

MINUTES OF THE METRO COUNCIL MEETING

July 17, 1997

Council Chamber

Councilors Present: Jon Kvistad (Presiding Officer) Ruth McFarland, Susan McLain, Patricia McCaig, Ed Washington, Lisa Naito, Don Morissette

Councilors Absent: None.

Presiding Officer Jon Kvistad called the meeting to order at 2:09 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

Art Lewellyn, L.O.T.I. designer, 3205 SE 8th #9, Portland, Oregon 97202, thanked the Council for this period for citizen communications. He was hopeful that we could continue progress in the rail investment in the region.. He thought the Beaverton line would exceed expectations and would be a success. The L.O.T.I. project had been accepted by the City of Portland for a review and presentation. He noted his latest map which was a compilation of the regional and the growth pattern for the city segments, dated as 2005 and 2010. He said he would be supporting a regional gas tax increase. It was his hope that they would come up with a logical way to convince the region that it was necessary and the fairest way to raise funds for mass transit.

Aleta Woodruff, MCCI, said that no one on the Metro staff, in JPACT, in MPAC or the Transportation Committee had checked that the regular MCCI meeting coincided last night with the joint MPAC/JPACT meeting. MCCI had repeatedly requested an overall calendar. If this was not possible, she asked everyone to remember that the regular MCCI meeting was on the third Wednesday of the month. Those MCCI members that were interested in the joint meeting were compelled to run back and forth to get all of the materials for the neighborhood associations as was requested that these maps be sent to the various area and come back with suggestions and alternations that needed to be made. She requested that these meetings be scheduled so there were not conflicts.

Presiding Officer Kvistad asked Mr. Stone to notify the chairman of MPAC of the conflict and to plan accordingly in the future.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. CONSENT AGENDA

4.1 Consideration of Minutes of the July 3, 1997 and July 10, 1997 Metro Council Regular Meeting and the June 30, 1997 Metro Council/MPAC Work Session.

Motion: **Councilor Washington** moved the adoption of the minutes of the July 3, 1997 and July 10, 1997 Metro Council Regular Meeting and the June 30, 1997 Metro Council/MPAC Work Session.

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

Discussion: **Councilor Morissette** said he was not at the MPAC/Council joint meetings so he would be abstaining from that vote. He added that on the July 3, 1997 meeting minutes on page 25 the word should be "big" not "bid". On the July 10, 1997 meeting minutes on page 4 it said would "not" be supporting the appeal, it should read would be supporting the appeal.

Councilor Naito said she also had given Ms. Billington some suggested technical changes going from first person to third person.

Councilor McCaig said she too would abstain from the joint meeting of MPAC and Council.

Vote: The vote for the minutes of July 3, 1997 and July 10, 1997 was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously as amended.

The vote for the minutes of June 30, 1997 MPAC/Council Work Session was 5 aye/ 0 nay/ 2 abstain. The motion passed with Councilors Morissette and McCaig voting abstaining because they were not in attendance at the meeting.

5. ORDINANCES - FIRST READING

5.1 **Ordinance No. 97-700**, For the Purpose of Amending the Regional Solid Waste Management Plan.

Presiding Officer Kvistad assigned Ordinance No. 97-700 to the Regional Environmental Management Committee.

5.2 **Ordinance No. 97-708**, For the Purpose of Renewing a Franchise to TPST Soil Recyclers of Oregon, Inc. for Operating a Petroleum Contaminated Soil Processing Facility.

Presiding Officer Kvistad assigned Ordinance No. 97-708 to the Regional Environmental Management Committee.

6. RESOLUTIONS

6.1 **Resolution No. 97-2515**, For the Purpose of Authorizing an Exemption to the Requirements of Competitive Bidding and Authorizing the Executive Officer to Execute a Contract with Browning-Ferris Industries of Oregon, Inc. for the Operation of Metro South and Metro Central Transfer Stations.

Motion: **Councilor McLain** moved the adoption of Resolution No. 97-2515 acknowledging that there may be an "A" added if the amendments that were being presented

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

Discussion: **Councilor McLain** said there had been a public hearing on this item, it had been discussed at length at two meetings. She said this resolution was asking the Council as the Metro Contract Review Board to adopt the findings attached in Exhibit B. It also indicated that the Council would be awarding this contract to the operation of Metro South and Central transfer stations and exempting them from that competitive bid process.

Councilor McCaig asked if the Council should be in the Contract Review Board?

Presiding Officer Kvistad asked Mr. Dan Cooper, General Counsel, to give a review of the Contract Review Board.

Mr. Dan Cooper, General Counsel, said this was on the agenda as one item. The Council was serving in both capacities when voting on this resolution. Because this was a multi-year contract which authorized the expenditures of funds in future budget years it was something that the Council must approve as the Council. Part of the findings the Council was making in its capacity as the Contract Review Board. In Councilor Naito's proposed amendments it was very clearly spelled out that the Council would be making those findings in its capacity as the Contract Review Board. In his judgment the Council did not need to identify themselves as being both the Contract Review Board and the Council separately.

Presiding Officer Kvistad reviewed that this had been taken through the Contract Review Board up to this point and since it was a final Council action, there was Contract Review Board items later in the agenda, but this stepped out into the purview of the entire Council.

Councilor McCaig appreciated the clarification and noted that no where would she have known this. It was not in a staff report nor listed under the Contract Review Board. In fact, the Council was acting in two capacities, one as the Contract Review Board and one as the Council in order to authorize two separate actions within this one resolution, the findings and the actual approval of the contract.

Presiding Officer Kvistad added that it was inherent in what the Council did and how it operated that the Council as it met always acted in duo capacities in general action but when dealing with specific findings for specific items it was normally deferred to review the Contract Review Board.

Councilor Naito asked Mr. Cooper for clarification on how her amendments should be moved forward.

Mr. Cooper gave guidance and wordage as follows.

Motion to Amend: **Councilor Naito** moved the adoption of the amendments as set for in Resolution No. 97-2515 proposed amendments dated 7/15/97.

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

Discussion: **Councilor Naito** said in the amendment the Council was sitting as a Contract Review Board and making findings that she believed arose out of the process that Metro

had engaged in awarding this contract and in addressing the appeals from other bidders. These findings were made to comply with state law, it was explanatory in the written amendments. The process was described, the request for proposals and how the invitation for proposals was advertised. A very impartial evaluation team went through a thorough analysis of the proposals. The amendments would exempt this contract from some of the requirements of state law because it would not substantially diminish competition. This process in fact was set up to foster a competitive process and the exemption of the transportation contracts would result in substantial cost savings to Metro. Those were also explained in the written findings.

Councilor Morissette expressed concern about the amendments. He did not know if what the staff did was favoritism but in his arguments last week and weeks prior about his resistance to this contract he had mentioned many times that it seemed punitive to Waste Management, the contractor of one of the transfer stations currently. He would probably have a hard time supporting this kind of language for those same reasons.

Councilor McCaig asked if this was to the entire resolution itself?

Presiding Officer Kvistad said, no this was only to the motion itself.

Councilor Naito said in her review of the testimony on the appeals and the process itself she did not see any evidence of bias or favoritism in that process. She felt comfortable that there was none.

Vote to Amend: The vote was 5 aye/ 2 nay/ 0 abstain. The motion passed with Councilor McFarland and Morissette voting nay.

Councilor McCaig said this was her first time going through a process like this. First, she actually liked the work that Councilor McFarland in the Solid Waste Committee did a year ago with Councilor McLain and herself on establishing a policy direction that was different than the proposal that came from Executive. There was a thoughtful review of the material and they ended up altering the rating points to put a little more emphasis on different elements of the proposal which she thought was a valuable addition to the process this time. Secondly, there had been opportunity to see a different way of bidding on this so that we held one franchise over so there was the potential to consolidate the franchises which had not existed before, looking for a way to achieve a greater policy objective and save some money which she believed in the long run had been done with the proposal being considered today. Lastly, if there was one concern that Councilor McCaig had which was addressed by Councilor Naito in her amendment on the findings, was she would hope next time in the process that there would be a discussion about exempting from the competitive bid process early on at the committee level rather than having it raised at this level. Those findings should have been addressed at the front end although she believed that the Council was entirely within their legal boundary to have addressed it the way they did. She thought the public process would have been suited better had there been a discussion from the attorneys and from the Waste staff prior to actually getting to this point in the process. She was enthusiastically supporting this proposal and thought it was good process.

Presiding Officer Kvistad thanked Councilor Naito on her hard work on the findings and on her amendments.

Councilor McLain clarified, was the Council now voting on Resolution No. 97-2515A?

Presiding Officer Kvistad said yes.

Councilor McLain urged the Council's support on Resolution No. 97-2515A. She believed with this action the Council would be offering a contract to the best bid, competitive or not. It was the best proposal, the Browning-Ferris Industry, Inc. operation Metro South and Central Transfer Stations. She believed with Exhibit A they had the contract in front of Council to vote on and Exhibit B exempted the transfer station operating contract from competitive bid process and requirements. She thought they were starting another good chapter with good managers for both stations and good service to the public would be offered. She appreciated all of the work that the staff had done on this.

Vote on the

Main Motion: The vote was 5 aye/ 2 nay/ 0 abstain. The motion passed with Councilors McFarland and Morissette voting nay.

6.2 **Resolution No. 97-2520**, For the Purpose of Accepting Nominees to the Metro Committee for Citizen Involvement (MCCI).

Motion: **Councilor McLain** moved the adoption of Resolution No. 97-2520

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

Discussion: **Councilor McLain** asked Aleta Woodruff a MCCI member to come forward and present the staff report.

Aleta Woodruff, Vice Chair of MCCI, presented the MCCI nominees for Council confirmation. As president of the nominating committee she presented the applicants, each of whom have already attended meeting and are working on subcommittees to which they have been assigned. There was no one present to introduce as these individuals were employed full time during the day and could only attend an evening meeting. Ray Sherwood, District 5, an attorney had applied for position 14, a position in Councilor Washington's district, Peter Meijer, District 6, an historic architect, was an applicant for position 17 in Councilor Naito's district. Stefan Stent had changed his residence from District 5 and now represented District 7, Mr. Stent had served well in the past and had contributed many interesting ideas, he was now in Councilor McCaig's district in position 19. Terry Ewing in position 27, came as the CCI representative and the CPO coordinator from Washington County and also as an Oregon State University Extension Agent. She noted that they looked forward to some quality work with these new quality members.

Councilor McLain welcomed Terry Ewing, one of the new MCCI members in the audience. These four nominations had been to the Government Affairs Committee. It was a unanimous decision, she was happy to have new blood and hard workers. She urged the support of the Council.

Councilor McFarland welcomed the new members to MCCI. She felt they would be a great contribution, she complimented Aleta Woodruff's effectiveness.

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

6.3 **Resolution No. 97-2533**, Revising Metro's Non-Represented Employee Pay Plan.

Motion: **Councilor McCaig** moved the adoption of Resolution No. 97-2533.

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

Discussion: **Councilor McCaig** reviewed Resolution No. 97-2533. This came before the Governmental Affairs Committee. The Metro Code required that any pay plan for non-represented employees be approved by the Council. In the Finance Committee as part of the budget for the FY 1997-98 the Council approved a potential 3% increase, allocating the dollars within the fiscal year to do this. The recommendation that came from Human Resources was 2.7% increase, about \$234,000. The question she had in committee was that when they looked at the Portland CPI and the national CPI Portland's was 3.5 with the last half being 3.8 and the national CPI was 2.7, she was curious why Metro was giving a 2.7 which would be lower than national rate and would be equal to what was happening in Portland. The answer was that it was in between what the two unions had agreed upon in their negotiations. It would keep us stable with what other employees were getting throughout the agency. She endorsed and supported the 2.7% increase. it was budgeted and wouldn't cost any additional money.

Councilor Morissette asked if this was just the employees, Councilors were not classified in this proposal?

Councilor McCaig said it was non-represented employees.

Councilor Morissette clarified, Councilors were not giving themselves a raise?

Presiding Office Kvistad said the Council was barred from raising their own salaries, by charter. The only ones that could do this were the legislature or the voters.

Councilor Naito pointed out that the Council was tied to the District Court Judges salaries. So the legislature gave the Council a raise.

Councilor McCaig urged the Council's support of this resolution.

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

6.4 **Resolution No. 97-2535**, For the Purpose of Amending the South/North Project Intergovernmental Agreements with Seven Participating Agencies and Jurisdictions for Completion of the Final Environmental Impact Statement and Preliminary Engineering.

Motion: **Councilor McLain** moved the adoption of Resolution No. 97-2535.

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

Discussion: **Councilor McLain** noted the staff report which explained the summary of the budget amendments with the seven jurisdictions. These seven jurisdiction had an original budget and then the proposed amendment which revised the IGA budget. The purpose for these amendments would be to reflect the cost saving ideas that they had come up with on the study of the South/North Light Rail line. Because of the changes in the possibilities for the alignments, the jurisdictions had different responsibilities. For example, Portland's proposed amendment was larger, Gladstone and Oregon City had a minus number because they did not have as much of that alignment to study and thus there was a budget amendment proposed. The budget impact was listed in the summary. This resolution was in response to looking for the cost cutting and cost savings for this project.

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

Presiding Officer Kvistad recessed the Metro Council and convened the Contract Review Board.

7. CONTRACT REVIEW BOARD

7.1 **Resolution No. 97-2536**, For the Purpose of Amending the South/North Technical Assistance, Financial Analysis and Intergovernmental Coordination Consultant Services Contract, No. 904099, with the Larkin Group, Inc. to Incorporate Related Preliminary Engineering Activities and the Analysis of Cost-Cutting Measures.

Motion: **Councilor McLain** moved the adoption of Resolution No. 97-2536.

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

Discussion: **Councilor McLain** said this was also connected with the last piece of legislation that was just dealt with. This would amend Contract No. 904099 for an amount of \$151,926 with the Larkin Group Inc. for a revision in the scope of work. Exhibit A entailed the revisions. There was a limit on the amount of work they could do.

Presiding Officer Kvistad said he felt they needed to start having some discussions, Metro had been doing a lot of contract amendments and changes and expenditures on this South/North project. He suggested that the Council might want to talk about when this should go out to the voters to be reconfirmed.

Councilor McLain said this particular resolution was only amending the contract to do the scope of work that they had already agreed to and dealt with the original, approved voter work and project. They were reflecting and reacting to the study that had happened over the last six to eight months that dealt with ways to limit the project and lower the budget.

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

Presiding Officer Kvistad closed the Contract Review Board and reconvened the Metro Council meeting into Executive Session.

Councilor McCaig suggested that comments such as the Presiding Officer had just made about the Light Rail should be held to Councilor Communications.

8. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(E). DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE REAL PROPERTY TRANSACTIONS.

8.1 **Resolution No. 97-2542**, For the Purpose of Authorizing the Executive Officer to Purchase Property in the Newell Creek Canyon Target Area.

Motion: **Councilor McFarland** moved the adoption of Resolution No. 97-2542.

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

Discussion: **Councilor McFarland** urged the Council's support. It was a piece that Metro really wanted in Newell Canyon.

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

9. COUNCILOR COMMUNICATION

Councilor McCaig asked about the MPAC/Council Coordinating Committee to work with MPAC. Had this been set up, would they get notice of when the meetings would occur and was it a public meeting.

Presiding Officer Kvistad responded that the committee had been set up and they did have the first meeting. They were public meetings. The three members of the Council were Councilors Naito, McLain and himself. Notices were placed in all Council members boxes, however, the meeting that was scheduled for this last Wednesday was canceled.

Councilor McCaig asked when was the next Coordinating Committee meeting?

Presiding Officer Kvistad responded that the next one had not yet been set, there was no set time frame for them. Mayor Drake, as Chair of MPAC, was out of the county so they would not be having another one until he returned.

Councilor McCaig noted that when the last analyst was hired it had been an extensive process which involved councilors. The Council was given the opportunity to look at the questions that were being asked. When the committee had narrowed the selection, they asked Council for comments on those candidates and then a final recommendation was made to the Presiding Officer. In the last budget process this position remained. She had not heard a word about the current process and requested that the entire Council be kept up to date on that process and hire.

Presiding Officer Kvistad responded that they had not moved into an actual acceptance of any application or a final process. The notice had gone out, they found that the applications that were received were refined and defined to issues of finance and budget. There needed to be a broader scope in the actual request for applications. So the Department was in the process of going back out, reopening the position and requesting applications for the revised position. Prior to any interviews, it would go to the Government Affairs Committee for review in terms of the questions. Then there would be a committee of Councilors appointed for the actual interviewing. This committee would be coming back with a recommendation for hire.

Councilor McCaig said she would just like to serve notice that she would like to know what the process would be. It was terrific if it were coming through Government Affairs. She knew that the department was struggling internally with producing accurate agendas and that the Council Office was working very hard at it. But it was disconcerting and not in our best interest to continue to have some of the problems we were having with our public agenda. She did not know how many versions of this week's agenda had been developed, but she believed it to be more than two. She requested that the Council allow her to take on a short term project to see if she could make some recommendations after working with the staff on how to produce an agenda, not because she cared about the substance, that it was consistent from the first time it went out until it appeared before the Council. She believed it was doable and it had been going on for a long time. It needed to be corrected as we go into the next year.

Presiding Officer Kvistad suggested that there be a general agenda discussion in the Government Affairs Committee and that a recommendation come from the committee. He felt this should be coordinated with one of the Chair's. He asked Councilor Naito about this.

Councilor Naito said that they had been having meetings on several issues such as public outreach and this did tie in with what the Government Affairs Committee had been doing. Since the Committee was not planning on meeting in August she appointed Councilor McCaig to a committee of one to make a recommendation to the Government Affairs Committee. She felt that this could be handled internally. She didn't think that there would need to be any official committee action.

Presiding Officer Kvistad said that they would try to implement any recommendations that came forward.

Councilor McCaig said that she believed it entailed a desk audit starting with where a resolution or ordinance started and a paper trail be done to understand whose desk it landed on from the moment it left the department until it was received by either Chris or Jeff. It was not just within the Council that the problem rested, it was an entire procedural and process problem. Out of that she would make some recommendations.

Presiding Officer Kvistad spoke to Councilor McCaig's request, indicating that the Council Office had made some very specific requests. Many of the problems had been through other parts of the agency and their timeliness of having items to the Council.

Councilor Naito concurred and said it would be very helpful to know where an ordinance or resolution began and what the process was once it went through the Council Office and the staff and then through the committee process. She added that she felt that each new version should reflect the date on that draft. She made this suggestion to Executive, Legal and to Council.

Councilor McFarland said if Councilor Naito and Councilor McCaig needed further encouragement or any support from the rest of the Council, she was very much in favor of doing what had been suggested.

Councilor Morissette suggested that once the agenda was typed, it not be changed. He felt that this was a simplified version of what Councilor McCaig was trying to get to because the Council Office did want to accommodate the rest of the agency so that they could accomplish their goals. Secondly, Councilor Morissette said he had a Metro lab top computer that he would be turning over to the Council Office since he did not use it often.

Presiding Officer Kvistad said he had spoken with Ms. Billington about the staff's use of this computer. He thanked Councilor Morissette for the offer.

Councilor McLain invited the Council to the MILT (the information mobile bust) opening on Monday, July 28 held at the INTEL Corporation Rindler Acre Campus in Hillsboro at 9:00 a.m. The bus would then go to Washington County Fair where it would be for the entire week with information about long range planning, transportation, land use and other Metro issues. She noted the sign up sheet to work in the fair information booth from July 29th through August 3rd.

Presiding Officer Kvistad noticed the Council that due to the lack of agenda items, July 24, 1997 Council meeting would be canceled. The next meeting of the Council would be on August 7, 1997.

10. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 3:30 p.m.

Prepared by,

Chris Billington
Clerk of the Council