

## MINUTES OF THE METRO COUNCIL MEETING

November 7, 1996

Council Chamber

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

Councilors Absent: None.

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

### 1. INTRODUCTIONS

**Councilor McLain** welcomed the Superintendents group who had come to speak to the Council on land use issues important to the school districts in the region. They were Richard Larson from Centennial School District, Joe Rodriguez from Hillsboro School District, Steven Ladd and Ivonne Katz from the Beaverton School District, as well as Russell Joki from the Tualatin Tigard School District.

### 2. CITIZEN COMMUNICATIONS

**Art Lewellan, L.O.T.I., 27 SE 74th, Portland, OR 97215** spoke to the Council about his LOTI plan, an alternative to light rail. He said he was opposed to the North / South Light Rail because he felt that it did not come up to the expectations laid out and was not as suitable as his plan. He noted a map showing his transit proposal. He felt it was wrong to place a big change on the transit system by putting the light rail down on the Fifth and Sixth Avenue Mall. He wished to preserve as much as possible what already existed. He utilized the local rail advocate transportation group ARORTA who proposed leaving the light rail on the east side of the river. This was how his proposal started but he also wished to serve the west side, so he designed a connector at Hawthorne similar to AROTA's proposal. He went with a street car proposal because it utilized the same technology as the light rail and had a lot of potential to become an important part as changes were considered in the transit system moving away from the automobile. He reviewed his design for the L.O.T.I. which was the Loop Oriented Transit Intermodel, a trackless trolley which circulates from a center on the east bank of the river across the river to make a second transfer point. He requested that the Council consider this design. As this transit mode expanded it would go to OMSI making connections to the mall. He added the streetcar system that was being planned by the Central Street Car Committee. The street car plan was similar in technology to the light rail, had lower costs, went down along the Macadam area and would serve that area better than light rail would.

**Presiding Officer Kvistad** acknowledged Mr. Lewellan's L.O.T.I. plan and suggested that he speak with staff concerning his plan. He suggested contacting Jeff Stone in the Council Office to arrange this.

**Steven Ladd, Assistant Superintendent of the Beaverton School District** spoke about school related issues regarding the Urban Reserve Study area, the question currently under deliberation. Due to the importance of this issue to the 23 Metro School Districts, several student superintendents came before the Council to speak about issues that were generated through a meeting that the superintendents held. One of the items shared with Metro was that there were certain things that set these school districts apart from other urban service providers. There were no mechanisms for school districts to fund capital construction and site acquisition without going before the voters for the bond. If the news media predictions were true this would be even more difficult in the future. Education serves all of the constituents and their children who reside or move into a school district

regardless of that number or the districts capacity to accommodate them. The districts could not say that the school districts were too full and therefore the student would have to go some place else. The schools districts serve all of the clients and the students that come in the door. In response to Metro's request of school districts to validate which of the Urban Reserve Study areas might be best or most suited for inclusion, the school districts found this very difficult to answer. It was due to a wide range of variables. However, some districts may have been in a better position to talk about the areas because of on going land issues that they were dealing with in their particular school district. As a general rule, it was safe to say that the geography of which Urban Reserve Study areas were ultimately brought in was not important as the need for master planning to occur. Planning that was necessary to ensure that school districts had been appropriately addressed in that growth equation. Mr. Ladd introduced Dr. Katz, Superintendent of the Beaverton School District.

**Dr. Ivonne Katz, Superintendent of Beaverton School District** said as Metro analyzes data regarding which Urban Reserve Study area should ultimately be adopted, school districts had been asked for a comment. Among the significant issues in this discussion was the need for master planning and for the school districts to be a part of that planning. School districts agreed that master planning needed to occur for each and every adopted Reserve area before they were brought into the Urban Growth Boundary. Master planning to school districts must yield at a minimum the following things, 1) a clearly designed process including the roles of school districts, cities, counties, and Metro in the design of the planning process. She asked, what was the role then that school districts can play in helping to design the process of master planning? Which agencies would be providing supportive data necessary for school planning, the cities, the counties, Metro, all of the above? Clearly defined lines of communication for all stake holders, 2) the process should include a clearly defined methodology for identifying school sites including reasonable timelines necessary to review and do school site planning. Included in this effort should be an exploration of any current mechanisms that would allow such long range planning to occur, to ensure that school districts had the opportunity to identify school sites. Let the districts do the preliminary diligence necessary for school sites and have reasonable timelines mandated by such planning processes to accomplish this work, 3) there needed to be a clear path of decision making and appeals process so that school districts, cities, counties and Metro knew the rules of the game before it started. This should include what would be done by whom in case of disagreement and which entity would prevail. Illustratively, if there was a disagreement on the placement of a school site within a study area or if there was a zoning conflict that did not seem to be able to be resolved, which entity had the trump card, the city, the county, or the school district. Which one would prevail. How would the issues of educational need be measured against growth planning issues in the decision making process? Who will prevail in arbitrating these decisions? and 4) the master planning process should resolve the issue of funding there needed to be an identified funding source for site acquisition and capital construction for the needs generated from bringing Urban Reserve inside the Urban Growth Boundaries. She noted the statistics on Measure 47 and how that would impact our schools in the future. The possibilities to explore in this arena were service development charges, real estate transfer charges, site dedications and or any combination needed to help defray the cost of capital prior to the reserve area coming into the Urban Growth Boundary. School districts wanted to participate in the process design as well as the actual master planning process. She introduced Mr. Richard Larson, Director of Business and Operations of the Centennial School District, to further expand on the impact of bringing in Urban Reserve Study areas on the school district, to talk about capitalization issues to give Metro a clear perspective of what the school districts were talking about.

**Richard Larson, Director of Business and Operation at the Centennial School District** gave Metro a sense of the public investment going to be required to accommodate the increasing number of school age children and what the traditional or historical process for financing that investment. He urged the Council to consider costs, the timelines, the process that he outlined for the Council as they made their final decisions to accommodate the 100,000 plus households that would be here in the region over the next decades. He gave a summary of costs of construction, the timing of events leading to new schools, the bond sales and construction time. A substantial capital investment would need to be made to provide sewer, water, and road and street services to any new areas brought into the Urban Growth Boundary. Likewise, the investment required new schools would also be significant. The most recent information on current costs on school construction

available from architects who work on school projects indicated that an elementary school which housed 500 to 600 students would cost \$9 to 10 million dollars. This included the construction, consultants, service development charges which schools pay, equipment, furniture, and project management. A middle school which would accommodate 900 students costs approximately \$19 to 20 million dollars, about double what an elementary school would cost. A high school which would accommodate 1800 students would cost about \$44 to 45 million dollars. Historically, Oregonians had not been willing to approve debt for schools until the existing schools were unacceptably crowded. Sometimes to the point where double shifting or multi-track year round school was required to accommodate that student population. Public study groups were generally convened to determine what type of school needed to be built and the best location for that school. That process could easily take six to twelve months to reach a consensus. Historically evidence showed that this process was essential in generating any community support necessary for seeking funds to build new schools. That would generally be through a bond measure. After a consensus was reached, the bond must be approved in an election. The information that Mr. Larson was utilizing would probably be radically changed but currently elections could be held in any five months of the year, March, May, June, September or November. The process of getting approval may take several years to convince voters that new schools were truly needed. After approval of a bond measure, the sale of the bonds would take a minimum of six weeks up to three months. From the time of the sale of the bonds and cash was in hand to the opening of a new elementary school takes 18 months to two years. A middle school or high school takes two to three years. Schools were facilities which had a useful life of seventy five to one hundred years. A capital investment required for a facility to meet community needs over that number of years was extremely high. As a rule of thumb, to go back and review, one could estimate the costs for an elementary school at about \$10 million dollars, double that for a middle school, and double that again to about \$40 million dollars for a high school. There was no historical evidence that voters were willing to approve new schools until existing schools were unacceptably crowded and developing community support, successfully seeking a bond approval in an election, selling bonds and constructing a school could be done as quickly as two years and as long as nine years.

**Dr. Rush Joki, Superintendent of Tigard/Tualatin School District** shared several observations about site size, location and then proposed a request. When school districts go out to look for property and they were in the process of doing this right now in his district. The Tigard/Tualatin School District just passed a bond and they had \$3 million dollars to find future school sites. The school district used four criterion when looking for property, 1) size of the site that would be demanded for the school that would be put on it. In their 908 plan, a planning document the Council may be familiar with, the elementary school site was 8 to 10 acres typical for the other suburban school districts, middle school site was 15 to 20 acres and a high school site began at 30 to 50 acres. Tigard High School sits on 55 acres. These sites were sometimes considered to be large especially when one looked at the downtown school sitting in Portland but they were common because in the suburbs there was a little different approach to planning, community use and greenspace requirements. Those site sizes fit in a sense of community standard as much as an educational specification, 2) the shape of property, ones which were rectangular or square in shape for ease in setting out fields, buildings and transportation, 3) slope, the flatter the better for construction costs and 4) service, transportation being very important. Where do we find properties like this? It was very hard to find properties that met that criteria in the inner core of any of our cities. Hence the school districts look to where the new development was occurring. In his district this was always on the fringes, near the boundaries. This was true because of where the new growth happens. Tigard was now buying a site in the Bull Mountain area and looking for a second site in this area. If density projections were true there would be 20,000 people on Bull Mountain when it was finally built out. The district needed at least three sites in that area. Where properties were found in that general vicinity were on the outer fringes of their school district where the properties tend to slope out into some flat land and that land was now in the area known as 'out of the UGB'. The second criteria with where those properties are located had to do with costs. In the recent bond measure the voters approved \$3 million for future school sites. The school district was now closing on a part of a site on Bull Mountain and were very fortunate to get it for \$80,000 an acre. The district had looked at other properties that were running \$200,000 per acre. There were some limitations to also be taken into consideration on locations and the third criteria was planning. When the school district met with the cities and the counties officials they talked about the larger issues of service and

community use. He requested the Council allow siting of schools in the UGBRs. In his school district's case, Reserve areas 48 and 49 for example were of interest to the district for all of the reasons previously described of criteria, location and cost. In extreme cases, his second request would be to allow siting of schools outside of the UGB. There was one school district south of Tigard that was facing such a need. There could be exceptional cases where that should be considered. Lastly, consider these kinds of sittings as contributing to the demand for greenspace in suburbs and for enhancing and continuing the quality of life that the suburbs enjoy.

**Mr. Joe Rodriguez, Associate Superintendent of Hillsboro School District** represented his school district's superintendent Dr. Micki Squire. In a meeting his district had there had been a similar theme that had run true for his school district which was to appreciate all of Metro's support in involving school districts in the planning process for master planning, planning for Urban Reserves and asking the school districts for their input. He noted Councilor Susan McLain who had been very instrumental in keeping the school districts posted and involved and she had been an excellent resource. Metro staff had also been very helpful to the districts in trying to provide direct data and information. He acknowledged Steven Ladd who had been a member of MPAC and had provided all the districts with direct information and a vehicle to communicate the districts' concerns. This was very much appreciated enabling the districts to present to MPAC on October 23rd and the Council at this meeting also helped the school districts feel a part of the process to try to provide some solutions to their concerns and also the concerns that were raised by the planning process itself. Districts felt that they had in the past been last on the list to be asked how the districts were impacted by the growth in the Metropolitan area. There had been times where they had felt that they were another residential developer in this entire process because they build schools and were charged all the fees for building those schools. The districts were responding to the community needs in relationship to overcrowded schools. The districts wanted to be viewed as part of the process and product, an essential community service, and vital community resource in looking at the planning process for the region over the next decades. In the presentation to MPAC and at this Council meeting, the Council had heard some things may raise some questions in their minds, size, site, locations outside the UGB. Many of the districts had the same issues and concerns. He said that it was nice when the school districts could be included upfront in the discussion so that the Council understood what the districts limitations were and why the districts had some of those needs. He believed that involving the school districts at the beginning of the planning process so that they could reach agreements would benefit all of the entities concerned as well as benefiting the community. The school districts wanted to assist with the assumption regarding the needs and how the school districts needs match with Metro's planning needs. Metro staff was helpful to the school districts to get a grant to provide some additional support for the school districts. None of the school districts had long range planning departments. This type of a resource was needed, to help with grants for technical support for joint planning for enrollment projections, housing densities and site selections to accommodate that future growth. This kind of dialogue in working together would very much help the school districts. He noted that he appreciated that the school districts had a chance to share this information with the Council and hoped that this opened up opportunities for future dialogue. He believed that Ballot Measure 47 would impact the schools and the ability to build new schools in those areas at the least cost to the districts and the tax payers was something that really needed to be given consideration.

**Councilor Morissette** said that he was very interested in this issue. He had brought up the concern about how much land would be left for 460,000 more people and 244,000 more housing units. He noted that it did not seem as if there was an adequate supply of land for schools in the equation. He said that there had been very high densities estimated for housing, schools. He believed that when he voted against the Functional Plan it was because there was an inadequate supply of land. As we go through this process, he would be very interested in the school districts comments to analyzing the amount of land planned for those 460,000 additional people. Once one looked at the amount of land, it was his belief that there was not enough land to house those kids. With either form of the Functional Plan that one was considered, whether that was moving the boundary out or using the land all inside the boundary, there were still the same number of kids. So if there were no sites to put them on one had the choice of building up with the existing sites. There had also been many comments that the suburban communities didn't have the sites that they wanted. These sites were an

amenity to the community. He did not believe that this added up to the bottom line of what had been planned for the schools for whatever the number of student multiplier was that related to the 460,000 people. So, this was a big area where the school districts could help Councilor Morissette understand because he believed there was a problem with the plan based on those numbers.

**Steven Ladd** responded to Councilor Morissette and the Council. Even if no additional acreage was brought into the Urban Growth Boundary, the problems that the school districts had spoken about at this Council meeting would remain because as the planning process moved forward and densities were increased densities in the existing lands schools were going to have the same kind of pressure on all of the same fronts. So the request for planning in their comments while deliberate at this meeting to talk about the Urban Reserve Study areas, the school districts would hope that the Council would expand that thinking and the kind of relationships that the school district would need to have in place with Metro, cities and counties in terms of planning process because as light rail came through the school districts were going to have the same demands on them and they would like to consider that as part of that whole planning initiative as the school districts move forward with the process with Metro.

**Presiding Officer Kvistad** noted the upcoming Listening Posts around the region throughout the next two weeks and the opportunity to give additional input during those listening posts.

**Councilor McLain** thanked the school districts personnel for coming and added that the Listening Posts were an opportunity for the school districts to make their conversation to the general public not just to the Council and again to have an opportunity to sell the public on that support that was needed from them, both Metro and the school districts to make this Plan really work.

**Councilor Monroe** thanked the school district members. He stated he was chair of the David Douglas School Board. His school district was right in the middle of trying to find sitting for new schools because the district's population was growing as well. He added that it was very difficult because his whole area was urbanized, his district just negotiated to purchase one of the few flat ten acre pieces of ground that was left in his area. He noted that the school districts had spoken of the high costs of building schools, one of the infrastructure costs of an expanded population base. He asked if the school districts had any ideas about who should bear that cost? Should the cost be borne primarily by the new development that goes in or whether the cost should be borne equally by the new citizens as well as the older citizens who had been in the area all along?

**Dr. Katz** responded to Councilor Monroe's question. The Beaverton School District had taken to the legislature over the last three or four legislative sessions, a need for the State to look at how it would help support the building of its schools that it was requiring certain kinds of work to be taught in those schools. Especially with the Twenty First Century Act all of the new kinds of curriculum and requirements would require additional support in terms of the facilities, different and new kinds of facilities. She had noted in previous testimony what people did not like to talk about and that was system development charges, real estate transfer charges and various ways to look at bringing a pot together that schools could take to the voters, whatever the voting ability would be after Ballot Measure 47 if it passes. What the school districts would be looking at in terms of this. It was not just one group would pay for the facilities but if the school districts could bring together different pieces from different groups and take a package to the voters to say here was the help that we were getting would the voters help in addition to that help? In many states across this nation there were state laws that do just this for the school systems, either by saying that developers would set aside certain pieces of land in their development or that they would make land at a certain price to the school district in that development or there were system development charges or real estate transfer taxes or there were various other ways to bring together the kinds of dollars it took in addition to trying to pass a bond issue. Dr. Katz thought that this state was going to have to very seriously consider this in light of what the voters had decided.

**Councilor Monroe** asked if the school districts would like to see the siting of schools in the Urban Reserves even before those Urban Reserves came into the UGB? This seemed to be something that would be a

reasonable request to Councilor Monroe. It was his hope as going we go through this process the Council would consider that kind of a request. He noted that he had the latest numbers on Ballot Measure 47. The no vote was still ahead of the yes vote but only by 800 votes out of 700,000 that had been counted. The gap was narrowing. He felt that if this trend continued everyone would have to deal with this. This meant when one goes for a bond for the school district to build something this would have to be done once every two years at the November election because of the requirement of a 50% turnout. This would make it even more difficult for those that were in the education field to deal with the problems.

**Dr. Joki** agreed with everything that Dr. Katz said in terms of SDCs. He added that it seemed to him that part of the cost of school construction could be reduced if there could be some relief from cities and county governments on plan check fees. The school district spends considerable dollars and it seemed that government, now that the school districts were becoming more and more an arm of state government, should be able to work together and provide some relief for the plan check fees. It was not unusual to get into the hundreds of thousands of dollars as part of a school construction project for what should be simple review working together. He offered that was another suggestion.

**Presiding Officer Kvistad** said this was a comment that should be taken to MPAC for general discussion.

**Jim Sitzman, Land Conservation and Development, 800 NE Oregon #18, Portland OR 97232** reported to Council on behalf of Mr. Benner, the action of the commission in response to the Council's request to amend the Urban Reserve Rule. (A copy of the letter was submitted for the permanent record of the Council and may be found in the Council Office.) He noted that the commission did affirm the Council's request to change the language from thirty year to a ten to thirty year Urban Reserve Pattern. It did include in the appropriate section the language recognizing jobs and housing ratios as a factor for a specific land need. Based upon the staff recommendation that the commission came up following additional information that the commission received from Metro's analysis about the amount of lands available for Urban Reserves that did not require going into the agricultural areas, the commission dropped the notion that we needed to amend the rule to recognize separation of communities because there was the opportunity to achieve the regional objective without changing a state rule to do that. There would be an acknowledgment order coming out soon for the regional urban growth goals and objectives. He noted Mr. Benner's letter which stated some of the items he reviewed and additional comments about the state requirements regarding the Urban Reserve Rule.

**Councilor McLain** noted that the Council was glad to have Mr. Sitzman in front of Council at this meeting.

**Presiding Officer Kvistad** also thanked everyone in Mr. Sitzman's organization.

### 3. EXECUTIVE OFFICER COMMUNICATIONS

**Executive Officer Burton** reviewed three items. He said that he was forwarding recommendation to Council and MPAC to amend the ability of MPAC to allow an elected member of the school board to sit on MPAC. It was currently down in General Counsel looking for conformance as it did relate to both the Charter and rules that would be coming to Council soon.

Secondly, he updated the Council on the Urban Services Boundary and spoke of trying to resolve the court case between Portland, Beaverton and unincorporated Washington County area on the boundary. The Executive Office made some recommendations. The Portland City Council and the Beaverton City Council had both unanimously accepted that settlement offer and had acted on it. Washington County would have their action on it November 12, 1996. The Executive Officer hoped that there would be similar success at the Washington County meeting. The special services districts had all agreed to that. Mr. Burton asked that the Council consider an Ordinance for first reading in November, a public hearing.

**Presiding Officer Kvistad** said that the Council would take acceptance of this on the November 21st and have a Public Hearing on approximately December 5, 1996.

**Executive Officer Burton** said that in the City of Seattle they passed a light rail measure of two billion dollars which passed by 58% in the region.

#### 4. CONSENT AGENDA

4.1 Consideration of the Minutes for the October 17, 1996 and October 24, 1996 Metro Council Meetings.

**Motion:** **Councilor McFarland** moved the adoption of the minutes of October 17 and 24, 1996 Metro Council Meetings.

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

**Discussion:** **Councilor McFarland** stated Mayor McRobert's name was misspelled in several places in the minutes. She asked for correction.

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

#### 5. ORDINANCES - FIRST READING

5.1 **Ordinance No. 96-658**, An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule for the Purpose of Transferring \$35,275 from the Regional Parks and Expo Fund contingency to provide funding for flood related expenses at Oxbow Regional Park, title reports for transferred Multnomah County Properties and to Purchase a Laser Printer for the Regional Parks and Greenspaces Department; and Declaring an Emergency.

**Presiding Officer Kvistad** assigned Ordinance No. 96-658 to the Regional Facilities and Finance Committees.

5.2 **Ordinance No. 96-660**, An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule in the Spectator Facilities Fund by reducing contingency by \$300,000 and increasing the Materials and Services and Capital Outlay portions of the budget to provide for capital renewal and replacement at the Portland Center for the Performing Arts; and Declaring an Emergency.

**Presiding Officer Kvistad** assigned Ordinance No. 96-660 to the Regional Facilities and Finance Committees.

5.3 **Ordinance No. 96-661**, An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule in various funds to hire a Capital Projects Assistant for MERC, and Declaring an Emergency.

**Presiding Officer Kvistad** assigned Ordinance No. 96-661 to the Regional Facilities and Finance Committees.

## 6. RESOLUTIONS

6.1 **Resolution No. 96-2411**, For the Purpose of Authorizing the Commencement of Review of the Rates for Ambrose Calcagno, Jr. doing business as A.C. Trucking Company, for the operation of the Forest Grove Transfer station.

**Motion:** **Councilor McFarland** moved the adoption of Resolution No. 96-2411.

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

**Discussion:** **Councilor McFarland** said that she had had several discussions with Legal Counsel on this resolution and had it on the agenda for some time to try to get to a review of the rates that we have with the A.C. Trucking Company. She added that this review was long over due. According to the agreement with them, the necessity to do this and in order to begin this process, she asked to send it to the Rate Review Committee and have them begin the process of looking into this so that they could give the REM Committee some recommendations. She suggested that legal counsel answer question about what had occurred to date.

Presiding Officer Kvistad opened public hearing at 2:55pm.

**Mr. John Stride, Attorney from Tonkon, Torp, Galen, Marmaduke and Booth**, 888 SW 5th, Portland, OR 97201. He also introduced Mr. Marty Howard another attorney with the firm. Mr. Stride addressed the matter of rate review for A.C. Trucking and asked Council to take steps to defer sending this to the Rate Review Committee, waiting until a new director was appointed and defer until after the first of the year consideration of this proposal. In 1988 Metro did do a rate review of A.C. Trucking and conducted according to Executive Order 25 procedures. At that time it was determined that the appropriate rate was \$19.25 per ton. Those rates had increased since then, once in 1991 to \$22.75 and once in 1992 to \$25.50, both of the later increases were stipulated rate increases by consent of the parties. Now here in 1996, 8 years after the rate review was conducted according to the Executive Order 25 procedures, Metro's staff was asking that the rate be reduced by \$10.60 per ton back to nearly the 1988 rate. During the time from 1988 to 1996 not only had the rates gone up according to the rate review process they had been diminished by \$4.83 in concession to Metro that A.C. was reluctant but finally agreed to in order to continue to transport solid waste to the River Bend Landfill and Metro had enjoyed the \$4.83 rebate from A.C. Trucking at that time. Mr. Stride said what was being presented to Council at this meeting was staff's recommendation to reduce A.C. Trucking's rate by \$10.60 and he understood that in the normal rate process what could be reviewed was the tip fee, the charge that the haulers pay to the transfer station. Of course if that tip fee was reduced by the amount that staff recommends it would be a difference in tip fee at the Forest Grove Transfer Station than exists at Metro South and Metro Central Stations. That difference would be what ever rate differential staff determined. Mr. Stride urged that this created several problems. One of which the staff recommends to cure. One problem was that that differential may incent haulers to come to Forest Grove rather than Metro South or Center Stations. The cure suggested by Metro staff was to impose an equalization fee. He understood an equalization fee to be one that imposed a cost on A.C. Trucking to bring their rate up to the same as Metro South and Central but the equalization fee they viewed as a euphemism for a tax on A. C. Trucking and one that the law firm would urge was impermissible and would likely test. The law firm suggested that what this would do was place both parties in a bit of an untenable position of either having unequal rates or a tax that may or may not be permissible. He urged a different result, that result was to wait on this process to allow A.C. Trucking to deal with Metro staff and give them some comfort the numbers supplied and would continue to be supplied would necessarily justify a rate that A.C. Trucking has had at the \$25.50 level. The firm had over the past month been in discussion with Metro staff and had attempted to work out some exchange of information. He believed that if information could continue to be exchanged with staff in an open manner that the staff would be satisfied that where there had been some inadvertent misallocations, those would be cured. If there had been cost allocated to other



Ambrose Calcagno entities, to the franchise operation, the firm concedes that this was not appropriate and that should be cured but they do contend that once appropriate costs were allocated to the franchise operation and an appropriate rate of return was analyzed and imposed that there would be no change in the \$25.50 rate. He asked Council to give them time to do this. Mr. Stride suggested that Council hold over the resolution until January 1997 and second urged Metro staff to negotiate with the company a fair confidentiality agreement whereby the firm could provide sensitive competitive information to Metro in a way that they could be assured the information would not be used unfairly to compete against A.C. Trucking or land in the hands of someone who would do that and that they had some comfort in supplying that information, provide that information, conduct a joint analysis and allow that process to take 180 days from the first of the year.

**Mr. Marty Howard** said that he was at this meeting to answer questions.

**Executive Officer Burton** and Acting Director of the Solid Waste Department spoke to the resolution stating it sends this matter to Rate Review Committee for the purpose of examining exactly what Mr. Stride had outlined to the Council which was the proper place for the review to occur. He pointed out that this matter had been in front of Metro for some time. The franchise agreement that was signed by Ambrose Calcagno Jr. and Metro Executive Officer Rena Cusma was dated January 26, 1994. Section 14.5 of this agreement said, "beginning in 1995 the franchisee shall submit to rate review annually following or at the time of Metro adoption of disposal rates for Metro owned facilities." The signatures were attached to that by Mr. Calcagno and by then Executive Officer Cusma. Mr. Burton said that he could provide copies to Council of the attempts to correspond with Mr. Calcagno and with his attorneys to try to resolve the questions that were raised here at this point. That correspondence started April 26, 1995, the last was sometime in September. Given the information that REM staff had and were able to get, the question of confidentiality, all attempts were made to keep the information confidential. However, in the sense that this had been delayed for two years beyond what it should have been, Mr. Burton felt that they needed to go to Rate Review with this and recommendations were made on that basis. He did not believe it would be advisable of him or a good use of time to get into the details of that but the purpose of resolution before Council was to send this matter to Rate Review to determine what the rates should be. The REM department had a recommendation based on the information they were able to get. The process that was gone through for the rate review was exactly the same information which was provided previously under the previous rate review by this same franchisee, nothing was different, generally information was the same. Information was provided previously by the franchisee but for some reason there seemed to be a problem with providing that information now. REM had taken their best shot at attempting to get that information, giving an opportunity for everyone to come in with that information they wanted to including the information on confidentiality. He asked General Counsel to comment on the confidentiality issue and urged Council to pass the resolution and send it on to the Rate Review Committee so they could get down to the details and the argument that A.C. Trucking seemed to be concerned about.

**Councilor McLain** said that she had no problem with the resolution being before Council or with the request that this information be sent to the Rate Review Committee. The only concern she had was the date of November 30th, she asked when the Rate Review Committee met next and was that reasonable to ask them to dispose of this issue in one meeting. Why was the timeline of November 30, 1996 chosen?

**Executive Officer Burton** said that this date was the next meeting that the Rate Review Committee was meeting. He asked Mr. Cooper to comment on efforts to try get the information requested. Once someone went through the Rate Review process he was unsure as to how long it would take the Committee to determine what the costs were. This was a matter of providing information about what costs were versus what the rate should be. This issue that was coming before the staff was that this information is proprietary information that the franchisee did not want to let someone see. There was a means to deal with this confidentiality issue. There had been an attempt to provide this but the information was still not forthcoming. If the Rate Review Committee needed to take more than one meeting on this, they could chose to do this and make a response to the company. REM asked for some kind of a timeline to be set up. Mr. Burton had not intended to box anyone into an absolute date.

**Mr. Cooper** had discussed with both Mr. Strides office and another attorney who represented Ambrose Calcagno the issue of confidentiality, within the confines of the limits of the Oregon Public Records Act. Legal Counsel was prepared to do what ever was possible to guarantee confidentiality which included going out to Mr. Calcagno's offices, his attorneys or accountants to look at documents there so they may be shield as much as possible from any claim that those records became public documents. This could be worked out among the attorneys in short order if that was the only issue. He noted that there were other issues as well.

**Mr. Stride** was happy to work out a confidentiality agreement. He drafted one and sent it to Metro to be looked over. He believed that they could come to an agreement. The response he received was that they were better off being pushed to a contested case after the rate review where in the attorneys could ask for a protective order for that information. This meant that information could not be shared now to resolve the issue and believed that this issue would be better resolved now with staff by putting the information out there. He noted that A.C. Trucking had recently engaged Mr. Howard and McCullough Group to compile information and conduct an analysis and share that analysis with the staff. If given time, this could be done in a way that would make more sense than pushing on to a Rate Review Committee.

**Councilor McLain** asked Mr. Stride if he was new to the process, had he just been retained? She believed the time issue was a concern, the staff had tried very hard to work with the individuals involved being very sensitive to the confidentiality issue. If Mr. Stride was asking for more time because he was new to the setting this would make some sense.

**Mr. Stride's** firm was retained within the last two months. The firm had asked for additional time and Mr. Cooper did grant the firm some time. The firm believed they had more time, this was why Mr. Howard and his group were brought on board. It was Mr. Stride's hope that they could comply and share information. He did believe that the firm was stuck if they could not get a confidentiality agreement together that allowed the firm to share information from Mr. Calcagno's enterprises other than the franchise's operation, which would provide information necessary to those individuals who were in a position to use that information.

**Councilor McLain** said that her understanding was that Metro's legal department was working to make sure that confidentiality issue was resolved to everyone's satisfaction.

**Mr. Stride** said the firm would like to have a signed confidentiality agreement as opposed to a representation that it would remain confidential.

**Presiding Officer Kvistad** asked Mr. Cooper and Mr. Burton what effect of delay until January and February?

**Executive Officer Burton** responded that the effect of a delay, it meant that this would be dealt with later. The signed franchise agreement by the franchisee dated back to 1994, this was supposed to be an annual review, this had not been conducted under this franchise agreement. The other fact that needed to be noted was that the current rate that would be charged if the staff was correct in the assumptions made so far, part of what the Rate Review Committee needed to consider, was whatever information that they could bring in that would counter what the staff had been able to glean from the information they had been able to get. If the rate was in deed at a premiere or about where it should be and REMs recommendations here was that the rate be reduced and that that saving per year be passed onto all Metro solid waste rate payers, that was a delay in doing that for that period of time. So, that in effect would be a delay and if there was a reduction that might be achieved, Metro was losing that to the rate payers.

**Mr. Stride** spoke to the delay, the firm had started the process, Mr. Howard had met with some of the Metro staff and believed that process would go smoothly but needed time to continue that process. As to the point of passing on the savings to the rate payers, it was understood that the proposal contained a provision that would be seen following a determination of the rate to pass a resolution adopting and equalization tax that those rate

payers would in fact not see those savings. What was urged was to allow the process that Mr. Howard started to continue and to work to get a confidentiality agreement and continue without going to Rate Review.

**Councilor Washington** asked if the primary issue was a confidentiality agreement or was it getting this agreement presented squared away.

**Mr. Stride** replied that they believed if they had confidentiality agreement they could provide information that could provide information that could satisfy the staff that the rates that were currently being charged were appropriate.

**Councilor Washington** clarified that this resolution was to bring something together for AC Trucking and wanted to know what that would do. He wanted to know why it had taken so long for this to get to this point and be forwarded to the Council.

**Councilor McFarland** responded saying that they had been working for some time to get information from AC Trucking. They had not been very forth coming in getting that information. Staff was trying to get information and send to Rate Review Committee, Chaired by herself. She stated they were trying to get on with the process. She urged the Council to pass this on and let Rate Review make a determination.

**Councilor Washington** reiterated that the issue with Mr. Stride was confidentiality.

**Mr. Stride** said the primary issue was confidentiality and the secondary issue was rather then sending this to rate review with a recommendation that they saw in the proposal and the staff work they thought that if they could provide staff information, Rate Review Committee would get an entirely different recommendation, one that would be in the better interest of both Metro and AC Trucking. That was where he thought they should do the work.

**Councilor Washington** said if this went to the Rate Review Committee would they have the opportunity to say anything that they wanted or make sure all their needs were met, and did Mr. Stride think they would not treat them fair if it went to the Rate Review Committee.

**Mr. Stride** said that he believed that the Rate Review Committee would give them a fair review. He stated that it would provide a better opportunity to provide a detailed analytical information to the staff before it went to Rate Review. He urged that it stay at the staff level prior to going to the Rate Review Committee.

**Executive Officer Burton** commented that he felt that Metro had more than adequately provided time to AC Trucking. Second, regarding rate stabilization fee, that was concurrent with new rate so that the money was stabilized across the board equally and tried to reduce the fee.

**Councilor McFarland** corrected Mr. Burton saying his analogy was not the extra foot but they had gone the second mile.

**Presiding Officer Kvistad closed the public testimony at 3:21pm.**

**Councilor Monroe** asked Councilor McFarland why the Council needed to bypass the normal process to fast track it today. What would be lost by having this reviewed by REM Committee first before it was finally passed on by the full Council.

**Councilor McFarland** replied that they would like to review this as one of major issues for Rate Review Committee and wanted to address this as one of the major questions.

**Councilor Monroe** asked when would the next REM Committee meeting be, and would that happen in time to still get this to the Rate Review by November 30th.

**John Houser** replied the next REM Committee would be on November 20. He believed that staff had been looking at a potential Rate Review Committee meeting on or about that same date.

**Councilor McLain** asked if the confidentiality issue was something that had been discussed by both parties, what was the difference between the two and how would it be kept confidential when having to be brought in front of an advisory committee that would entail a public meeting.

**Dan Cooper** affirmed that they had discussed both verbal and written confidentiality. Mr. Calcagno said he had more than one business. He believed in order to really understand what his financial situation was, Metro staff needed to be aware of some of the other things that he did and how he allocated cost. The concern with that was the other companies had information that if it became public record, then his competitors may take advantage of that information. In the staff work up of the protect information, it was agreed that they would make what ever steps necessary including signing something in writing to protect that information when reviewed by staff. The question was what would happen in rate in a public committee in a public hearing to information was a separate question. He stated they had been more than willing to accommodate AC Trucking and the attorney's before Rate Review convened.

**Councilor Washington** asked if it had taken a year to get the issue of confidentiality issue resolved.

**Dan Cooper** replied he did not know why this had taken so long. And stated discussions had occurred.

**Councilor Monroe** stated he thought he heard the attorneys for Mr. Calcagno state that they needed some time to work out the confidentiality agreement before the Rate Review Committee Process started since it was an open process and would make public some confidential information. He wanted to know from Mr. Calcagno's attorneys if that was a correct assessment of their position.

**Mr. Stride** stated that at a staff level if they could work out a confidentiality provision, they could provide underlying documentary information that would be sensitive. Once it went to the Rate Review Committee that information need not get to the Rate Review Committee, it could be compiled in a consolidated format, which would not disclose any of the confidential information they were concerned about. They did not wish to supply the specific documents to Rate Review Committee.

**Councilor Monroe** asked how important was it that the Rate Review process start within the next two weeks. If the confidentiality agreement was signed and agreed to, but if all information sharing was not completed, could the rate review process be postponed until that happened if the resolution was passed today?

**John Houser** responded that if staff had not had a chance to fully analyze it a Rate Review Committee meeting on or about the 20th could analyze what had been made available. He stated what staff was intending to do was to get the process started.

**Executive Officer Burton** commented a December 21, 1995 letter was sent to Mr. Calgnagno. He stated they were not doing a Rate Review of the law firm but doing a Rate Review of the franchisee and asking for the process to get started. He further stated that if more time was needed for the reporting back date more time could be requested but would be up to the Rate Review Committee.

**Councilor Monroe** stated it sounded like there was some question about the timeline for the November 30th date and how flexible that date was and if a date should be in the resolution.

**Councilor McLain** believed that the staff and Executive Officer Burton gave an indication of why there needed to be a timeline. There had been problems with getting further than step one. She stated she was more than willing to vote this forward with a date. She felt the November 30th date was a bit ambitious. She wanted to know if Councilor McFarland would agree to a friendly amendment to change the date.

**Councilor McFarland** said she would agree to saying not later than December 10, 1996 for this friendly amendments.

**Motion as amended:** **Councilor McLain** moved to amend the date to December 10th.

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

**Vote on amended motion:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion as amended.

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

**Councilor Morissette** stated that he had to leave but wanted to comment that he supported Bruce Warner's addition to staff.

6.2 **Resolution No. 96-2417**, For the Purpose of Authorizing an Extension of a Contract with the Spangle Associates for Utilizing a Federal Grant Facilitating Use of Relative Earthquake Hazard.

**Motion:** **Councilor McLain** moved the adoption of Resolution No. 96-2417.

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

**Discussion:** **Councilor McLain** said this was pass through money and would not cost any money. This was passing a grant to Spangle Associates who would utilize this to make better and complete the earthquake hazard maps. She urged that this item be passed.

**Vote:** The vote was 6 aye / 0 nay / 0 abstain. The motion passed unanimously with Councilor Morissette being absent.

6.3 **Resolution No. 96-2407**, For the Purpose of Confirming the Appointment of Bruce Warner to the position of Director of the Regional Environmental Management Department.

**Motion:** **Councilor McFarland** moved the adoption of Resolution No. 96-2407.

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

**Discussion:** **Councilor McFarland** spoke with Mr. Burton about this selection. They talked about what kind of things were needed for that department and she knew Mr. Burton would give details of Mr. Warner's background. She believed this was a good choice for the department and stated they were prepared to work fully and cooperatively with Mr. Warner.

**Executive Officer Burton** stated he was pleased to bring to Council for their acknowledgment the nomination of Bruce Warner as the director for the Department of Environmental Management. Mr. Burton gave a brief synopsis of Mr. Warner's employment background. He urged the Council to confirm Mr. Warner's nomination as the director of the department.

**Councilor McLain** stated that was one motion that she was happy to pass today and that Mr. Burton had a wonderful staff and had done a wonderful job.

**Councilor Monroe** stated that he had known Mr. Warner for quite a while but wondered if he really knew anything about garbage. He stated this resolution had him really puzzled.

**Councilor McCaig** stated she agreed with Councilor Monroe. She said in her experience with Mr. Warner at the State was a little disconcerting. She believed from what she had seen in the past that Mr. Warner went to departments that were in the black and when he left they did not have any more money. She said she was truly concerned about this and thought it should be postponed for a year.

**Councilor Washington** commented he had similar concerns that Councilor McCaig had. He stated he had to work with Mr. Warner on the MLK Boulevard project. He was concerned about his nomination to the position.

**Presiding Officer Kvistad** commented that he had concerns as well from his past history.

**Councilor McFarland** commented that all of the reservations about Mr. Warner were warranted. She suspected that he would be in for a lot of difficulty but she was going to recommend that the Council pass this and confirm him.

**Councilor Washington** stated that it had been a pleasure to work with Mr. Warner and things truly did begin to happen on the MLK Project when they had chatted.

**Councilor Monroe** stated that he hoped that Mr. Warner would be more successful at running the REM Department than he was at getting the legislature to come up with some money for highways in the State of Oregon.

**(Upon the confirmation of the Director, the above dialogue was in jest )**

**Vote:** The vote was 6 aye / 0 nay / 0 abstain. The motion passed unanimously with Councilor Morissette being absent.

6.4 **Resolution No. 96-2414**, For the Purpose of Opposing the Siting of an Inmate Intake Center, A Medium Security Women's Prison or any other Correctional Facility on the Wilsonville Tract.

**Motion:** **Presiding Officer Kvistad** moved the adoption of Resolution No. 96-2414.

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

**Discussion:** **Executive Officer Burton** addressed Resolution No. 96-2414 and 2415. He stated before the Council was a chronology file of the involvement that Metro had with the Wilsonville Tract and also the question of the damage property for some time. In the 1987 legislative session he chaired a corrections committee and ended up chairing several oversight committees and then the siting committee for the prison expansion that was occurring at that time. He also recognized that Ballot Measure 11 was passed by a majority of the citizens of Oregon and that made it a constitutional requirement to provide certain prison sentences for people. The reason these resolutions were before the Council were because Metro had had a long standing and ongoing negotiation with the State on the question of the division of the state lands property in the Wilsonville Tract area. In 1991 it was recommended that the Wilsonville Tract be sold to the Department of State Lands to be maintained as a natural area. He further commented that there was a competing RFP for the property with the Tualatin Valley Water District. The situation there was that Wilsonville was about out of water and they needed water for their current uses. The ultimate objective was to build a joint plant to serve both Wilsonville and other areas nearby. Metro had been working with them and representatives of the City of Wilsonville and their agents to try to work with the Tualatin Valley Water District to locate land where they could build that plant and it had just been successfully negotiated. The Divisions of State Lands said the Wilsonville Tract had been proposed by the Department of State Lands as a potential site for the Department of Corrections. The point being that they had been in negotiation and that this land was not available. If the Department of Corrections determined that it wanted to build a corrections facility in the tract area, it would have to buy that land at fair market value, the same thing that Metro would buy it at. Resolution No. 96-2414 recommended to oppose the siting of that facility on that land for those reasons.

**Executive Officer Burton** discussed Resolution No. 96-2415 stating the Dammasch property was another issue to be dealt with. The city of Wilsonville would be responsible for providing streets, water and roads into the area. Local jurisdiction in this case, Clackamas County would have to do that because it would not be incumbent on the City of Wilsonville and the cost of doing that for Clackamas County would be great. In order to help Wilsonville out with its growth management this would detract from the process that was being set up to help them deal with growth in the future. He sent a letter to the Governor based on the policies that had been adopted by the Council regarding both of these properties indicating the concern about that. Governor Kitzhaber responded by indicating he had a concern about Growth Management issues in these areas. He stated there were options that needed to be looked at.

**Presiding Officer Kvistad** commented that with this particular tract it was in the greenspaces master plan, state goals, and Metro did make a commitment to that community to move forward with trying to purchase this site. He stated that he had a track record that there were very few times that he took the position on issues or items to publicly stand in the way of facilities or to support ballot measures. He did think this was in Metro's jurisdiction. He urged the Council to support these two resolutions.

**Councilor McCaig** did not disagree with the importance of the negotiations that had been ongoing with the Openspaces department and the people of the region. She believed it was premature and inappropriate for Metro to urge the Governor not to consider this site without understanding the full limitations and restrictions that the Governor faced in finding an appropriate site. The Committee narrowed down three sites, one in the metro area and the other two scattered throughout the State. She thought there were larger issues, bigger than those raised by Council that the Governor and the Siting Committee had a responsibility to consider. She wanted to give them the flexibility of having the information in front of them and Metro's support when going through this process. She did not object to the Executive Officer or members of the Council taking positions against ballot measures. She still continued to have doubts whether it was appropriate for the Council, as a governmental entity to take some of these positions without the benefit of having all of the information and the choices that the other governmental units had before them. She had an amendment which would simply change the "now therefore be it resolved" in both Resolution No. 96-2414 and No. 96-2415.

**Motion:**       **Councilor McCaig** amended Resolution 96-2414 which replaces the word “opposing” with the “Metro Council strongly urges the Governor and Prison Siting Committee to take all of the aforementioned limitations and concerns with regards to the two tracts into account during any deliberation related to siting an Inmate Intake Center A Medium Security Women’s Prison, a Men’s Medium Security Complex or any other correctional facility.” She further stated that Metro go on record listing all of those concerns and expressing what the role of this government was within their jurisdiction but not conveying to the Governor that Metro was opposed to it being sited there yet.

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

**Councilor McLain** appreciated the comments that Councilor McCaig made and her position. She said she could not vote for Councilor McCaig’s amendment. She felt that Metro did have the responsibility to take a proactive and strong leadership role to make sure the previously endorsed documents fulfilled the responsibilities and commitments made to the citizens and voters. She thought it was appropriate when cities and counties came to Metro and had a similar issue to let Metro know of that issue and to oppose certain elements of Metro’s planning or certain elements of Metro’s proposals. She did not feel the leadership was strong enough with either one of these amendments. She hoped that the original language would remain.

**Councilor Monroe** said he would support the amendment for two reasons. The resolution would have a greater impact on the siting decisions than with the original language. He also recognized that that Governor was in a very difficult position and that the Council ought to be more sympathetic to the problem that he faced. He felt it made more sense to provide him with data and to let him know that the Council strongly believed that data reflected on this not as being a good place for a prison, but that we not simply order them to pull it from the list of possibilities.

**Councilor McCaig** stated that Metro had been involved in long ongoing negotiations and a contract had not been signed. She stated things do change and that needed to be recognized. She thought that Metro was entitled to move forward and recognize that the State had not made a commitment to Metro on this property, there was no contract yet and could not expect as their needs changed that they would not adjust their negotiations with Metro.

**Executive Officer Burton** commented that there was an RFP that had been accepted by the Division of State Lands and was under the assumption that it would move forward. There was at least, on the part of that Department, a sense that they wanted to move forward.

**Councilor Washington** stated he had been through this process before and it did not make a bit of difference of how tough or how soft a person was, Prison Siting Committees do what they want to do. He did not think the Governor would take this as an attempt to disrespect him, he hoped the Governor would take this as Metro stating a strong position.

**Presiding Officer Kvistad** commented with both of these areas, there were both areas of interest. These two items were different, in that they were in the long range plans and master plan. He was more concerned about the relationship with the community and the voters and that the Council had a commitment. He further stated he was going to oppose this item and support the initial resolution.

**Councilor McCaig** said this had nothing to do with either making a statement about protecting or not protecting openspaces. It had to do with the way this Council perceived itself and the job it was meant to do. She thought it was appropriate to make an amendment when not having the benefit of all information.



**Vote on** The vote was 3 aye / 3 nay / 0 abstain. The amendment to the **amended** motion failed. Councilor McCaig, Monroe and McFarland voted aye, **motion:** Presiding Officer, Councilors McLain and Washington voted nay.

**Mr. Desmond** responded to Councilor McCaig's comment that a contract had not been signed. The delay that had been caused getting the contract signed was the fact that the DSL was given two competing RFP's. One for the entire parcel by the City of Wilsonville and Metro combined and one for 40 acres of the property for TVWD. He stated they were directed by the DSL staff to try to accommodate both uses.

**Councilor McCaig** responded that if she had heard that from the Executive branch that the Division of State Lands was attempting to move something in an expedited way, when there was another issue on the table for the Governor, she would be cranky. She appreciated that the DSL may in fact be attempting to do that and understood very clearly why they were doing that. But she did not think that was an issue that this Council needed to get involved with.

**Mr. Desmond** clarified that he just wanted to be clear on the record where they were so that they knew what had happened in the three years that this had been worked on.

**Vote:** The vote was 5 aye / 1 nay / 0 abstain. The motion passed unanimously with Councilor McCaig voting nay and Councilor Morissette being absent.

6.5 **Resolution No. 96-2415**, For the Purpose of Opposing the Siting of an Inmate Intake Center, A Medium Security Women's Prison or any other Correctional Facility on the Dammasch State Hospital Property.

**Motion:** Councilor Kvistad moved the adoption of Resolution No. 96-2415.

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

**Discussion:** None

**Vote:** The vote was 5 aye / 1 nay / 0 abstain. The motion passed with Councilor McCaig voting nay and Councilor Morissette being absent.

6.6 **Resolution No. 96-2420**, For the Purpose of Confirming the Selection of Western Strategies to represent Metro before the 1997 session of the Oregon Legislature.

**Motion:** Councilor McFarland moved the adoption of Resolution No. 96-2420.

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

**Discussion:** Councilor McFarland said this was a unanimous decision to select the Western Strategies to represent Metro at the 1997 session of the Oregon Legislature.

**Executive Officer Burton** recommended confirmation of Western Strategies to represent Metro before the 1997 session of the Oregon Legislature. There were a number of applicants, they did interviews and was unanimous to recommend Mr. Higby for this position. He noted Mr. Higby was an attorney, with an undergrad degree in POLI SCI, educated and training with City of PDX and was good at what he did. He felt Mr. Higby would bring to Metro experience necessary to deal with the next legislative session. He also recommended confirming Mr. Higby and very quickly getting together as a group to discuss some of the legislative items.

**Vote:** The vote was 6 aye / 0 nay / 0 abstain. The motion passed unanimously. Councilor Morissette was absent.

6.7 **Resolution No. 96-2421**, For the Purpose of Amending the Contract Between Metro and Ankrom Moisan Associated Architects for Architectural Services Associated with the Development of the Oregon Project at Metro Washington Park Zoo.

**Motion:** Councilor Monroe moved the adoption of Resolution No. 96-2421.

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

**Discussion:** Councilor Monroe noted that there was a number of people present to provide information that was asked for in the Finance Committee in terms of budget and possibly an amendment.

**Sherry Sheng** apologized for the staff being unprepared at the Finance Committee meeting. Ms. Sheng gave a brief chronology of the Ankrom Moisan Associated contract. The original contract was executed in June 1994, the contract was approved for \$150,000 and that was in FY 1994-95 as part of the Zoo Capital Fund. The staff had recommended or requested \$ 3 million which should be looked as the placeholder. A process was gone through sending other RFP's to over 20 firms, conducted a full walk through, received a large number for RFP's, considered 8 proposals, conducted a large number of interviews and selected the firm that had the contract currently. Even though a \$ 3 million contract amount was requested, Council after extended conversations, decided during the FY 1994-95 to authorize \$150,000 to word initial concept development and programming design for this project. The total contract amount in the signed contract says to be determined. In late September 1995 and early 1996, in preparation for further Executive and Council decisions regarding the Zoo Project, they executed 3 amendments totaling \$130,000 and showed up on the Zoo's FY 1995-96 Capital Fund and those funds were used to conduct further designs which provided additional information. Ms. Sheng stated she was here now to recommend amendment #4 and the amount being requested was only \$ 2.1 million was anticipated to be expended and that was the amount that was shown in the Capital Fund for the Zoo's FY 1996-97. The rest of the money would show up in future fiscal years and that would be 1997-98 and 1998-99.

**Berit Stevenson, Property Services Division** discussed the change order. In the prior conversation at the Finance Committee meeting that the original selection process did include the entire scope of the project. It was thought that a two contract approach would have been better to have an initial contract and then a secondary contract once the project had been approved and going forward. It was recommended an amendment that it was not a change order but would be establishing that to be a determined amount. In a sense it would be establishing the contract that was not fully defined when it was executed a couple of years ago.

**Motion:** Councilor Monroe moved the amendment Resolution No. 96-2421 to Resolution No. 96-2421A.

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

**Vote:** The vote was 6 aye / 0 nay / 0 abstain. The motion passed as amended. Councilor Morissette was absent.

**Councilor Monroe** asked Ms. Sheng if there was any budgetary information.

**Sherry Sheng** indicated that they did have additional information that would explain how the design fee was derived. She presented two spreadsheets, the first showed at a glance how the entire project cost of \$30.5

million was allocated. Ms. Sheng explained the budget sheet explaining the difference between the Total and the Design Fee was what was called the project budget subtotal which was actually all the money that was anticipated to be spent on construction or fabricating an installation in order to have a finished product. Then a break down was done on that amount of money into three different components. Included was a 15% contingency for each item at this point because it was still very early in the design of the project. Her guess was that it would be inappropriate to get into each component at this point and talk about a cost but if there were questions she would be happy to answer them. She further introduced John Fraser who was the Zoo Staff Architect and would be more than capable to answer any specific questions.

**Councilor Monroe** asked that the amount of the bonds that were sold were \$30.5 million.

**Sherry Sheng** clarified that the total bond measure passed was \$28.8 million.

**Presiding Officer Kvistad** asked Mr. Fraser to tell him in terms of these line items if they were appropriate to the scale of these kinds of developments or were they pretty much on par.

**John Fraser Zoo Design Coordinator** stated that from his past experience he was fairly familiar with this type of construction. He thought this budget reflected accurately what could be expected for those components. At this stage in design it was difficult to get very precise because the sizes would vary depending on the needs of specific animals.

**Presiding Officer Kvistad** stated in terms of contingency, in Mr. Fraser's experience in other projects, that of 10-15% was adequate.

**Mr. Fraser** replied 15% if allowing for escalation of the construction schedule was 3 to 4 years and this was a very hot construction market, Portland was really not what he would call a national average.

**Sherry Sheng** shared additional numbers regarding the design fee. The nature of the project had to be looked at to figure out what was an appropriate expertise applied to each component of the project and then work out on a percentage basis what would be the design fee applied for those components.

**John Fraser** discussed the handout Ms. Sheng referred to. The consultant fees were broke down by their area of specialization. What was done was 6 columns on the right to give an example of comparable facilities that had been built in the Pacific Northwest. The first line was buildings which were the architects work and the coordinating profession. The value of construction for that was \$6,728,650.00 at the current estimate and the fee value of 12% was pretty much consistent with national standards for this kind of complex restaurant. That was a AIA published range of 9-15% based upon a survey done two years ago of national expenditures. The fees for Skamania Lodge were put in due to the importance for the Council to understand the level of finish. He noted the percentage fee for Skamania lodge was substantially lower than this due to the fact that it was hotel, it had a large amount of repetitive facility that did not occur. The Plaza's walkway was the area covered by the landscape consultant. There really was a very wide range in that area because of the amount of paving involved, a 12% fee for that was on the low side. The exhibits fee was broken down into four sub-categories with exhibits, shelters and holdings, life support systems and interpretives. They had been broken down because each one had a different level of involvement by the consultant. Exhibit fee was estimated at \$11,057,677.00 was the current estimate and the consultant fee assigned to that was 16%. Shelters and holdings were more straight forward in terms of buildings, \$1.5 million was the estimated construction value at a 12% fee was involved because of the specialty design requirement for each individual animal. Life support systems was a unique area of specialization. The interpretive budget which was \$3.9 million, the consulting fee for that was \$593,000. 15% was noted as being on the lowest side of what was a national standard. The reason for managing to achieve that was by employing an exhibit fabrication consultant approach where looking at design build.

**Councilor McLain** thanked Mr. Fraser and Ms. Sheng for bringing forth the previously discussed material.

**Sherry Sheng** stated she did bring updated information on the Capital Improvement Plan and understood that there were some questions about those numbers. She stated those were based on old estimates and had been updated.

**Councilor McFarland** wanted to congratulate Ms. Sheng and her staff on getting all of the information well organized on such short notice so that the Council could act and feel comfortable about their vote.

**Michael Morrissey Council Analyst** clarified that the architectural fees necessary for this year were in the Metro approved budget and there would be some further budget amendments coming relative to construction or other activities for which this would be the basis of.

**Vote:** The vote was 6 aye / 0 nay / 0 abstain. The motion passed unanimously. Councilor Morissette was absent.

6.8 **Resolution No. 96-2403**, For the Purpose of Appointing Seth Tane, Bill Peters and Josephine Pope to Three Expiring Terms on the Metro Central Station Community Enhancement Committee.

**Motion:** **Councilor Washington** moved the adoption of Resolution No. 96-2403.

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

**Discussion:** **Councilor Washington** asked Mr. Morrissey to submit copies of the documentation. Essentially this resolution was to fulfill the vacant positions in the Central Enhancement Committee. He encouraged the support of the Council.

**Vote:** The vote was 6 aye / 0 nay / 0 abstain. The motion passed unanimously. Councilor Morissette was absent.

## 7. COUNCILOR COMMUNICATIONS

**Presiding Officer Kvistad** discussed the Metro Council Meetings Listening Posts.

**Councilor Washington** commented that he had been working with Mr. Ridgley trying to get some facts and figures so they could talk to the city and the county. He had received all of the updated figures and wanted to share those figures with each of the Councilors in the near future.

**Councilor McLain** mentioned that she was going to Beavercreek after this meeting for an unofficial listening post and encouraged the other Councilors to attend.

**Presiding Officer Kvistad** stated before the end of the year, he would like to put together a work session to deal with goals and to talk about some of the things that would be needed in the upcoming legislative session.

## 8. ADJOURN

With no further business to come before the Metro Council this afternoon, the meeting was adjourned by Presiding Officer Kvistad at 4:50 p.m.

Prepared by,

Chris Billington  
Clerk of the Council

Millie Brence  
Council Assistant