

MINUTES OF THE METRO OPERATIONS COMMITTEE MEETING

February 23, 2000

Metro Council Chamber

Councilors Present: Rod Monroe, (Chair), Bill Atherton (Vice Chair), Ed Washington

Councilors Absent: None.

Also Present: David Bragdon, Susan McLain, Rod Park (joined late) and Dan Cooper, Legal Counsel

Chair Monroe called the meeting to order at 3:35 p.m.

1. CONSIDERATION OF THE MINUTES

Motion: Councilor Washington moved to adopt the minutes of the January 19, 2000, Metro Operations Committee meeting. There were no corrections or additions.

Vote: The vote was 3/0. The motion passed unanimously.

2. Resolution No. 00-2898, For the Purpose of Authorizing Participation in a Local Improvement District to Fund the Steel Bridge Pedestrian Walkway.

Scott Moss, Assistant Director, Administrative Services Department said this resolution would authorize a Local Improvement District for a pedestrian walkway on the bottom deck of the Steel Bridge. Metro and MERC were asked to participate in the amount of \$204,545.45, with a future development offset of \$144,909.50 which could be spent between the expansion of the Oregon Convention Center and the Expo. The net cost to MERC would be \$59,635. MERC will pay the entire amount.

Motion: **Councilor Washington** moved to approve Resolution No. 00-2898.

Vote: The Committee voted 3/0. Resolution No. 00-2898 passed unanimously. Councilor Washington was asked to carry the resolution to the full Council.

3. Resolution No. 00-2901, For the Purpose of Authorizing the Executive Officer to Execute an Intergovernmental Agreement with the City of Gresham for the Management of Property in the East Buttes/Boring Lava Domes Target Area.

Charlie Ciecko, Director, Parks and Greenspaces, said this resolution authorized the Executive Officer to enter into an agreement with the City of Gresham to place deed restrictions and covenants and manage this 16-acre site in perpetuity.

Motion: **Councilor Washington** moved to approve Resolution No. 00-2901.

Vote: The Committee voted 3/0. Resolution No. 00-2901 passed unanimously. Chair Monroe said he would carry the resolution to the full Council.

A brief Executive Session pursuant to ORS 192.660(1)(E) for deliberations with persons designed to negotiate real property transactions was called at 3:43 p.m.

Chair Monroe reconvened the regular meeting at 4:10 p.m.

Due to failure of the recording equipment, the remaining portion of the meeting was not recorded. The following is a summary of discussion.

6. Resolution No. 00-2908, For the Purpose of Amending the Jackson Bottom - Dairy/McKay Creeks Target Area Refinement Plan.

Councilor McLain spoke in support of this resolution.

Charlie Ciecko, Director, Parks and Greenspaces, said by including the 11-acre Fishback property with the nearby Emma Jones Nature Preserve, the public natural area would be increased to 21 acres. There was strong support from citizens and existing neighboring landowners to amend the Refinement Plan to accommodate this effort.

Motion: **Councilor Washington** moved to approve Resolution No. 00-2908.

Vote: The Committee voted 3/0, unanimously passing Resolution No. 00-2908. Councilor McLain will carry the resolution to the full Council.

7. Resolution No. 00-2910, For the Purpose of Amending the Rock Creek Greenway Target Area Refinement Plan.

Councilor Atherton suggested placing a ceiling of \$2,548,400 on the acquisition of this property.

Motion: **Councilor Atherton** moved to amend Resolution No. 00-2910.

Vote: The committee voted 3/0, unanimously passing the amendment.

Chair Monroe opened the public hearing.

Jack Franklin, 5025 SW Fairmount Drive, Portland, OR 97005, representing Make Our Park Whole, supported this legislation. His written testimony which is attached as a permanent part of this meeting record.

Dick Schouten, 6105 SW 148th Avenue, Beaverton, OR 97007, representing Make Our Park Whole, spoke in support of this legislation. He said the Staff Report and Findings seem to be in order. This was a very positive move and defended the nature park.

Jim McElhinny, 15707 SW Walker Road, Beaverton, OR 97008, representing Tualatin Hills Park and Recreation District, spoke supporting this legislation.

Debra Jones, 14165 SW Stallion Drive, Beaverton, OR 97008, representing Tualatin Hills Nature Park Citizens Advisory Committee, spoke in favor of Resolution No. 00-2910.

John Griffiths, 10245 SW 153 Avenue, Beaverton, OR 97007, spoke in support of this legislation.

Chair Monroe closed the public hearing since there were no further testifiers.

Vote: The Committee voted 3/0, unanimously passing Resolution No. 00-2910. Councilor Atherton or Councilor Kvistad will carry the resolution to the full Council.

8. DRAFT Ordinance No. 00-850, For the Purpose of Authorizing a Loan to Metro from the Oregon Economic and Community Development Department's Special Public Works Fund Loan Program; and declaring an emergency.

Draft Ordinance No. 00-850 was introduced at committee and will be first and second read at full Council.

Tony Mounts, Manager, Financial Planning presented this draft ordinance.

Councilor Atherton asked about the level of SDC's for parks and transportation in Beaverton and Washington County. Were the SDC's at full cost? Is this local rather than regional?

Councilor Washington will carry the resolution to the full Council.

4. Ordinance No. 00-838, For the Purpose of Establishing a Metro Code Governing Elections.

Motion: **Councilor Atherton** moved to approve Ordinance No. 00-838.

Councilor Atherton said this ordinance does not address political action committees, only the very narrow spectrum of campaign contributions that could create the impression of conflict of interest when councilors act as “judges” in quasi-judicial or contract review proceedings.

Chair Monroe opened the public hearing.

Rose Rummel-Eury, 1500 NE 15th Avenue, #551, Portland, OR 97232 spoke in favor of this ordinance.

Xander Patterson, 1331 SE 32nd Avenue, Portland, OR 97214, representing Pacific Green Party testified in favor of this ordinance.

Matthew Witt, 1611 NE 36th Avenue, Portland, OR 97210, favorably supported this legislation, saying perception is reality. The current proposal is well worded. As a researcher of public involvement, frequently the element of trust, or rather, mistrust surfaces. He urged consideration of this ordinance.

Chuck Fall, 2712 SE Salmon, Portland, OR 97214, supported this ordinance. This is a huge public issue needing support. This is reasonable and would advance the appearance of open and fair governance. It would build the trust of the voting public.

There being no further testifiers, the public hearing was closed.

Chair Monroe gave a brief historical account of Metro’s ethics code, including the most recent ethics code revision passed in the Spring of 1999. He stated that it was the strongest ethics code in the state and surpassed what any other state or local government was doing in two major ways: it not only required lobbyists to register, but also prohibited any kinds of gift of any value from lobbyists or the people who hire them. Our purpose is to further strengthen what is already the strongest ethics code in the state.

Councilor Washington asked Dan Cooper, Legal Counsel, to compare Ordinance No. 00-838 to the one passed last year, and Mr. Cooper said it is different because it deals with campaign contributions. Campaign contributions were not addressed in the ethics ordinance passed last year. This ordinance deals with the receipt of campaign contributions.

Councilor Atherton noted to Mr. Cooper that the ordinance deals with the acceptance of campaign contributions, not the giving.

Mr. Cooper discussed the recent U.S. Supreme Court rulings regarding campaign contributions and the different approach taken by the Oregon Supreme Court regarding cases involving free speech issues, including campaign contributions.

Mr. Cooper’s concern is that the recusal requirement contained in the ordinance could be found to violate Oregon Constitutional provisions because the recusal provision could be viewed as having a chilling effect on campaign contributors and thus be a violation of free speech.

Mr. Cooper further discussed the fact that a challenge to the ordinance would be a case of first impression and that there could be a basis for a court to agree that the ordinance was constitutional, but the outcome was far from certain, and Oregon’s previous cases suggest the court could have a difficult time in reaching a favorable result.

Councilor Bragdon asked Mr. Cooper about how Councilor Atherton's proposed Ordinance would have applied in several cases in the past year. He said he chose cases in which the perception of buying influence might have been

METRO OPERATIONS COMMITTEE MEETING MINUTES

February 23, 2000

Page 4

most acute, and in which public concerns might have been high. He asked about the vote to bring area 65 within the urban growth boundary and whether a Councilor who had received a campaign contribution from Ryland Homes would have been able to vote. Mr. Cooper replied that under the Atherton proposal, such a Councilor would have been able to vote because Ryland Homes was not the applicant. Councilor Bragdon asked about contributions from the President or officers of Ryland Homes. Mr. Cooper again said that such a Councilor could vote. Councilor Bragdon expressed his surprise that the proposed ordinance would allow the very sort of thing it was designed to stop. He then asked about the Waste Connections company's application for a non-system license. Mr. Cooper said this situation also would not have been affected by Councilor Atherton's proposed Ordinance. Councilor Bragdon again expressed surprise that the Ordinance was not effective at doing what he had thought Councilor Atherton wanted it to do. He asked about a case in which Rabanco Inc. was bidding for a portion of solid waste now controlled by Waste Management, and asked what would happen if a Councilor had received contributions from Waste Management and not Rabanco or vice versa. Mr. Cooper explained that according to Councilor Atherton's proposal, a Councilor who had received campaign support from Rabanco could not vote, but a Councilor who had received campaign support from Waste Management could vote. Councilor Bragdon opined that this outcome seemed not just contrary to Councilor Atherton's intent, but patently unfair. He then asked if a Councilor receiving a large contribution from the Homebuilders Association could vote for a UGB expansion under Councilor Atherton's proposal. Mr. Cooper clarified that such a Councilor could indeed vote.

Councilor Bragdon concluded that Councilor Atherton's ordinance actually had loopholes and complications that would cause it to have the opposite of its intended effect. He said the public is right to be concerned, but that public concerns would actually be increased, not decreased, by a proposal that was not well thought-out, and would probably be invalidated by the Courts immediately anyway.

The Councilors held a lengthy discussion with Mr. Cooper regarding issues about reporting procedures versus restrictions; timely reporting to the public prior to the elections; the cost of any potential litigation stemming from this type of proposed legislation; and suggested hypothetical situations in which this proposed legislation could be utilized.

Chair Monroe asked Councilor Bragdon to speak to his proposed draft Ordinance, No. 00-849, set to follow on this agenda.

Councilor Bragdon summarized his proposed ordinance and referenced its companion resolution.

Chair Monroe asked the Councilors to work together for an amended ordinance that would strengthen our current ethics code.

Councilor Atherton and Councilor Bragdon said they would join forces to further clarify Councilor Atherton's proposed ordinance.

Chair Monroe asked Councilor Atherton to withdraw his motion and work with Councilor Bragdon to strengthen our current ethics code.

Chair Monroe said Councilor Bragdon's legislation will go to Council on March 2, 2000, for first reading, then it would return to this Committee.

Councilor Atherton withdrew his motion to approve Ordinance No. 00-838.

The meeting was adjourned at 5:55 p.m.

Respectfully submitted,

Patricia Mannhalter
Council Assistant

METRO OPERATIONS COMMITTEE MEETING MINUTES

February 23, 2000

Page 5

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF FEBRUARY 23, 2000

Document Number	Date	Document Description	RES/ORD
022300.01	February 22, 2000	Copy of letter to David Bragdon from Ronald D. Willoughby in support of Rock Creek Refinement Plan	Res. No. 00-2910
022300.02		Testimony from Jack Franklin	Res. No. 00-2910
022300.03	February 22, 2000	Telephone message from Brad Boston to Councilor Ed Washington supporting elections ordinance of Councilor Bill Atherton	Ord. No. 00-838
022300.04	February 17, 2000	Voice mail message from Courtney Scott supporting Councilor Bill Atherton's campaign finance reform legislation	Ord. No. 00-838
022300.05	February 23, 2000	E-mail from Fillard Rhyne supporting Councilor Bill Atherton's recusal ordinance	Ord. No. 00-838