

MINUTES OF THE METRO COUNCIL MEETING

Thursday, January 26, 2006
Metro Council Chamber

Councilors Present: Carl Hosticka (Deputy Council President), Susan McLain, Robert Liberty, Rex Burkholder, Rod Park, Brian Newman

Councilors Absent: David Bragdon (excused)

Deputy Council President Hosticka convened the Regular Council Meeting at 2:01 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

Henry Kane, 112077 SW Camdon Lane Beaverton OR 97008 said he had filed a public records request to provide Council with all of the information it needed to decide if the Hwy 217 toll road option was viable. He would be submitting an analysis to the Council to see all of the pros and cons of this decision. Deputy Council President Hosticka said this decision had been delayed until a later date. Councilor Liberty asked the Metro Attorney about tolling. Mr. Dan Cooper said Mr. Kane had raised this issue previously. The Attorney General had advised Metro that they could proceed. At this point he did not see a constitutional issue.

3. MCTV VIDEO AWARDS

Jim Desmond, Regional Parks and Greenspaces Department, said Metro had received awards from National Association of Telecommunication Advisors on Metro Minutes. He provided background on the partnership with MCTV. Wade Ferguson, MCTV, had suggested providing short videos to help promote Metro's mission. Over 240,000 households in the region had seen these videos. Mr. Desmond provided kudos to Mr. Ferguson for his efforts. Rob Brady, MCTV Chief Executive Officer, said they were thrilled to have this partnership. He spoke to each award, an honorable mention for Metro's recycling paint program, a third place award for the Metro Minute concerning a series on Solid Waste and first place award for Metro Minute on Beavers at the Smith and Bybee Lakes.

Councilors commented on the awards. The group provided an excerpt of the first place video.

4. FINANCIAL STATEMENT AUDIT

Alexis Dow, Metro Auditor, said she would be presenting the result of the Financial Statement, the Comprehensive Annual Financial Report (CAFR). She introduced Gary Homsley, Grant Thornton and Don Cox and Karla Lenox, Metro Financial and Administration Services (FAS) Department. She explained what was included in the CAFR. As Metro Auditor she was responsible for contracting out the audit. This year there was an audit committee for Metro. This was considered a standard of good government. She noted the members of the committee.

Don Cox, FAS Department, said they had received 13 years of recognition and awards for their clean audits. He summarized the CAFR. He noted next year's report would be slightly different.

Mr. Homsley said he was proud to serve as the independent audit for Metro. He talked about the CAFR and the specific reports. These reports were all issued with a clean opinion. He noted a formal management letter was not prepared this year. The few matters that needed to be addressed were provided to management verbally. Councilor McLain thanked Ms. Dow for allowing a member of the Council to be involved in the audit committee. Councilor Liberty said he would be interested in the audit committee's comments. Mr. Homsley said he felt the committee was a best practice for financial audits. He felt the members of the committee were well qualified. Councilor Liberty said there had been an effort to consolidate accounts and did this account for a clean audit? Mr. Homsley said the finance staff had done a good job in the past. He felt the consolidation of accounts made their job simpler but felt the people made the difference. Councilor Burkholder talked about the presentation of the budget. He appreciated the fact that the information was prepared in such a way that it was clear and understandable. He acknowledged the good work of the Metro staff. Deputy Council President Hosticka concurred with the comment.

5. CONSENT AGENDA

5.1 Consideration of minutes of the January 19, 2006 Regular Council Meetings.

Motion:

Councilor Burkholder moved to adopt the meeting minutes of the January 19, 2006 Regular Metro Council.
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Vote:

Councilors Burkholder, Liberty, Park, and Deputy Council President Hosticka voted in support of the motion. The vote was 4 aye/2 abstain, the motion passed with Councilors McLain and Newman abstaining from the vote.

6. ORDINANCES - FIRST READING

6.1 **Ordinance No. 06-1112**, Amending the Provisions of Metro Code Chapter 2,17 to Modify the Expiration Dates of Lobbyist Registrations and to Repeal References to State Government Standards and Practices.

Deputy Council President Hosticka assigned Ordinance No. 06-1112 to Council.

7. ORDINANCES – SECOND READING

7.1 **Ordinance No. 06-1098A**, Amending Metro Code Chapter 5.01 and 5.05 and the Regional Solid Waste Management Plan to Impose a Temporary Moratorium Until December 31, 2007, on Certain New Non-Putrescible, Mixed Solid Waste Material Recovery or Reload Facilities, and Certain Non-system Licenses; and Declaring an Emergency.

Motion:	Councilor Park moved to adopt Ordinance No. 06-1098A.
Seconded:	Councilor McLain seconded the motion

Councilor Park introduced the ordinance and explained the temporary moratorium and the facilities effected. The ordinance would take effect immediately. He noted a chart (in the meeting record) that would show the capacity of the current system. He explained the difference between the original version and the "A" version.

Deputy Council President Hosticka opened a public hearing on Ordinance No. 06-1098A.

Glenn Zimmerman, Pacific Land Clearing, 4044 N Suttle Rd, Portland OR 97217 said he opposed certain language in the inclusion of the moratorium. He said they had already submitted their application and were currently under review. He requested that they not be included in the moratorium because their application was already in process.

Councilor Liberty asked about the outstanding application. Paul Garrahan, Metro Assistant Attorney, said staff was correct that they had received an application. This ordinance would prohibit the granting of the license to the facility. Councilor McLain said her understanding was that the staff usually had opportunity to have a dialogue. She asked about the timing. Mr. Garrahan explained staff's letter to the applicant.

Jack Botkin, Pacific Land Clearing, 4044 N Suttle Rd, Portland OR 97217 talked about the moratorium. They had been told initially that they would not be included in the moratorium.

Larry Fulcher, Weyerhaeuser Co, P.O. Box 188, Longview, WA said Weyerhaeuser had been evaluating a proposal for a dry waste materials recovery facility. Passage of this ordinance placed all activities out two years. He asked what happened if a proposal was very compelling? He felt placing a moratorium would impact stakeholders. Councilor Newman asked a clarifying question. Mr. Fulcher responded to his question.

Terrell Garrett, Green Way Recycling, Box 4483, Portland, OR 97208 said they had started their process by 2002. They chose to take an incremental approach. He provided a timeline of their process. He said they had a completed application as of January 20, 2006. They were already invested in this process. He said the subsequent Code changes should not effect their application. He said this moratorium took away consideration of application that was already in process. Councilor Park talked about their facility. Mr. Garrett acknowledged his summary of the facility.

Chris Garrett, Green Way Recycling, Box 4483, Portland, OR 97208 said she was here to answer questions.

Dan Obrist, Dan Obrist Recycling, 6431 SE Jenne Rd. Portland OR said he put in an application before November. Solid Waste and Recycling Department acknowledged they had received the application and let him know about the potential moratorium. He had done nothing further until he found out what Council was going to do. Councilor Liberty asked how much material recovery was he planning to do under this application. Mr. Obrist said he would be doing pretty much what he was currently doing. Councilor Newman clarified that he had a facility now. He wondered what his application was submitted for. Mr. Obrist responded to his question. Mike Hoglund, Solid Waste and Recycling Director, responded to the question about tonnage for all of the facilities. Councilor Park suggested Mr. Obrist explain his operation. Mr. Obrist responded to his question. Councilor Park asked where he got his demolition materials. Mr. Obrist said he got the materials primarily from houses and schools.

Dan Flannery, 2536 SE Elliott Gresham OR 97080 expressed concern about the moratorium. They had applied for a sorting license. He explained what the company wanted to do. He talked about the fairness issue. He felt those who had testified felt that 27% were a low number. He felt that those who had applications in now should have the right to move forward. They had invested a lot of time and money.

Councilor Park asked Mr. Bruce Walker, City of Portland Office of Sustainable Planning, to provide additional information. Mr. Walker talked about a clean materials recovery facility. There had been facilities that were not cleaned MRF operations. He said last month they had gotten together with Department of Environmental Quality (DEQ) and Metro to do a more coordinated job. He spoke to the benefits of this coordinated approach. Councilor Park asked him to address site issues with some of these facilities. Mr. Walker said some of the activities were done on open ground. They needed to make sure the operations were done in a proper way.

Deputy Council President Hosticka closed the public hearing.

Councilor Park said in talking with staff, the tonnage would not have that much effect. He was concerned about the proper siting of the facilities. He noted Mr. Walker's point was that the facilities were represented in one way but were not necessarily a clean MRF. He spoke to environmental issues. Councilor Burkholder said volume was not the issue. The reason for the moratorium was to try to have the industry not invest a lot of money at a time when Metro was looking at the whole system. They were trying to align the system and address the future of the solid waste system. He talked about the applications that were currently pending. His personal feeling was that he was open to working with these groups that had applications pending. He noted the risk if the applicants chose to go forward.

Councilor Liberty said it would be useful to hear about when they began the conversation about the moratorium. Councilor Park said he assumed they had closed the door in September 2005. Mr. Hoglund said the staff and Chair of Solid Waste Advisory Committee (SWAC) began discussing this issue in October 2005. They had notified the applicants. He said the transfer station's moratorium was in the summer of 2004. Councilor Park asked when we moved the dry waste under the Chief Operating Officer's purview. Mr. Cooper said it was October 2003. Councilor Liberty asked about the four applications that were in some stage of review. Mr. Hoglund said PLC 3 had a completed application. Greenway Recycling was talking to staff and they were waiting on a land use compatibility study from the City of Portland. Urban Vision Corp was in the same situation as Greenway Recycling. Councilor Liberty asked if there was an application completed before the first reading of the ordinance. Mr. Hoglund said PLC3 had a completed application.

Councilor McLain talked about fairness. They were faced with a situation that was unusual. They had a system in place for over 20 years. They were now seeing a system that had different components. They were faced with policy decisions at a time where they would do the least damage to the system. She would support the "A" version to get through this discussion as soon as possible. She acknowledged the City of Portland and DEQ's request for time out to develop a more coordinated process. Councilor Park asked Mr. Garrahan to address the point of a non-system license outside the region. Mr. Garrahan said the Weyerhaeuser facility was a designated facility under the Metro Code. He explained the non-system license language in the proposed ordinance. He explained further the consideration of the Weyerhaeuser license. Councilor Newman said he would support an amendment to grant a license to four of the five facilities. He acknowledged Councilor Burkholder's comments about Metro's need to look at the whole system.

Motion to amend:	Councilor Newman moved to amend Ordinance No. 06-1098A to allow those who had submitted applications, as of this date, be reviewed.
Seconded:	Councilor Burkholder seconded the motion

Councilor Liberty said when you were applying for something, there was always risk that something would change. He would support consideration of applications that were completed before notice of the moratorium. He spoke to the testimony of the solid waste consultant. Deputy Council President Hosticka explained what the Council was trying to do. He asked Councilor Newman to clarify his idea of the amendment. Councilor Newman asked if the conceptual language provided was understood. Mr. Garrahan said yes he understood the intent of the motion. He said the motion would allow the COO to process all applications that had been submitted without regard to whether they were completed, effective today. Councilor Newman explained his amendment. This was not direction to the COO to approve the applications but allow them to be reviewed. Councilor Burkholder said the staff report did not include Greenway. Were there more application that had come in before today? Mr. Høglund said Mr. Roy Brower had been tracking the applications. Mr. Brower, Solid Waste and Recycling Department, said at the time the staff report was prepared Greenway had not submitted an application. Councilor McLain said there had been talk about a moratorium for long enough time. Do they want to signal to allow more people to invest when they didn't have an approved application? Councilor Liberty asked what was the first application submitted and when? Mr. Brower responded that the three listed in the staff report all came in during last fall.

Vote to amend:

Councilors Burkholder and Newman voted in support. Councilors McLain, Park, Liberty and Deputy Council President Hosticka voted against the motion. The vote was 2 aye/4 nay, the motion failed.
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Motion to amend:	Councilor Liberty moved to amend Ordinance No. 06-1098A to allow those who had submitted completed applications prior to the public notice of the first reading be allowed to be reviewed.
Seconded:	Councilor Burkholder seconded the motion

Vote to amend:

Councilors Park, Burkholder, Newman, Liberty and Deputy Council President Hosticka voted in support of the motion. The vote was 5 aye/1 nay, the motion passed with Councilor McLain voting no.

Deputy Council President Hosticka declared that this ordinance would be held over until next week for final consideration.

7.2 Ordinance No. 06-1099, Amending Metro Code Section 5.02.075 Regarding Waivers of Fees for Disposal of Solid Waste from the Metro Region.

Motion:	Councilor Liberty moved to adopt Ordinance No. 06-1099.
Seconded:	Councilor Burkholder seconded the motion

Councilor Liberty provided an overview of the ordinance (a copy of his talking points are included in the meeting record). He was proposing that they have an executive order drafted once they had had time for public comments about the program. He urged Council to remove this from the Code and place it in an executive order. He suggested once they heard from the public to then discuss the order in a work session.

Deputy Council President Hosticka opened a public hearing on Ordinance No. 06-1099. He noted email correspondence that had been received and placed in the record.

Kathy Ferguson, Cully Association of Neighbors, 4930 NE 73rd Portland OR 97218 said she received this notification yesterday. She was speaking as a citizen not as the chair. She talked about their efforts in collecting debris tonnage last year. She was concerned that if the COO were in charge of this program, it would eliminate opportunities for the public to comment about changes in the program. She hoped that public hearing would still be allowed. She urged consideration of public input.

Deputy Council President Hosticka closed the public hearing.

Councilor McLain talked about the history of the program as well as the benefits. She would be voting no because she felt this was a Council decision. She didn't understand why staff wanted to move it out of the Code. She thought it would be more appropriate to put this vote off until they had a discussion with the Chief Operating Officer (COO). Councilor Newman said he would be voting yes. Under the old structure there might have been a reason to put this in the Code. Now under the new structure where the COO worked for the Council, the Council was the boss. Second, he wasn't aware that other grant program language was in the Code such as Nature In Neighborhoods. He would be open to making sure they had communication standards when changes were being considered.

Councilor Burkholder asked Councilor Liberty about the staff report and the set of criteria. Was this legislative intent or suggestions? Councilor Liberty said his legislative intent was not expressed completely in the staff report. He clarified his intent. Councilor Burkholder said the series of bullets on the second page of the staff report did not bind the Council. He supported removal from the Code. He felt this was a budget discussion. Councilor Park asked for clarification on the ordinance. Councilor Liberty said this was before the Council now, he felt they ought to move quickly to clarify the program and the new criteria. Councilor McLain talked about the need to have an executive order before them to discuss. Jan O'Dell, Solid Waste and Recycling Department, responded to the "why now" question. They had been running over budget for the last couple of years. They had done their best to manage the criteria but the language in the Code was vague. She would like to have a discussion with the users of the program. She was seeking more tools to help manage this program. Mr. Hoglund emphasized where they were in the last work session. They had asked last fiscal year to exceed to budget. They promised to come back with a proposal to keep this program within the budget. He said this was how the criteria in the staff report were developed. He felt they should hear from the public. They wanted to come up with a program that better fit the needs of today. Councilor McLain suggested setting this over until further

Motion:	Councilor McLain moved to table Ordinance No. 06-1099.
Seconded:	Councilor Liberty seconded the motion

Vote to table:

Councilors Park, McLain, Newman, Liberty and Deputy Council President Hosticka voted in support of the motion. The vote was 5 aye/1 nay, the motion passed with Councilor Burkholder voting no.

7.3 Ordinance No. 06-1109, For the Purpose of Amending Metro Code, Title X, Metro Regional Parks and Greenspaces, to adjust Park Use and Rental Fees.

Motion:	Councilor Burkholder moved to adopt Ordinance No. 06-1109.
Seconded:	Councilor Park seconded the motion

Councilor Burkholder introduced the ordinance and asked about lowered fees. Mr. Cooper responded to Councilor Burkholder's question. Councilor Park talked about the amount that was being charged and keeping up with the costs of the facilities. He raised the issue of charging for the vehicle as well as the number of people in the vehicle.

Deputy Council President Hosticka opened a public hearing on Ordinance No. 06-1109. No one came forward. Deputy Council President Hosticka closed the public hearing.

Vote:

Councilors Park, Burkholder, McLain, Newman, Liberty and Deputy Council President Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.

8. RESOLUTIONS

8.1 **Resolution No. 06-3655**, For the Purpose of consideration of Regional Travel Options (RTO) program work plans and funding sub-allocations for Fiscal Year 05-06 and 06-07.

Motion:	Councilor Newman moved to adopt Resolution No. 06-3655.
Seconded:	Councilor Park seconded the motion

Councilor Newman introduced the RTO program. Metro was the lead agency to coordinate this program. Pam Peck, Planning Department, provided a power point presentation on the proposed program (a copy of the presentation is included in the record). Councilor Burkholder was the liaison to the program. He said there was a kick off event next Wednesday at Washington Square Mall. He urged approval. Councilor Liberty said this was an important program and it was good that it was being moved in house. He supported the motion. He wanted to hear how this work fed into the Regional Transportation Plan (RTP). Ms. Peck said some of the pieces of this program would help the RTP update. Councilor Burkholder said this was great that we were regionalizing this program. The key piece behind this was, information was power. People needed to know about transportation options. Councilor Park acknowledged Ms. Peck's efforts. He felt by bringing this in house supported accountability. It ensured that the money was being spent wisely. Ms. Peck further clarified some of the reporting requirements so they could understand all of the items that were being charged. She said the first report will be completed by the end of the fiscal year.

Vote:

Councilors Park, Burkholder, McLain, Newman, Liberty and Deputy Council President Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.

8. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordon, COO, was not present.

9. COUNCILOR COMMUNICATION

Councilor Newman said they were preparing a bond measure for open spaces. He said they would be holding open houses. Information about the open houses were on the website.

Metro Council Meeting

01/26/06

Page 8

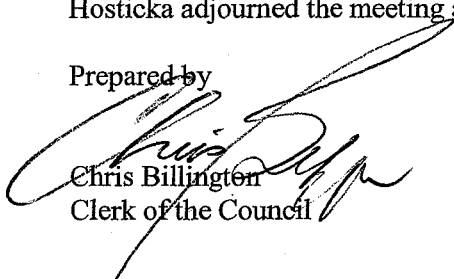
Councilor McLain reminded the Council about the Mayor Forum February 3rd at the Oregon Convention Center. She had also met with neighboring cities and talked about some of the issues that had been raised by the cities.

Councilor Liberty said he had a community meeting this evening at Multnomah Art Center. He noted what issues he would be covering.

10. ADJOURN

There being no further business to come before the Metro Council, Deputy Council President Hosticka adjourned the meeting at 4:50 p.m.

Prepared by



Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JANUARY 26, 2006

Item	Topic	Doc Date	Document Description	Doc. Number
5.1	Minutes	1/19/06	Metro Council Meeting Minutes of January 19, 2006	012606-01
6.1	Revised Ordinance No. 06-1112	1/26/06	Ordinance No. 06-1112, Amending the Provisions of Metro Code Chapter 2,17 to Modify the Expiration Dates of Lobbyist Registrations and to Repeal References to State Government Standards and Practices.	012606c-02
7.2	Email	1/26/06	To: Jan O'Dell, Solid Waste and Recycling Department From: Mike Masat, REACH Community Builders Program Re: Voucher program comments	012606c-03
7.2	Email and response	1/25/06	To: Jan O'Dell, Solid Waste and Recycling Department From: Kathy Fuerstenau, Cully Association of Neighbors Chair Re: Voucher program comments	012606c-04
7.2	Email and response	1/25/06	To: Jan O'Dell, Solid Waste and Recycling Department From: Joe Beeler, Cathedral Park Jazz Festival Re: Voucher program comments	012606c-05
8.1	Power Point Presentation	1/26/06	To: Metro Council From: Pam Peck, Planning Department Re: RTO Program	012606c-06
7.2	Supporting documents	1/26/06	To: Metro Council From: Jan O'Dell, Solid Waste Dept. Re: Voucher expenditures	012606c-07
2.0	Letter	1/26/06	To: Metro Council From: Henry Kane Re: Hwy 217 Toll Road Option	012606c-08
7.2	Talking Points	1/26/06	To: Metro Council From: Councilor Liberty Re: Talking Points for Ordinance No. 06-1099	012606c-09
7.1	"A" version	1/26/06	Ordinance No. 06-1098A , Amending Metro Code Chapter 5.01 and 5.05 and the Regional Solid Waste Management Plan to Impose a Temporary Moratorium Until December 31, 2007, on Certain New Non-Putrescible, Mixed Solid Waste Material Recovery or Reload Facilities, and Certain Non-system Licenses; and Declaring an Emergency.	012606c-10
7.1	Rate Impact and Tip Fee Data	1/26/06	To: Metro Council From: Councilor Park Re: Approximate Rate Impact and Components of Metro Tip Fee	012606c-11

4.0	CAFR Presentation	1/26/06	To: Metro Council From: Don Cox, FAS Dept Re: CAFR Presentation and remarks	012606c-12
4.0	Metro CAFR	Year ended June 30, 2005	To: Metro Council From: Karla Lenox, FAS Dept. Re: Comprehensive Annual Financial Report Year Ended June 30, 2005	012606c-13
4.0	Grant Thornton's CAFR report	Year ended June 30, 2005	To: Metro Council From: Grant Thornton Re: Schedule of Expenditures of Federal Awards and Reports of Independent Certified Public Accountants	012606c-14