest by neighbors or developers in those areas, and because the City was busy with other issues like the prison siting and the building moratorium. He said the City has begun master planning for stormwater and natural resource protection efforts, but it has not looked at specific land uses or housing densities. Mr. Lashbrook submitted for the record a letter from Keith Lyden of McKeever/Morris, who represented the school district, regarding Urban Reserve 39.

**David Adams**, 19621 South Hazelhurst Lane, West Linn, spoke as a resident of the Northern Stafford Area. Mr. Adams read from written testimony, a copy of which is included in the record.

**Councilor McLain** asked Ms. Wilkerson to come forward and answer two questions. First, what has Metro done to review the work presented by Partnership for Sensible Growth and the Westside Economic Alliance? Second, where is MTAC in its review?

**Ms. Wilkerson** said she circulated a memo dated October 8, which she wrote to Lou Ogden, Chair of MPAC, which was the result of MTAC's first meeting. She said there would be another discussion at MTAC next week. She said last night, MPAC had its second meeting reviewing the work of Dr. Randy Pozdena of EcoNorthwest.

**Councilor McLain** noted that the first three pages of Ms. Wilkerson's memo included specific responses to the issues raised by EcoNorthwest.

**Ms. Wilkerson** said yes, the review by MTAC was only in detail on the first issue crosschecks of market conditions on page 2 of that memo. There were a number of detailed comments and a conclusion that MTAC made on that issue. MTAC also passed a resolution by a vote of 11 to 5 in general support of the update, but also committed to doing further work on the material submitted and detailed review. She said she anticipated next week that the following issues identified in the memo, which currently only had a staff analysis, would be joined by MTAC analysis, that would enable MPAC to see the input it was receiving from its planning directors.

**Councilor McLain** asked Ms. Wilkerson to describe what the committee and Council have already committed to go forward on, as far as other issues in the work plan that deal with some of these same issues.

**Ms. Wilkerson** said the end of the UGR included a section about further research and work. She said there were basically two components: 1) Goal 5 (fish and wildlife habitat) work and a reexamination of the assumed densities for Title 3 areas, and 2) jobs analysis. She said when staff concluded a small surplus of aggregate land for non-residential use in the UGR, they immediately recognized inconsistencies in the distribution by type, location, and size, but that their work program to date was a brand new program looking at that kind of detail, and they had not concluded, and needed a lot more time to work on it. Staff has set out a very comprehensive work program which they shared with the Growth Management Committee and MPAC, who will address distribution issues. Sort of as a base of that, staff will be doing an update of their forecast and looking at capture rate and jobs/housing balance. From that, staff feels that when the placeholder is determined, and staff knows how much the will be regulated, both non-residential land and residential land will need to be brought in the UGB. With the jobs research underway, staff feels that it will have a better ideas where the jobs lands should be, and how it should be, and what type it should be.

**Councilor Atherton** asked Ms. Wilkerson if she knew the zoning in the Dunthorpe map presented earlier.

**Ms. Wilkerson** said she did not know the local zoning personally, but staff could find out.

Councilor Atherton said he would be interested to know the zoning.

**Councilor Kvistad** said when the Council is looking at the map of Dunthorpe, it was looking at an accurate map. He said no one was going to build a tract house behind his or her multi-million dollar home. He said this was happening all over, and Dunthorpe was a perfect example. There was no way that the land was developable. He said the numbers in the Urban Growth Report

were askew. It was obvious that these homes were not going anywhere, and people would not put accessory dwelling units behind those homes. He said Mr. Godsey and Mr. Clark's statements were right on point. He said the Council was responding, but not listening, to what EcoNorthwest brought forward and what the Council saw in the numbers. He said they were not hearing and implementing what they were being told; there was process but not completion. Whether it was a new work plan or a placeholder, quite frankly, the Council needed to finish the work it did before and not change the numbers in midstream. He said he did not care that MTAC was working on something. MTAC was an advisory committee to an advisory committee, not to the Council and not to the growth team. He said the Council may staff MPAC, but MPAC was not the Council. The Council had to decide whether it was making the right decision, was it going in the right direction, were the numbers being used correct, were the infill or refill numbers correct. The new ones coming forward were not, as shown by the fact that staff counted as available land that would never be developed. He said the EcoNorthwest report was very solid, and he agreed with what the people who testified were saying. He said he hoped the Council would take it to heart. In responding, he said he had the MTAC review and recommendations, which was all well and good, but he would rather hear from the people who were actually working in the community, because sometimes they knew better than those caged up in government buildings.

**Councilor Atherton** asked Shaw if the issue was that it would be developed or was it that the land was available. He asked what state law required? He said Councilor Kvistad just offered his subjective opinion that the land in Dunthorpe and Stafford would never be further developed, and he needed as clear an explanation as possible whether it was the Council's duty to provide land that will be developed, or that can be developed?

**Mr. Shaw** said this question had been answered in simplistic terms for the rest of the state, and of course, it was tougher to answer for Metro. He said in general for the rest of the state, if it was vacant land by any reasonable definition, regardless of whether grandma was holding onto the market for 50 years, or it held a century farm, it was available for purposes of counting for a 20 year growth boundary. He said there was case law that it could not be based on market conditions, in the sense of someone holding it off the market. But in this instance, the Council might be able to make an argument and get expert testimony and say that the price of all these homes was 300% of the medium price of homes, and have some other expert opinion that this would never happen. He said the problem was that as the staff report indicated, sometimes it did happen, such as the addition of a subdivision on the Frank Estate near his home. Generally, if land was vacant and available, it had to be counted that way, however the Council could attempt to establish a record and show why certain circumstances made that untrue in a particular area. He said anyone who lived in Portland knew that Dunthorpe had some of the characteristics being discussed here in terms of history.

**Councilor Park** said he had a question to follow up on Mr. Shaw's suggestion to construct a record in order to move remove land from a countable basis. He said for example, Alpenrose Dairy had a conservation easement that would never develop, so therefore it was removed from the buildable inventory. He asked whether, if these had some type of deed restrictions overlay, it would then be a legal basis for not counting the land as buildable?

**Mr. Shaw** said that was an excellent example of the kind of factual record that could be presented, and may in fact be the case in certain areas of Dunthorpe in certain areas.

**Councilor Kvistad** said when dealing with the Frank Estate versus Dunthorpe, it was important to remember that Frank Estate was a stand alone estate in the middle of a fairly rural community



at the time it was built. It was not one of a community of estates, it was a single operating unit outside in a unique environment. He said Dunthorpe was a completely different situation; it was one of the more upscale of the communities in the region, and each lot was similar to each other. He said this was such as telling piece of material because a standard of reasonableness dictated that this would not be developed, and to count this land as developable was really not something that helped Metro's numbers to be more accurate. In other areas, there was a potential to redevelop a large farm or estate, but that was in a different category.

**Councilor Bragdon** said this could go on forever, and he found it very interesting that people raised these issues and the Council's immediate reaction was to turn to the lawyer or to the statisticians. He said to him, that was not what planning should be about. There was a legal function, and he meant no disrespect to the legal profession, but that was not what making a community was really about. He wanted the Council to somehow get beyond the statistics and the code in Dunthorpe, and talk about what it wanted the region to look like. He said people from the commercial world were raising some good points. He said Metro could wage a battle of numbers, but he would rather hear from folks in the commercial world and talk about how things could be done slightly differently. He said it did not need to be big changes, but with regard to the school district, for example, was it possible to build two-story suburban schools? That would go a long way. When talking about industrial lands, of course the Council wanted this to be a prosperous area, but did it mean that industrial all had to be one-story, big box, surrounded by parking lots? Was it possible to do that slightly differently? He said he would like to hear from people in private industry an acknowledgement that it was possible to do things slightly differently. He said he would have a much easier time dealing with it on that basis.

**Councilor McLain** said there had been one comment made by a number of different people, and she wanted staff to be ready to answer it when it had a full presentation around November 18. One of those questions was that the numbers and the concepts or criteria were somehow different from 1997 to 1999. She said there was some conversation at the committee level about why refinements were made. She said it went to Councilor Bragdon's comment, and to some comments made last night by Metro's community partners at MPAC, and that was, lets go back and say it terms of, what should the full community look like? She said that did mean an active, vital economy, and plenty of parks and schools. She said one item raised at committee that was so telling was the fact that the region had more land counted for park needs now than in 1997. She asked staff to please put these answers in narration with comparison showing similarities.

**Councilor Washington** said that he hoped that a decision could be made by November 18, 1999. It was time to settle the matter in a format that was acceptable.

**Councilor Park** shared Councilor Bragdon's frustration. The reports bring interesting questions. He said he was interested in the five-year land supply of what actually was developable versus the 20-year, 30-year or 40-year plan.

**Councilor Atherton** said the 20-year land law was the driving force. The focus must be building livable communities, turning away from the state, central planning mandate and the numbers game. He was looking forward to the possibility of removing the 20-year land supply law so the staff could be directed towards productive work on livable communities.

## **COUNCILOR COMMUNICATIONS**

**Jeff Stone**, Chief of Staff, reminded the Councilors that effective Monday, October 18, 1999, he was taking a two-month family leave, and provided information as to how to contact him.

**Councilor Park** commented that he did not know quite what to make of the recent budget meetings that were held on Monday and Tuesday. The receipt of the Executive Officer's communication late Wednesday without supporting documentation, and the lack of an explanatory presentation by the Executive Officer or his staff was not right. He felt that opportunities for Mr. Burton to present information to the Council had not been utilized. He hoped the Presiding Officer was going to ask the Executive Officer and his staff to disclose the background for their numbers, where the numbers came from, and why a presentation was not given prior to the Council meeting.

**Presiding Officer Monroe** said he was meeting with Mr. Burton on Monday morning to discuss this, among other items.

**Councilor Bragdon's** opinion was that the Executive Officer held a bit of contempt for the Council, for the policy making process that Councilor Washington had been managing for the past several months, and basically, for the truth. He asked the Presiding Officer to convey his impression to the Executive Officer.

The public hearing was closed.

#### **ADJOURN**

There being no further business to come before the Metro Council, Presiding Officer Monroe adjourned the meeting.

Prepared by,

Chris Billington  
Clerk of the Council