

MINUTES OF THE METRO COUNCIL MEETING

July 18, 1996

Council Chamber

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

Councilors Absent: None

Presiding Officer Jon Kvistad called the meeting to order at 2:03 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. CONSENT AGENDA

4.1 Consideration of the Minutes for the July 11, 1996 Metro Council Meeting.

Motion: **Councilor Washington** moved the adoption of the minutes of the July 11, 1996 Metro Council Meeting.

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

Discussion: **Councilor Morissette** amended the minutes of July 11, 1996 to read on page 4 Commissioner Hale said "most neighborhoods with housing values over \$200,000"...minutes said "high value single value", on page 5 - 200,000 sq. ft. lots should be amended to read 2,000 sq. ft. lots, 700,000 sq.ft. lots should be amended to read 7,000 sq.ft. lots, 600,000 sq.ft. lots should be amended to read 6,000 sq.ft.

Vote: The vote was 7 aye / 0 nay / 0 abstain. Presiding Officer Jon Kvistad declared the minutes unanimously approved as amended.

5. INFORMATIONAL PRESENTATION

5.1 Briefing by Scott Moss, Risk and Contracts Manager, on the Disparity Study.

Scott Moss, the Risk and Contracts Manager at Metro, introduced himself and added that his affiliation is with everything good and wonderful that exists. The Disparity team is comprised of Kathy Newton, Contract Specialist for Metro and Bertha Carol, administers Metro's outreach program. Mr Moss acknowledged that Bertha Carol has created a quarterly newsletter with all of Metro's projects on it to the M and WBE community. There is an invitation for minorities and women owned business to do business with Metro as well as a survey about how to do business with Metro, what they think about doing business with Metro. Jennifer Sims is Mr Moss' supervisor, Doug Butler provides vision direction and guidance and Dan Cooper provides the legal advise to the team for the Disparity Study.

Mr Moss began his review of the Disparity Study by giving an historical overview. In the early 1940s George Washington Bush, an African American, made the journey across the plains to leave the prejudice found in the South. Oregon had a exclusion law which forced the Bush family to move north of the Columbia River. Under the exclusion law, people of color were not allowed to own land or operate a business in Oregon. Mr & Mrs Bush were hard working, generous with their means and loved by their neighbors. When authorities tried to take the Bush land, their neighbors who had benefited from the Bush generosity, urged the congress to enact a special bill allowing them to own their own land. This story and other historical data are found in the Disparity Study authorized by the Metro Council and other local governments.

Mr Moss reviewed the contents of the study. The Disparity Study includes an executive summary, the legal background of why a Disparity Study is being done, an excellent historical piece, anecdotal information when minorities and majorities were surveyed in this area to find out about how Metro does business and how all of the other governments do business contracting with other governments, Metro's program descriptions, a utilization analysis, a sub-contracting utilization analysis, availability data, statistical data, recommendations, and a thick appendix with all of the raw data in it.

Page 2 of the staff report compares the utilization and the availability results in the Disparity Study. The results show that there was discrimination in Metro contracts during the 1991-94 period of time the study was being conducted. However, there were only two groups which showed statistical evidence of disparity, with Asian Americans and Caucasian females.

The study provided over 100 recommendations that Metro consider, how we can improve our contracting to reduce potential discrimination for minority and women owned contractors.

Mr Moss reviewed seven categories for improvement:

1. Develop alternatives to low bids, if we are going to try improve minority and women owned contracting, we are going to have to develop alternatives to low bid. It also recommends that we implement a merging small business program.
2. In the good faith program, overall this program did not do very well in the study. It showed that both Metro and the City had a good faith program and during the 1991-94 period of time, the program did not come out very well. The study recommends a variety of changes to toughen up the good faith program.
3. The study also recommends that we participate in business development of minority and women owned businesses by providing financial assistance to them, loans perhaps, bonding, technical assistance. It is recommended that we work with our regional partners to do this.
4. Staff enhancement; adding staff to do mostly compliance checking to assure that the prime contractors are really using minority and women business owned sub-contractors. It recommends that primes comply with the current efforts.

5. In the administrative area; there are recommendations to develop an in-depth computer system to track minority and women owned businesses systems, businesses in our contracts, all of the sub-contractors that did and didn't get business so that there is better information available for a future study.

6. Compliance could be implemented through staff enhancement. The study pushed for compliance in contracting with the rules that are established.

7. Several mini recommendations that are outside of Metro's control; we change or remodify the certification system that is under the control of the State, that we establish an interagency Ombudsperson providing minorities and women owned contractors help solving problems when dealing with government, and that we reform the construction board.

The Disparity team is reviewing each of these recommendations and will be back to the Council within 90 days of those recommendations that can be done internally and 180 days of those recommendations that have to be done on a regional basis.

Presiding Officer Kvistad asked about Metro's compliance since the study. We have made tremendous gains and advances since the study. In terms of how we are tracking those, do we now have in place the mechanism to continue tracking at those same levels?

Scott Moss responded that better tracking is being done, but there is still room for improvement for the future. There is several recommendations in the study in terms of tracking.

Councilor Morissette asked for clarification on the alternative plan to the low bid for minority groups and women based groups. What would be the problem for everyone competing on a low bid, why would that be a problem?

Scott Moss responded that the Disparity Study would argue that it is tougher for a minority, a woman owned business or an emerging small business to compete on a low bid basis with large majority contractors because they don't have the expertise, the background and the experience to attain low bids like a bigger contractor would.

Councilor Morissette clarified; for example, a smaller builder purchases lumber at one price and a bigger builder buys it at a lower price because of higher volume.

Scott Moss affirmed that this would be one example, and added, the experience and education to know how to bid and know how to do business with government.

Councilor Morissette asked how something would be structured to offset or to level that playing field. Has the team thought about this?

Scott Moss indicated that the this had had a lot of thought by the team and it is his hope that the Council will be doing the same. The recommendation is that we have a sheltered market, in which all contractors, a large majority of contracts under \$25,000, be set aside for M and WBEs and ESBs as well as a majority of contractors under \$100,000 for construction contractors be set aside for minority, women owned businesses and emerging small businesses. This is a big legal question, this idea is being given serious thought.

Councilor Morissette asked if the team could create an atmosphere for companies to compete in that were of a certain size, so there would still be that same competition, it just wouldn't include that company that has the bulk buying capabilities or the bulk technology capabilities. This is almost like an Emerging Small Business program.

Scott Moss concurred with Councilor Morissette interpretation and added that you would have minority, women and emerging small business program competing against each other for low bid. That would be the recommendation.

Councilor Morissette added that this would help them get started so they could grow to the bulk buying group.

Councilor Washington acknowledged the executive summary and noted that it is an excellent historical document, it is a very good piece of work. It gives an excellent understanding of perhaps why we have a disparity study today.

Presiding Officer Jon Kvistad thanked the staff for all they work have done. He added that he was aware of how much paperwork had to be gone through and the kind of workload this project entailed.

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

6.1 **Resolution No. 96-2372, For the Purpose of Authorizing the Executive Officer to Purchase Property within the Tryon Creek Linkages Regional Target Area.**

Presiding Officer Kvistad opened an Executive Session pursuant to ORS 109-660(1)(e) at 2:19 pm

Present: Jim Desmond, Charles Ciecko, Barbara Edwardson, Chris Rigby.

Presiding Officer Kvistad closed the Executive Session pursuant to ORS 109-660(1)(e) at 2:30 pm.

Motion: **Councilor McFarland** moved to suspend the rules to consider Resolution 96-2372.

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

Vote: The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed.

Motion: **Councilor McFarland** moved the adoption of Resolution No. 96-2372.

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

Vote: The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed.

7. COUNCILOR COMMUNICATIONS

Councilor McLain spoke of the new MCCI membership. All incoming members were at the regularly scheduled meeting Wednesday night. She encouraged the Council participation in this organization. She also announced that there would be another outreach at Clackamas and Washington County Fairs. There will be three shifts at a Metro both during the weekdays and four shifts during the weekends. She encourage Councilors to sign up. She is hopeful to include other events during the coming year for this outreach.

Councilor Washington announced that the Transition Team has met this morning regarding mergers and consolidation. He will be meeting with Mrs Sims to go over this information and will then be relaying this information and recommended changes to the Council. The figures that the Council will be receiving are operating costs not capital.

Presiding Officer Kvistad announced that Jeff Stone is in Jury Duty. The Functional Plan will be coming to the Council within the next three weeks. The Presiding Officer will need to set the schedule including work sessions as well as the Council meeting and the upcoming public hearings on the Functional Plan and the designation of Urban Reserves. The Functional Plan will come to the Council on the 8th of August. It was asked of us that we have a public hearing sooner than later. The earliest date available will be August 15th which is a Council meeting that may possibly be canceled unless the workload was such that it was necessary to have one. He asked the Council if they would like the first public hearing of the Council on the Functional Plan on the 15th of August thus saving a week and not having this hearing on the 5th of September.

All Councilors were asked if they were available. All were available except Councilors Morissette and Monroe. Presiding Officer Kvistad indicated that a public hearing on September 5th may be a problem for the Council because it compresses the timeline and he would rather get into committee work

Councilor McCaig felt that there was likelihood that the GM Committee work may be completed by August 8th. As a result there will be staff work done to present a different draft. The Council won't be receiving the same Functional Plan that the Council has in front of it now. There will be amendments and changes. Given the short timeframe, the meeting of the 8th will include the last changes and adopt it. This puts pressure on staff and the public to respond to the document. This limit of time has been the major criticism that the Committee has received. People have not had the document long enough to review it. It may be that by letting the document be out in the public longer, this would short cut the criticism.

Presiding Officer Jon Kvistad intention is to have a Council work session where staff can come in preliminary to give the Council a briefing on exactly where the Council is so that when public testimony comes in, the Council has been given information prior to the formal Council meeting. He would like the Council to be up to speed prior to the public hearing testimony. He believes that it would be helpful to have a public hearing and get early discussion going. He acknowledged that Councilor McCaig was correct in terms of the timeline.

Councilor McLain supported Councilor McCaig's recommendation for the September 5th Public Hearing.

Presiding Officer Kvistad indicated that he would like to have the full Council present when having these public hearings. He added that it looks as if most of the action items can come before Council on the August 8th Council agenda. If the Council is able to consider all of the action items at that meeting the August 15th meeting will be canceled.

Councilor McCaig added that the opportunity for a timely briefing could be on either the 8th or the 15th. If the meeting on the 15th was schedule for this briefing, the Committee work would be completed on August 6th. So she recommended that the Council may want to meet on the 15th to have a briefing but the final document may not be available.

Presiding Officer Kvistad responded that he would plan the briefing for a work session on the 8th or 15th. The 15th is still flexible but two Councilors won't be available. He indicated that every effort will be made to complete the Council work on the 8th, we should know by the end of next week

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whether that is possible. He will try to get all the members of the Council the schedule and the rough layout for the upcoming decision making process both for the Functional Plan and the Urban Reserve decisions moving the December 5th date on that so that the Council knows when the work sessions will be and the Councilors can get this on their calendars as well as when the public and outreach hearings will be. The Council Office will need time to get these notices out to the public. He determined that the Council will not have the Public Hearing on the 15th of August and will plan to have a work session on August 8th. He will work with GM Committee, the staff and Councilor McLain to accommodate this schedule.

Councilor Morissette verified that it is fair to assume that before a schedule is made public and we have agreed on it, that we will have an opportunity to comment on it.

Presiding Officer Kvistad responded that he would go to each of the Council members and make sure that he understands where the Councilors are on the schedule. We already know what the Council schedule is, this is a matter of when the public outreach occurs. He wishes to stick to the end decision points in terms of the Council schedule.

Councilor Morissette indicated that he had been out of the loop in terms of developing past schedules and he wishes to make sure that Presiding Officer Kvistad will come and talk with him about the schedule development.

Presiding Officer Kvistad acknowledged that the Council schedule is already set, so the only thing being added will be the public hearings and any public outreach on the Functional Plan and then adding 3 to 5 public listening posts on the Urban Reserve decision, probably in late October or November. He will get this information to the Council as soon as he can.

8. ADJOURN

With no further business to come before Metro Council this afternoon, the meeting was adjourned by Presiding Officer Jon Kvistad at 2:47 pm.

Prepared by

Chris Billington
Clerk of the Council