

MINUTES OF THE METRO COUNCIL MEETING

October 21, 1999

Metro Council Chamber

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

Councilors Absent:

Presiding Officer Monroe convened the Regular Council Meeting at 2:12 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Mike Burton, Executive Officer, said there were new annexation deadlines and fees established under the Metro Code, Chapter 3.09 with an amendment to clarify annexation responsibilities for Metro and for local jurisdictions. This amendments required that forms, fees be created to allow cities, counties and property owners to annex to a city, special district or Metro boundary. He reported that yesterday he had signed Executive Order No. 73 establishing a \$3,000 fee, actually a deposit, under authority of the Metro Code, which would be charged to property owners wanting to annex to Metro. After annexation to Metro, the property could be brought into the UGB through another process. He said, per Council's instructions, forms had been prepared to assure that those property owners understood the process and requirements. He noted that the fees did not apply to any properties the Council desired to add to their boundaries through Metro's own initiative. He noted he had entered a copy into the record as required by code, along with a copy of the Executive Order and the forms and procedures.

Councilor McLain wanted to be sure it was clear they were trying to recover administrative costs and that if the fees were more than \$500 more than those used by the previous Metro boundary commission that there was an explanation of how the new fees were arrived at.

Mr. Burton assured her it was clear they were recovering costs, but felt showing the comparison to previous fees was a good idea and he would make that available.

He continued that staff from Council, the Executive Office and General Counsel were in discussions with the City of Portland, Multnomah County and other parties to the OCC bond measure. He urged the Councilors to express any concerns to staff to be sure all their questions were addressed. He said a more serious issue was that the City of Portland's arrangements for the stadium were not moving along as smoothly as they should. There had been no mention so far in the Calgary newspapers about a deal being cut for the team. He assured the Council that it had been made very clear to the City that Metro had no fiscal responsibility for any failure on the part of the City in regard to the stadium project. He had other concerns also, and suggested that

Council may want to ask the principles of the stadium deal to come have some discussion, particularly regarding the timing. There was a question regarding when the City should take back the stadium. If the facility had not been turned over to the City by March 31 costs would begin to accrue for the operation. He said there would be no revenue because nothing had been marketed or booked beyond a certain date pending this deal.

Presiding Officer Monroe asked who Mr. Burton suggested inviting for dialogue.

Mr. Burton felt an inquiry to the Mayor's office would be in order. He continued with his final issue, the Willamette Harbor cleanup. He reminded Council that Metro had become involved because of the purchase of Willamette Cove at Swan Island a few years ago under the open spaces program. He said extensive testing had been done prior to the purchase to determine the levels of contaminants and what would be needed for remediation. DEQ had also consulted and involved in the review of the property. DEQ sent a letter saying they would hold Metro harmless for any contaminants related to the McCormick and Baxter site north of Willamette Cove because of the potential down river flow from that supersite. He said the Portland Harbor was now receiving attention from the EPA and the DEQ said that the pre-purchase agreements we had with them are no longer valid. He said that required us to do further testing of the site and he was concerned about the potential of a large fiscal impact on Metro for potential responsibility of the cleanup. He reported that Metro had hired outside counsel and was in the process of retaining a consultant to do additional testing on the site. He said DEQ did say they would not hold Metro responsible for any seepage from the McCormick and Baxter site. He felt reasonably safe that the original tests were valid. He said he sent letters to the DEQ, past property owners and the Governor's office expressing Metro's belief that the Division of State Lands (DSL) had some culpability for the pollution and the related costs since they were the lessor of the properties over that period of time. He said they had not yet heard back from our counsel.

Councilor Atherton asked if McCormick and Baxter's whereabouts were known.

Mr. Burton's understanding was that the corporation had gone to the DEQ and the EPA and voluntarily listed themselves as a supersite.

Councilor Bragdon said there seemed to be a couple of parts to this issue, the potential liability for our property as well as a pool of property owners who had pledged to participate in a study, regardless of what that would eventually show. He asked if Metro had any liability on the study part.

Mr. Burton said Metro had indicated we would pay for studies within our site. He said it was yet to be determined if we would contribute to the larger study question. He commented that Councilor Bragdon was correct about there being two parts. He said Metro was proceeding with additional studies on our site anyway. He did not want there to be any question about whether or not the site was contaminated.

Councilor Bragdon clarified that Metro was not part of the apparent unraveling of the partnership's commitment to the study.

Mr. Burton said that was correct.

4. AUDITOR COMMUNICATIONS

None.

5. MPAC COMMUNICATION

None.

6. CONSENT AGENDA

6.1 Consideration of the Meeting Minutes of the October 11 Budget Workshop and October 12 Council Public Hearing Minutes

Motion: **Councilor Atherton** moved to adopt the meeting minutes of October 11, 1999 Budget Workshop and the October 21, 1999 Council Public Hearing.

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

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

7. ORDINANCES – SECOND READING

Presiding Officer Monroe explained the process for this public hearing. He said there would be no final action on any of the resolutions until next week. Council would be considering amendments at this meeting, however.

Councilor Kvistad commented that this process had been very confusing. He confirmed that they would be dealing with the revenue side. The motions today would be on revenue, whether or not to accept or to move it into category, not on what there may or may not be allocated to.

Presiding Officer Monroe said that was correct, the motions would be on the tip fee, revenue split and spending decisions.

Councilor Park had a concern about the balance in the discussion. He understood they would not be going into them until the budget cycle, but where they thought the funds ought to be going was the concern as to how much did they convert to actual excise tax, how much did they leave in the solid waste system. Some of the proposed amendments ended up with a 60/40 split and not knowing where they were heading on the spending amount made it difficult to plan.

Councilor McLain also wanted to make sure everyone was aware, even though Council had already been through a 7-8 month process dealing with different possibilities for the revenue, there would be a full blown budget process to scrutinize the use of this money, whether in solid waste or other programs.

Presiding Officer Monroe thanked Councilor Washington, Chair of the REM Committee, and the committee for their time and effort. He opened a public hearing and said people should feel free to speak on any or all of the 3 ordinances before council.

Geri Washington, 5825 N. Greeley Ave., Portland OR 97217L, Environmental Justice Action Group (EJAG), was present to encourage the Council's allocation of some of the available dollars to brown field revitalization. She said there were approximately 595 brown fields throughout the city, with another 1,600 areas with some level of contamination that could label them as brown

fields. Her concern was a large portion of the brown fields were located in north and northeast Portland which was a low income area. She said they had grants for \$200,000 but that would not clear up the problem. This stable funding would make neighborhoods look better.

Presiding Officer Monroe said Council was not making specific spending decisions this day but would be deciding on how much discretionary funds were available for all kinds of investment needs such as this one.

Councilor Atherton asked if there was any way that brown fields remediation could be considered a solid waste function.

Marv Fjordbeck, General Counsel, said he could see certain brown field features fitting in to a solid waste expenditure and would be happy to review that point during the budget process.

Councilor Atherton asked if that related to their decisions because of any excise tax increase.

Mr. Fjordbeck responded that the discretionary funds could include some solid waste money.

Allen Hipolito, 10 N. Russell, Portland, OR 97227, Urban League and Coalition for a Livable Future, said his testimony was also regarding brown fields. He said cleaning up contaminated land was a fundamental issue in our regional growth planning strategies. He said these kinds of proactive efforts will not come to any real fruition unless we can access some consistent resources to clean up the land. He urged consideration of this fact in deciding for the money.

Scott Bradley, division vice president for Waste Management, 7227 NE 55th Portland OR 97221 entered his letter regarding Ordinance No. 99-824 into the record (a copy of which may be found in the permanent record of this meeting). He summarized this letter for the council and commended the Council for their criteria to guide solid waste rate and excise tax policy. He said they could support Monroe Amendment No. 2.

Mike Houck, 5151 NW Cornell Rd., Portland, OR 97210, Audubon Society and Coalition for a Livable Future supported the Dakota option. (He submitted a letter into the record, a copy of which may be found in the permanent record. He added his support for the previous brown field testimony.

Warren Fluker, 6205 NE 28th Ave., Portland, OR 97211, of the Brown Fields Showcase Citizen's Advisory Committee, testified before council. He said he had been traveling around the country this summer to see how other urban environmental areas were dealing with their brown fields. Twenty years ago, he had been doing the same for the Portland area, and had a youth project to clean up and reclaim deserted and abandoned properties. He was here to testify because the Portland area had the opportunity to make a significant difference in creating a national model on how to deal with brown fields. He felt Portland had a head start on the rest of the country as far as taking care of the brown fields. He felt the Dakota option was a sensible way for everyone to have an immediate impact on the environment. The affect would be far reaching, even to genetically affecting our grandchildren and great grandchildren in the next 50-60 years. He said using some of the funds in the Dakota option would have an impact and create a national model..

Tom Badrick, President of the Sunnyside Neighborhood Association, 4216 SE Madison, Portland OR 97215, testified in support of the Dakota option. He said it would improve the livability and was a responsible and proactive solution to the situation.

Presiding Officer Monroe closed the public hearing.

- 7.1 **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.

Motion: **Councilor Bragdon** moved to adopt Ordinance No. 99-825.

Seconded: **Councilor McLain** seconded the motion

Motion to

Amend: #1: Councilor Bragdon moved amend Ordinance No. 99-825 to substitute a \$62.50 rate for the proposed \$62 rate.

Seconded: **Councilor Park** seconded the amendment.

Councilor Bragdon said this amendment came after discussion at the solid waste advisory committee and conversation and testimony from the recycling industry in regard to the tip fee.

Presiding Officer Monroe added that the committee had voted overwhelmingly to keep the tip rate at \$62.50, and recycling advocates all over the region agreed that a substantial cut in the tip fee would negatively impact recycling.

Councilor McLain clarified for the waste industry that the Council understand their advisory vote was 2 motions, the second one tied to the \$62.50, which indicated they wanted to be sure Metro's contingency funds were in good shape. She said they talked yesterday at REM about the 3 funds necessary to make sure our solid waste system was in good shape.

Councilor Atherton asked why the change was needed in Ordinance No. 99-825 if the rate was not changing. He said he would move to table the ordinance if needed.

Mr. Fjordbeck said if they were going to leave the rate as it was, the appropriate mechanism would be to amend it to retain the current provision. That left the provision in (b) and the elimination of Section F in this particular ordinance.

Councilor McLain said she felt this ordinance reaffirmed the status quo. she

Councilor Kvistad asked if this was the ordinance at which they had to make any adjustments in the tipping fee to reflect a reduction that had to do with the \$60 million.

Presiding Officer Monroe said this was the ordinance at which it would be proper to make adjustments in the tipping fee.

Councilor Kvistad clarified this was the vehicle they had to amend in order to make changes in the way they would allocate that money.

Presiding Officer Monroe said this was an appropriate for such change.

Councilor Kvistad said he had an amendment to make after the current one was vote on, but prior to its adoption.

Councilor Atherton felt the staff report reflected that this was much more than the status quo as it increased the general fund revenues for non-solid waste Metro responsibilities by about \$3 million per year.

Presiding Officer Monroe clarified that Councilor Atherton was speaking to Ordinance No. 99-825. He was.

Mr. Fjordbeck said the ordinance as originally proposed it changed the tip fee and the tonnage charges. He thought it was to that language regarding the tonnage charge that Councilor Atherton's comments were going to in the staff report.

Terry Peterson, REM Director, said there were a number of fee components in Section B that totaled up to the \$62 tip fee as the ordinance was originally filed. He said if the tip fee was amended to \$62.50, and if no other changes were made in the disposal charge components, the additional revenue raised by that 50¢ would stay in the solid waste revenue fund. On the other hand, if that revenue was moved over to the general fund, Council would need to lower the disposal charge in B(1) and increase the excise tax in the following ordinance.

Presiding Officer Monroe asked if there were provisions in Ordinance No. 99-824 that would accomplish that. Mr. Peterson said there were.

Vote to

Amend: The vote was 5 aye/ 2 nay/ 0 abstain. The motion passed with Councilors Atherton and Kvistad voting nay.

Motion to

Amend: #2: **Councilor Kvistad** moved to amend Ordinance No. 99-825 to reflect a reduction in tipping fee to return all the monies with the exception of a \$1.5 million to the people of the region.

Presiding Officer Monroe asked whether the \$1.5 million was one time only or yearly.

Councilor Kvistad responded it was one time only.

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

Councilor Kvistad was concerned that if they did not return the money directly, a major portion of it may be siphoned off into general fund expenditures for this government. He believed that was inappropriate. He was aware that more amendments were coming that might change things, but it was his intent to not move any money from this savings into any general fund spending whatsoever for any programs in this agency, but to be returned directly to the people that paid it. Should this pass it would take care of itself, should it not, he had follow-up amendments.

Councilor Park asked what this would do to the solid waste reserve accounts over the life of the contract.

Mr. Peterson said in order maintain the capital reserves at a level the department considered appropriate, they would have to raise the rate in the future to make the additional contributions. The reserve account of particular concern was the capital reserve account. In future years that would take a contribution from a rate if there were a decrease to that level at this point.

Councilor Park asked if any numbers were available to show the initial effect. He thought it appeared to return approximately \$4.5 million in some form. He wondered what it would do to the time forward on the reserve accounts and what would be the net financial effect on the solid waste system.

Mr. Peterson summarized the cost inflationary increases on current solid waste programs. With an operating budget of \$47 million, at an inflationary increase of 2.3%, the annual increase would be \$1.1 million. If the savings were not used to cover the \$1.1 million per year cost increase, it would have to be covered through reductions in the programs or through use of the reserve accounts at a faster rate. He noted that, in order to maintain the capital reserve at an appropriate level, they projected they would need \$400,000 per year over the next 3 years. At that point, it would take roughly \$1.5 million per year to cover the capital expenditure. He said if Council chose not to use the savings to cover those costs, the choices would be drawing down the reserves even further to cover the costs or reducing the program costs.

Councilor Park said this was the first time he had seen these amendments. He hoped to have a fiscal impact statement similar to the known impacts of the Dakota plan to help them evaluate the programs against each other. He did not know what this would do for future fiscal stability.

Councilor McLain said she reviewed the lavender sheets with the Council Informal material they received on the Dakota plan and other issues. She compared how far those reserves could be carried out with the amount of savings toward those funds. She said it pointed out to her that the tipping fee would have to be raised much sooner or they would have to cut solid waste programs drastically to keep the reserve funds at the rate they would under the Dakota plan. She thought it was pretty easy to see that they would have to be raising the tipping fee within 2 years instead of the 3-5 year reserves they were trying for.

Councilor Washington said he would not be supporting this amendment but felt this motion as well as his recommendation to return all of the money back to the voters should be on the table for review. He said this was extremely complicated and felt they needed more than 30 minutes to evaluate the information. He said the committee process had taken 6-8 weeks to go over this information. He said his recommendation could be dealt with through the budget process so he would not bring an amendment today.

Councilor Atherton said he generally supported Councilor Kvistad's thoughts but could not support it because it lowered the tipping fee substantially which would have an impact on recycling. He commented that they had made a commitment to recycling and had a state mandate as well as broad public support for it. His second point was they had substantial liabilities in the solid waste system to take care of. He hoped his proposal would address these liabilities and that Councilor Kvistad could see his thinking expressed in a satisfactory way as well.

Councilor Bragdon wished to clarify why he would not be supporting this motion even though he seconded it. He said he supported Councilor Kvistad's intention on the expenditure side, that this fund not disappear into a bureaucratic black hole in this building. He felt the funds needed to

be tracked in a very disciplined and focused way and if the amendment failed, he would work with Councilor Kvistad to make sure the expenditures were handled in a responsible fashion.

Presiding Officer Monroe said he could not support this amendment. He noted testimony concerning how recycling, which was his highest priority for the money, would be affected, and the need to stabilize the reserve funds so they would not have to raise the tip fee again in the near future. He felt that stability was something the industry and the citizens were asking Metro to provide. He said this amendment allowed no discretion for investments in parks and open spaces, local government planning grants, lower admission fees for children at the zoo, brown fields or any other investments they may find.

Councilor Kvistad closed by saying he was accountable for the way he conducted himself as a member of the council as well as to the 1.4 million people of the region. He felt rates should reflect costs. He saw the problem had been that while they were stabilizing rates, they had not necessarily made it clear to people exactly what the costs for the programs were. He felt rates should go up when costs went up, and down when the rates went down. He felt he had a pretty good idea of how the recycling system worked. He said if the money was given back to the system that created the savings and stayed there, he would not be presenting this amendment. He felt he had to do something to bring to people's attention that money from the solid waste system should not be used for general government. He noted that he had supported recycling consistently. He said he had been hearing discussions about putting the money back into the general fund for unidentified spending. He said he had another proposal that would eliminate the Zoo and MERC money from the Metro budget and leave it to the facilities that would be coming separately, depending on how the dollars were divided. He said if this Council was planning to spend the money in any way other than on the solid waste system, the money ought to be returned to the voters. He was not willing to give the extra revenue to this government for things he felt it did poorly.

Vote to

Amend #2: The vote was 1 aye/ 6 nay/ 0 abstain. The motion failed with Councilor Kvistad voting aye.

The Presiding Officer set aside this ordinance for final action next week. He explained to the on-lookers that any time a substantive change was made to an ordinance, the Council was required to delay final action for a week.

7.2 **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.

Motion: **Councilor Washington** moved to adopt Ordinance No. 99-824.

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

Councilor Washington said this ordinance had been discussed for quite some time and he couldn't add anything further. He urged approval from the council.

Presiding Officer Monroe asked Mr. Fjordbeck to review this ordinance to avoid any confusion with the other two in front of the council at this time.

Mr. Fjordbeck explained this was the vehicle by which the council could change the method by which the excise was collected, and was the primary vehicle by which the council would deal with the allocation of those funds.

Motion to

Amend: #1: **Councilor McLain** moved Monroe Amendment #1.

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

Councilor McLain reviewed that this ordinance modified the tax rates proposed in Ordinance 99-824 and 99-825 to provide for allocating 60% of the projected savings to the general fund and 40% to the solid waste revenue fund. She understood that if they were going to be able to carry out operations projected in the Dakota plan as presented by Councilor Bragdon, this type of amendment was necessary for the ordinance. It allowed some of the issues to be addressed through having the dollars in the correct area for the budget discussions in February.

Presiding Officer Monroe asked Mr. Peterson to step forward. He asked if this amendment would allow the solid waste department to function with a \$62.50 tip fee for at least 3 years and what additional resources would be available for recycling and household hazardous waste enhancements.

Mr. Peterson referred to his earlier statements about solid waste needs. He said maintaining the status quo for existing programs would take about \$1.1 million per year. Maintaining the reserve accounts would take another \$400,000 in contribution per year to the capital reserve over the next 3 years. At a \$62.50 rate with that contribution to the solid waste program, they would be able to maintain the tip fee for 3 years. There would be an increase needed in the following year if they were to continue the programs and keep their reserves at the same level.

Councilor Washington asked the estimate of the increase in the fourth year if it was needed.

Mr. Peterson responded the increase was approximately \$1.50-2.00.

Councilor Washington asked if it could be more.

Mr. Peterson said there was certainly some degree of uncertainty in the solid waste industry at this time. He said the projections were dependent on the tonnage forecast and there were some changes going on right now in the industry.

Councilor Washington asked Mr. Peterson if he was willing to give a worst case scenario number on this.

Mr. Peterson said he was confident in the \$62.50 rate for 3 years, even with the uncertainties.

Presiding Officer Monroe said in addition the discretionary money would all be available for solid waste needs at the determination of this council.

Councilor Bragdon brought up the need for enforcement of illegal dumping. He asked if those efforts would continue under the 40% split.

Mr. Peterson said at those funding levels the program would continue at its current level. He added that during the budget process the council would have the opportunity to reallocate the \$1 million between waste reduction, hazardous waste and enforcement.

Councilor Atherton asked if the transfer stations were considered state-of-the-art.

Mr. Peterson thought they were very good. He said they had some of the highest recovery rates of any general-purpose transfer station he was aware of. The North Portland facility was designed with recovery in mind and could be considered state-of-the-art. The Oregon City facility was older and the lack of recovery opportunity made it less so. He added it was in the CIP to upgrade that station.

Councilor Atherton mentioned that at yesterday's SWAC meeting, there was sentiment to extend the rate stabilization out at least 5 years, probably 7. He asked if the funds to carry out that principal were available in this recommendation.

Mr. Peterson said at a \$62.50 overall tip fee and the contribution to reserves like they talked about, the answer was no, they would be able hold the tip fee for three years. Adjustments somewhere else would have to be made to hold it longer.

Councilor Park asked if the proposals that Mr. Peterson had been describing regarding stabilization and tip fee was the REM option.

Mr. Peterson said that was correct

Councilor Park appreciated the work Mr. Peterson had done outlining the variables and what it did to the accounts. He thought the potential increase number they were looking for in the fourth year was about \$1.38 under this projection. He asked Mr. Peterson to reiterate his assumptions regarding the reserve account amounts.

Mr. Peterson said they were comfortable with the capital reserve account being maintained at a \$3 million level, which was a 2 year reserve based on actual capital expenditures over the last 5 years. He said the undesignated fund balance would be drawn down to zero within 3 fiscal years and the renewal and replacement account would be consistent with the 20 year projection of the capital and equipment requirements per bond covenants.

Councilor Park thanked him again for the work his department had done. He said it was the kind of work from which good policy decisions could be made.

Motion to

Amend: #2: **Councilor Atherton** moved to substitute the Atherton amendment #1 for the Monroe amendment #1.

Seconded: **Councilor Kvistad** seconded the amendment to the amendment.

Councilor Atherton preferred to call this the “taking care of business option” because he felt it focused on doing just that. He distributed a handout summarizing his idea. He said this \$60 million was basically a bonus to Metro and the region. He suggested a more prudent course for the money because of the extraordinary opportunity to stabilize a core business well into the future. He felt moving more prudently and restricting 90% of the funds to the solid waste system and 10% outside the solid waste system to do agency business was the way to go. He agreed that the Oregon Food Bank was a good business expense because of the substantial amount of material the Food Bank removed from the waste stream. He said he would accept a friendly amendment from Councilor Kvistad to add an Expo Center landscape master plan which he felt was also a good business decision. He included a part to stabilize children’s admission at the Zoo which he felt was also a part of taking care of business. He felt it was entirely appropriate to celebrate the good work that had been done by stabilizing that fee. He asked for approval of his amendment including the Expo Center landscape master plan.

**Friendly amendment
to Atherton**

Amendment #1. **Councilor Kvistad** accepted the friendly amendment.

Councilor Bragdon read that the amendment as written did not address where the 10% portion to the general fund actually went so that decision would be made later as to whether it went to the Expo Center landscaping or the Food Bank or any of a number of other places. He added that although he would not be supporting the amendment, he saluted Councilor Atherton for coming up with a coherent plan. He said it was very fiscally responsible and he appreciated the effort.

Councilor Kvistad reiterated a vote on the motion to substitute basically put this on the table. A vote in favor or against did not endorse or pass it, it put the motion on the table for discussion.

Presiding Officer Monroe said that was correct, it would actually take 2 votes to make it a part of the ordinance.

Councilor Park asked for clarification on how much would be used to pay down the debt

Councilor Atherton responded \$2.5 million per year.

Councilor Park asked Mr. Peterson what this would do to the reserve funds and the rates.

Mr. Peterson did not have Councilor Atherton’s proposal in front of him but thought it would allow them to keep the reserves at the appropriate levels as they had discussed. He believed Councilor Atherton was adding the additional debt service requirement into the Monroe amendment.

Councilor McLain felt the Atherton amendment assumed the desire to buy down the debt in the year 2000.

Councilor Kvistad called a point of information: on the motion to substitute, he wanted to be sure they did not get into debating the motion before them.

Presiding Officer Monroe responded that debating the substance of something that would be substituted was in order.

Councilor McLain said there had been a lengthy discussion at the Council Informal about bonds being bought down in 1999 vs 2003. She said two issues made her uncomfortable about this substitution: 1) possible penalties in some areas, and 2) a possible range of missed opportunities if the bonds were bought down before 2003. She asked if this assumed the buy down process would start in the next budget year.

Mr. Peterson's understanding was it would require an annual contribution of \$5 million for the next 5 years. At that point there would be sufficient reserves to pay off our bonds.

Presiding Officer Monroe understood as well that to pay off the bonds before the year 2004 would require significant penalties and that was why it was structured the way it was.

Councilor Atherton said that was correct, but there was a defeasance process where you put the money in an escrow account to gather interest. He said instead of paying the interest on the borrowed money, you could instead put it in the bank and gather interest which provided a savings.

Councilor Washington asked Councilor Atherton about collecting interest. In terms of the funds that they set aside there were restrictions on

Councilor Washington asked Councilor Atherton about collecting interest. He asked if Councilor Atherton was referring to arbitrage when he said Metro could collect interest. He asked if Metro would be restricted.

Mr. Petersen said he believed so. He believed that the reserve account that the Council would set up would not have the same kind of restrictions that Metro's current debt service accounts would have.

Presiding Officer Monroe said the only restriction, he believed, would be on the prudent, conservative types of investments into which government money must be placed.

Councilor Kvistad said as a point of information, the arbitrage rule was basically on Metro's state or federal monies that were tied directly to Metro's programs, and they had specific requirements in terms of how Metro invests. The prudent investment strategy policy was the policy of the agency, so any escrow money was invested under Metro's investment policy under that strategy, which the Council approved.

Councilor Washington said he understood that Councilor Atherton was referring to the amount of interest that Metro would save by putting the money aside.

Presiding Officer Monroe called for additional discussion of the motion to substitute.

Councilor Bragdon asked, as a point of information, whether a yes vote meant the Council would discuss this option.

Presiding Officer Monroe said no, an aye vote would negate Monroe Amendment #1 and replace it with Atherton Amendment. Since passage of the Atherton Amendment would nullify his own amendment, Presiding Officer Monroe added that prudent use of revenue bonding, where the revenue stream was known, was the most common method for governments to make capital investments. As examples, he cited the first phase of the Oregon Convention Center in 1986, the transfer stations, and school district bonds to build new schools. He said governments put out revenue bonds to paid for capital investments, and pay them off over time at a low government interest rate of around 5 percent. He said if Metro had no other significant needs for investment, which have been identified by the region's citizens, then this might be a reasonable way to use this money, and he applauded Councilor Atherton for his thoughtful efforts along this line. He disagreed, however, that this was the highest and best use of these resources at this time, and therefore, he would not support Councilor Atherton's motion.

Councilor Atherton closed by saying said he disagreed with the Presiding Officer. In no way had he ever challenged the prudent investment and the revenue bond stream. However, he said, this was an industry in flux, and his motion would maintain the greatest amount of flexibility for Metro in the future, until Metro can settle on the issue of whether the other expenditures alluded to during the meeting were the best investments. In this state of uncertainty, Councilor Atherton believed Metro's best investment was to put the money aside, not commit it, earn interest, give the region's ratepayers a dividend on their investment, and certainly not incur more debt by expanding government programs with no end in sight. He said the direction that would be established by approving his motion would clearly rein in the spending and provide more certainty for Metro's core business, solid waste.

Vote to Amend: The vote was 2 aye/ 5 nay/ 0 abstain. The motion failed with Councilors Atherton and Kvistad voting aye.

Presiding Officer Monroe called for further discussion on Monroe Amendment #1.

Councilor Kvistad said he could not support an amendment before the Council which splits out spending. He said he was uncomfortable with the convoluted nature of the process: if the debate was on not only how the Council was dealing with the revenue, but also how it was planning to focus and spend that revenue, then this might make sense. Instead, Monroe Amendment #1 said that the Council would spend 40% for this and 60% for that, but with no identified specifics, components, or policies behind how the money would be spent. He said he did not think this was a prudent way for the Council to go. He said he was disappointed with the process because it left these decisions dangling. This motion was particularly troubling to him because it did not provide any touch points for the Council on the expenditure side, and without those touch points, there was no way for the Council to set funding levels. He said since this was the place where the Council should have these policy discussions, he urged the members of the Council not to pass an amendment that was not tied to anything, because then the Council would be in a position where, should it have to come back and make changes, it will have made a funding split that was not tied to revenue or to expenditure, and did not go anywhere. He said he had an amendment which he may move as a substitution later in the meeting. He urged the Council to vote no on Monroe Amendment #1, leave the money where it was, go through whatever further amendment process it had, and at the end of that time, potentially hold a greater discussion about the policy implications. He did not feel this amendment was healthy for the process at this point.

Councilor Bragdon said he also was uncomfortable with the ambiguity about the 60% and where it would go, and the uncertainty of collecting \$1.2 million dollars this year, or \$3 million in future years, without specifically stating where the money will go. Rather than simply express his dissatisfaction with that, he was trying to quickly bring some specificity to it through the Dakota Plan. He said the Dakota Plan was not so much about what the Council was spending the money on, it was about bringing some specificity to it so that the Council was not, in effect, buying "a pig in a poke." He reiterated that now the Council was discussing the 60% expenditure side, and he thought it was exceedingly important to be as accountable as possible. He wanted to know where every penny of the savings went, a year from now, two years from now, and on through the course of the contract. He said the first step was quantifying exactly how much money was at stake, and the Council now know it was not \$60 million, due to liabilities. The second step was realistically determining Metro's base general fund budget to maintain existing programs. Once the Council completed the first two steps, it would be time to address the expenditure of the savings. He said his goal was to add focus to the savings, and put them into the natural resources area. He said if Monroe Amendment #1 passed, he would return to Council in one or two weeks with a proposal to add structure. First, his proposal would be to establish criteria for evaluating how to spend the funds, similar to the funding criteria used by the Joint Policy Advisory Committee on Transportation (JPACT). The next step would be the highest degree of public involvement, including local officials, in determining how to keep the funds together. He suggested letting Metro's general fund programs contend with theirs. He said if Metro needed to put the money in a fund and establish a Board of Trustees, he was willing to do that, let Metro's funds contend with other governments' funds, and produce an annual report demonstrating how the money was used. He said the results were important, and if the Council did not structure the expenditure side in a very fiscally responsible and accountable way, then he will return next year supporting Councilors Washington and Kvistad's proposal to give the money back. He said he knew this was somewhat premature. He thought the process had been a little upside down, which was unfortunate, but a product of how the budget worked. He wanted to assure Councilor Kvistad and anyone else that the Council does move forward on the expenditure side as rapidly as possible with criteria and clear direction. He said the money would not disappear into a bureaucratic black hole, it would not buy new office furniture for the building, it would be out in the community providing items people has said it wants.

Presiding Officer Monroe said the Council was the Board of Trustees. The Monroe Amendment #1 would lock up 40% of the money in the solid waste area, as Mr. Petersen identified as needed, and leave the Board of Trustees to determine the highest and best need, in terms of investment for the benefit of the people of this region, for the rest of the money. Some of that highest and best need may be in the solid waste area, some of it may be in other areas. He applauded the Dakota Plan and its priorities, and his proposal allowed those priorities to be given every consideration. But they, like any other proposals, will need to go through the public hearing and deliberation process, and will need an affirmative vote of the Metro Council before one penny can be spent. Not the Executive Officer, any member of the Council, or any special interest group would be able to determine the allocation of the funds; only an affirmative vote of a majority of the Council would be able to do that. He did not believe that a vote for Monroe Amendment #1 in any way would cause the Council to lose any control, but in fact would maximize the Council's control over listening to the public and determining the highest and best use of these resources.

Councilor Park said to echo a number of Councilor Bragdon's sentiments, the topic at hand was resource allocation. It was unfortunate that the Council was locked into approaching the issue

backwards: determining first how much money it had, instead of what it really needed to be spent on. That being said, regardless of which Councilor's plan was chosen, it was important to remember that when the money was in this particular spot, it could go into a black hole, because it would be at the discretion of the Metro Council, and councils change. He agreed with Councilor Bragdon's point that the Council needed to be accountable to the public for where every penny of the savings went. As the Council solicited and reviewed projects, some of the ideas put forth by Councilors Kvistad and Atherton would also be in the mix: the Council would not be precluded from paying down debt or reducing the excise tax. He said he would judge the various projects based on their worthiness compared to the other projects. As to the exact process, he did not completely agree with Councilor Bragdon's proposal to form a Board of Trustees, but he did agree with establishing criteria for making decisions. He said this was a matter of resource allocation, and the Council has said it believes a tipping fee of \$62.50 is the right amount to balance disposal cost and the recycling rate. Given that, it was now a question of how to allocate the resource. He said he would support Councilors Bragdon, Kvistad, Washington, and Atherton in giving the money back to the public, if the Council cannot come to an agreement on how to spend the money responsibly.

Councilor Washington said he thought the issue at the heart of the discussion was resource allocation. He was thoroughly convinced that the current Council was responsible, accountable, and had gone through a thorough process. He said the only unknown was the future of the industry, and as the Council makes its plans, it needs to consider that any plans will be impacted by the industry's future. He was not uncomfortable with where the Council was in this process, and he knew that every viewpoint would be heard and further studied. He said this was just the beginning.

Councilor Atherton said it was clear that the members of the Council had different opinions and philosophies, and it hinged on the word "control." If the Council passed Monroe Amendment in front of it, the Council would create a tax, robbing Peter to pay Paul, and not keeping faith with the ratepayers who paid their money for solid waste fees. Instead, the Council would be taxing them to support other projects, worthwhile as they may be. He said there were problems with this approach: it was too easy to raise a tax, the industry's future was uncertain, and Metro needed to maintain its core business. He repeated that this was a tax, and if there were no other options, he could support it. However, he felt there were other options, and he respected the simple elegance of an accountable system in a economic democracy. When someone pays money for something, he or she expects to receive goods in return. And when the money is paid, and goes to something else, it destroys faith in the system. He said the Council had other options for doing the worthwhile things that it has been discussing. He said every member of the Council supports giving more money to greenspaces. He noted that there were definite disagreements about providing planning money to local jurisdictions to meddle in their business, if he could make an editorial comment. But the upshot was that it was all about control, accountability, and a process that he would like to see kept whole. One of the founding principles of Metro was that it would be based on a user-pay principle, and that they would not take a big tax from one group and do something else with it. He said that was one of the key methods of restraint in the agency, and he thought the Council broke that cycle here. His primary concern was keeping faith with the ratepayers, not keeping faith with the system that was originally proposed. He said if there were no other options, maybe he could support the other ideas, but he thought there were other options for taking care of Metro's greenspaces and water quality concerns. He said he could not support Monroe Amendment #1 as it stands.

Councilor Washington clarified that Metro has never meddled in any city's business.

Presiding Officer Monroe said that fact was, 80% of the Metro's general fund already came from solid waste, and without that money, Metro would not exist.

Councilor Park noted that when Metro chartered in 1992, controls were put into place, including a spending cap of \$12.5 million, indexed for inflation. In addition, Metro was given a certain taxing base, and he felt the Council was working within that base. He thought the Council was being responsible and acting within the constraints it was given.

Councilor Kvistad said this amendment was a tax increase that would raise what Metro charges per ton for garbage from \$8.23 to \$9.00. To couch it as a split did not reflect the language of the amendment. He said a vote for Monroe Amendment #1 was a vote to spend more money, to increase taxes, and to do exactly what members of the Council have said they do not want to do. He said he was not willing to increase taxes when the Council was looking at spending 60% of the savings, \$36 million, outside of the solid waste system. He said it would happen over his cold, dead, political body. He was not just a split, it was a tax increase. He said if the members of the Council wanted to look at options later for spending more on something, this was not the way to do it: to preset the limits, to change the per-ton fees, before the Council has even discussed the policy issues. He has not brought forward his split off the excise tax proposal off of Metro's other facilities because it seemed that this particular policy decision making phase was not congruent. He urged the Council to read the amendment carefully: voting for it was voting to increase taxes.

Presiding Officer Monroe said it was not a tax increase for two reasons. First, it would Metro into conformity with the previous action of moving the tip fee back from \$62.00 to \$62.50. Secondly, by reallocating between solid waste and discretionary investment money, it tended to shift somewhat. The \$62.50 tip fee, which has been the law for the last two years, would remain exactly the same, so there was no increase. He called on Councilor McLain to close.

Councilor McLain said she usually liked rebuttals, but after the past 45 minutes of discussion, this rebuttal would be more difficult. She said every single Councilor who spoke had a valid point and spoke at least one kernel of a truth. However, the Council needed to put it together in a way that it could actually get to a budget season, and the only way to do that was to give staff numbers so that they could come before the Council with proposals. The Council has talked about spending, has talked about programs like the Dakota Plan and Councilor Atherton's program where the Council could bring forward that spending in a particular structure. The first item was connecting the actual spending, and it had been done over the last nine months since February. It was discussed in Regional Environmental Management Committee, in Council/Executive Officer Informal meetings, and at Council. She asked the Council to first understand that they were trying to get to the step that people say they want to get to: talking about the budgeting to make sure there are no black holes. The Council will have a complete and thorough opportunity for debate on each and every one of the Councilors' favorite programs and structures for how and when the budget will be spent.

Councilor McLain said she was voting for Monroe Amendment #1 because after the discussions of the past nine months, it became very apparent that the Council was concerned about contingency funds, investment in the right places for stability of the rate, and for the stability of the solid waste system. Monroe Amendment #1 allows the Council to have thorough conversations on which contingency fund receives \$1 million, which contingency fund will be used for stabilization of the rate, and which programs will be continued and which will not. She

supported the amendment because she believed the Council's conversations on spending indicated that if all the 90% was left in the solid waste fund, Metro might not be able to address brownfields and other the environmentally connected issues and programs that related to Metro's work. She appreciated the conversation, and looked forward to future conversations during the budget season.

Vote to Amend: The vote was 5 aye/ 2 nay/ abstain. The motion passed with Councilors Atherton and Kvistad voting nay.

Motion to Amend: #3: **Councilor McLain** moved Monroe Amendment #2.

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

Councilor McLain noted that Monroe Amendment #2 addressed the issue on which the Council heard testimony this afternoon in the public hearing by Scott Bradley from Waste Management. She said it would affect the Forest Grove Transfer Station and similar sites, and allow them a five-month delay before the ordinance takes effect, allowing a transition time for them to deal with the change that Metro has made in its rates from percentage to per ton. It also would address a second issue, brought up by the company and Metro staff, and would allow Metro to charge an excise tax on any out-of-district waste that exceeds 10%.

Presiding Officer Monroe asked for legal clarification that Monroe Amendment #2 would amend 8.24.

Mr. Fjordbeck said yes, Monroe Amendment #2 would amend the excise tax provisions to create an alternative interim tax, which lasts for 5-months from the date the bill takes effect until July 1. It would also amend current excise tax law to exempt from taxation the first 10% of tons at the Forest Grove Transfer Station.

Presiding Officer Monroe called for discussion of Monroe Amendment #2. There was none. He said this was a part of ongoing negotiations that with people who were concerned about a sharp increase in fees. He said in his opinion, it represented a workable compromise for both parties.

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

7.3 **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.

Motion: **Councilor Washington** moved to adopt Ordinance No. 99-823.

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

Presiding Officer Monroe asked Mr. Petersen to explain Ordinance No. 99-823.

Mr. Petersen presented Ordinance No. 99-823. A copy of the staff report to Ordinance No. 99-823 includes information presented by Mr. Petersen and is included in the meeting record.

Councilor Kvistad said he also had a policy amendment which he would bring forward at the next Council meeting that addressed splitting off both the MERC and the zoo facilities, and allowing them to keep their excise tax. He said he would make his motion in conjunction with Ordinance No. 99-823 and Ordinance No. 99-824 coming back to Council at a later time.

Presiding Officer Monroe said those kinds of issues would also be in order during the budget process. Those in essence would be expenditures of the resources available. He said however, Councilor Kvistad could certainly make his motions at any time.

Councilor Washington said to Councilor Kvistad, he also wanted to look at some kind of split for MERC and zoo. He asked what the difference was between Councilor Kvistad doing his motion today, and the Council doing it through the budget process.

Presiding Officer Monroe said that Councilor Washington, as chair of the REM Committee, had the primary responsibilities for determining the solid waste issues involved in this decision. The budgetary responsibilities will fall to the Budget Committee, and the budget process. Once again, there will be two budget processes: 1) a mini-process to deal with savings available this year, and 2) the longer, regular, annual budget process.

Councilor Washington asked if Presiding Officer Monroe was saying that those concerns should be raised at the budget level rather than the solid waste level?

Presiding Officer Monroe said yes, because they do not directly affect solid waste and the solid waste business, but they affect some of the other responsibilities of Metro, such as running the Oregon Convention Center and the Oregon Zoo.

Councilor Kvistad respectfully disagreed. He said he would move Kvistad Amendment #3 for discussion. He asked for a second on his motion so that he could present the amendment to the Council.

Motion to Amend: **Councilor Kvistad** moved Kvistad Amendment #3.

Seconded: **Councilor Washington** seconded the motion for discussion purposes.

Councilor Kvistad said Kvistad Amendment #3 was germane to what the Council was doing. He said first, the amendment stated that the Council would sever the excise tax which it collects as an agency from its general fund. It would create a renewal and replacement fund at the zoo, with the excise tax dollars currently paid into Metro's general fund by the zoo. It creates a renewal and replacement capital fund at the MERC facilities, and which currently would stay with the MERC facilities. It would backfill with approximately \$2 million of the roughly \$6 million per year savings, and would take all of the additional \$4 million of that reserve and tie it directly into Metro's solid waste revenue fund for capital and renewal and replacement reserves. Basically, it takes the only general fund expenditure other than one that is consistent with all the proposals coming forward, and will specifically split off both the MERC facilities and the zoo to allow both of those to retain all of the money they currently pay in excise tax in their own capital reserve funds, backfilling to make Metro's agency revenue neutral. At that point then, under this amendment, the additional monies would be reserved the solid waste system only. He said since the Council has passed Ordinance No. 99-824, and is now discussing Ordinance No. 99-823, he

would withdraw his amendment at this time, with the intent to bring this forward at the next Council meeting.

Presiding Officer Monroe said he intended to schedule all three ordinances for Thursday, October 28, which would allow time to meet the timeline of February 1, for which the agency has asked the Council.

8. COUNCILOR COMMUNICATION

Councilor McLain asked Councilor Kvistad for a courtesy. She said if he wants the Council to discuss and vote on his amendment in the next two weeks, outside of the budget process, then she needs to have the following items addressed. First, the presentation of the amendment as written indicated that he would spin off those facilities and that excise tax. There was no spin off the management of those facilities, and there were some guidelines in Metro's budget process that insist that the zoo and MERC have some legal coverage through Metro for collective services. She said she would need to know what budget hole would be for those excise tax for Metro's entire budget, and what it would mean to the collective services that Metro has offered to those facilities. Out of courtesy, she would appreciate having that information in attachments for review before the Council meeting.

Presiding Officer Monroe set forward Ordinance No. 99-825, Ordinance No. 99-824, and Ordinance No. 99-823 to the calendar for final action on Thursday, October 28, 1999. He called for additional Councilor Communications.

Mr. Fjordbeck reminded Presiding Officer Monroe of the technical date amendment.

7.3 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.

Mr. Fjordbeck said the technical amendments would set the effective date of all three ordinances as February 1, 2000, and could be taken as one motion.

Motion to Amend: #2: **Councilor McLain** moved that the effective date of Ordinances Nos. 99-823, 99-824, and 99-825 be February 1, 2000.

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

Vote on Motion to Amend #2: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

6. COUNCILOR COMMUNICATION

Councilor Park said if additional amendments to have a fiscal impact will coming forward to the Council, it would be helpful to have them come forward in a manner similar to the REM options so that Councilors may quickly assess their impacts. He said it is very difficult to visualize some of the offsets at a glance.

Presiding Officer Monroe said that if any substantive amendments are passed next week, it will change the current timeline.

Councilor Kvistad reminded the members of the Council that the public hearings and outreach for the Regional Transportation Plan (RTP) continued that night with a public hearing in Gresham, and next week there will be one at Metro and in Clackamas County. He said Councilors are signed up for each meeting, and any Councilors who are not signed up for specific dates are welcome to attend.

Councilor Atherton publicly thanked the staff for the incredibly complex work that went into Ordinances Nos. 99-823, 99-824, and 99-825.

9. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Monroe adjourned the meeting at 4:40 p.m.

Prepared by,

Chris Billington
Clerk of the Council

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