

MINUTES OF THE METRO COUNCIL MEETING

Thursday, June 8, 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

James Poss, Seahorse Power Company, PO Box 920142 Needham, MA 02402 talked about a product they produced, Solar Power Trash Compactors. He explained that he was here to learn about Metro and the Council. He suggested that Metro might want to do a pilot program using this type of compactor. Councilor Burkholder suggested receiving more information at a later date. Mr. Poss said he had been in contact with Mike Hoglund, Director of Solid Waste and Recycling. Councilor Liberty asked about a website for viewers. Mr. Poss provided the website and talked about the environmental pay back.

3. METROPOLITAN EXPOSITION RECREATION COMMISSION (MERC) FACILITIES EFFICIENTLY MAINTAINED – MAYBE TOO EFFICIENTLY

Alexis Dow, Metro Auditor, said Debbie DeShais. Senior Auditor would provide a power point presentation on Metropolitan-Exposition Recreation Commission Facilities Efficiently Maintained – Maybe too Efficiently. Ms. Dow said that Ms. DeShais had done the review. She noted another audit Ms. DeShais had completed last fall, Eliminate or Revise the Regional System Fee Credit Program. Metro had been award the Bronze Knighton Award by the National Association of Local Government Auditors for this audit.

Councilor Park asked Ms. DeShais about the distinction between facilities we owned and those we operated. He wondered if we should be putting money into capital improvements for facilities that we don't own. Ms. DeShais responded to his question. Ms. Dow added her comments about future capital funds for its facilities. She talked about the risk of spending capital fund for operational purposes. Councilor Liberty asked about premiere facility requirements. Ms. DeShais said there were no set standards. She felt, overall, that most facilities were very well maintained.

Councilor McLain asked about the response from management. Ms. DeShais responded that MERC had already started implementing some of the recommendations even before the audit was published. Councilor McLain noted that this audit was very positive. She suggested discussing the capital needs with the City of Portland for Portland Center for the Performing Arts (PCPA). She added that this was an important wake up call. She felt it was important to continue good maintenance. Councilor Newman asked about benchmarking in the report. He wanted to know what she meant by benchmark. Ms. DeShais said she used industry averages as benchmarks.

Councilor Newman asked if the age of the facilities were included in the analysis. Ms. DeShais explained her analysis process for looking at facilities.

Kathy Taylor, MERC Deputy General Manager, said they really appreciated the audit. They felt it was very consistent with their own findings. They would also be adding back staff at some of their facilities. She spoke to funding that was donated by Friends of PCPA for capital improvements at PCPA. She added that stable funding sources were not always easy to achieve.

Councilor Burkholder talked about the issue of limited funding as well as subsidized events. He appreciated the concrete techniques and recommendations. Ms. Dow added her comments.

4. CONSENT AGENDA

4.1 Consideration of minutes of the June 1, 2006 Regular Council Meetings.

4.2 **Resolution No. 06-3701**, For the Purpose of Confirming the Appointment of Janet Malloch to the Regional Solid Waste Advisory Committee (SWAC).

Motion:	Councilor Park moved to adopt the meeting minutes of the June 1, 2006 Regular Metro Council and Resolution No. 06-3701.
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Vote:	Councilors Burkholder, McLain, Liberty, Park, Newman, and Deputy Council President Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.
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4. ORDINANCES – FIRST READING

4.1 **Ordinance No. 06-1123**, For the Purpose of Amending Metro Code Chapter 2.04 to Repeal Metro Code Section 2.04.026 to Modify Other Provisions Relating to Metro Contracting, and to Make Related Changes.

Deputy Council President Hosticka assigned Ordinance No. 06-1123 to Council. Councilor McLain talked about her work with staff on this ordinance. Deputy Council President Hosticka asked Council if there was need to have a work session. Three Councilors suggested a work session or a briefing.

6. RESOLUTIONS

6.1 **Resolution No. 06-3704**, For the Purpose of Determining the Consistency of the Locally Preferred Alternative For the Interstate 5/Delta Park to Lombard Project With the Adopted Interstate 5/Delta Park to Lombard Project in the Regional Transportation Plan and Recommended Project Approval.

Motion:	Councilor Burkholder moved to adopt Resolution No. 06-3704.
Seconded:	Councilor XXX seconded the motion

Councilor Burkholder reviewed Resolution No. 06-3704 and talked about the two phases. He also provided the history of the project (a copy of the staff report summarized the points he made). He urged approval.

Deputy Council President Hosticka opened a public hearing on Resolution No. 06-3704

Tracy Ann Whalen, ESCO Corporation 2141 NW 26th Portland OR 97210 provided comments on the project. She had served on the advisory committee. She spoke to High Occupancy Vehicle (HOV) lanes. She said Washington had just removed their HOV lanes in this corridor. She suggested removing the HOV on the Oregon side.

Deputy Council President Hosticka closed the public hearing.

Councilor McLain asked if there had been enough citizen participation in this process. Councilor Burkholder said they were implementing a decision that had already been made in past Regional Transportation Plans. He talked about citizen outreach. He noted that a citizen had suggested changes to the project and those recommendations had been incorporated into the final project. Councilor Liberty talked about the project and what had not been studied. Councilor Burkholder said Councilor Liberty raised some key issues but he felt this project stood the test of time. He urged support.

Vote:

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

6.2 **Resolution No. 06-3711**, For the Purpose of Authorizing the Chief Operating Officer to Enter Into an Agreement to Purchase Real Property in Downtown Gresham, Oregon.

Removed from the agenda.

6.3 **Resolution No. 06-3703**, For the Purpose of Entering an Order Relating to the Nick Stearns Claim For Compensation Under ORS 197.352 (Measure 37).

Deputy Council President Hosticka explained the procedure for the hearing.

Paul Ketcham, Planning Department, presented the Chief Operating Officer's report for the Nick Stearns Measure 37 claim. The Council was here to consider the COO's order. He explained what the Metro Code established concerning Measure 37. The claimant's representative was Phillip Grillo. Mr. Ketcham summarized Mr. Stearns' claim. Councilor Burkholder asked for clarification on the zoning changes, rural to urban use. Mr. Ketcham said the current zoning was in RR5. It was in a holding pattern until City of Oregon City completed concept planning. Councilor Liberty talked about pre-existing regulations. Mr. Ketcham said the Council amended the Urban Growth Boundary (UGB) to bring this land in. He explained the interim condition of Ordinance No. 02-969B. Clackamas County had waived the land use regulation allowing the claimant to divide his property into 5-acre lots. They did not waive Metro's interim regulation. Mr. Ketcham spoke to the COO's conclusion, which indicated that there was no reduction in value. He noted two methods used to determine the effect of Metro's action on the value of the claimant's property. Sonny Conder, Planning Department, reiterated the two methods used to assess value. He also talked about the value of the loss versus what you could gain from exception to the rule. Councilor Park summarized Mr. Conder's two methods of assessing value.

Councilor Newman asked about the second tier planning for part of the property. He wondered where this information came from. Mr. Ketcham responded that he got this information from Metro staff. Councilor Newman asked about rescinding the regulation and what that meant. Dick

Benner, Senior Attorney provided Council with their options for repeal. Councilor Liberty asked if they concluded that there was no reduction in value would they have the ability to change the UGB and take the property out of the UGB? Mr. Benner responded to his question. Council had the authority to waive the 20-acre minimum lot size but Council didn't have the authority to change state regulation. Councilor Liberty asked Mr. Conder about additional data on value of properties brought into the UGB. Mr. Conder responded to his question. Deputy Council President Hosticka asked about comparable sales of 20-acre lots within the UGB. Mr. Conder said they did not have comparables of 20-acre sales in this area.

Phil Grillo provided an overview of the property, which was at the far edge of the UGB. He pointed out that there was no such thing as a tier-two concept planning. There were no plans on behalf of Oregon City to begin concept planning for this area in the near future. Further, there was no timeline for concept planning in the area. The issue was, was there a market expectation of urbanizable land. He felt the answer was no. They weren't in any hurry to develop five-acre lots. He spoke to Mr. Stearns' infill projects in the region. Councilor Liberty said the client bought the property in 1998. Did he buy it under the assumption that the property would be urbanized? Mr. Stearns talked about his intention to develop the property after he bought it. Metro changed their Code two months after he had purchased the property. Mr. Benner noted that this was due to State regulation. Mr. Grillo continued by saying that Mr. Stearns was an innovated and sensitive developer. When this land came into the UGB in 2002, did Metro designate this as urban land? He noted Clackamas County's ordinance. There wasn't any planning for urban development at the present time. He suggested that the 20-acre interim protection did not set any timeline. This interim was functioning as an indefinite moratorium. They have no way to get the value that would otherwise come with inclusion in the UGB.

Councilor Park asked where they were at in the particular process. He understood that they were to judge the value. Mr. Benner said the law did not require Metro to have the hearing but Metro had chosen this way to consider the claim. Mr. Benner suggested that Council shouldn't come to the conclusion to do something with the 20-acre minimum lot size. Councilor Park said he was not interested in getting into discussing changing the lot size if they did not have a valid claim. He asked if the property was in the jurisdictional boundary and or the UGB. Mr. Benner said when Council brought this into the UGB this was one of several properties that were in the UGB but beyond the jurisdictional boundary. The County had waived the 20-acre minimum lot size. Metro's 20-acre minimum lots size only applied to the 2.5-acre portion of the property, which was within the jurisdictional boundary.

Deputy Council President Hosticka asked if we had the authority to make any decision in terms of waiving the minimum lot size. Mr. Benner said there was no regulation that applied to the 20-acre lot size. Councilor Burkholder stated the procedural actions that they should take. They needed to deal with whether the claim applied to Metro and if the claim was valid. Councilor Liberty concurred with Councilor Park, had the threshold test been met? We imposed a condition on Clackamas County. He suggested not making it more complicated than it already was. He suggested proceeding with the consideration of reduction of value. Councilor McLain said they were trying to be fair and equitable about hearing from the applicant.

Deputy Council President Hosticka said they couldn't talk about the property unless they had a valid claim. If there was a valid claim, then they could talk about a deal. Mr. Grillo summarized that tax lot 1191 was outside the jurisdictional boundary of Metro. He asked, did the 20-acre minimum provision of the Functional Plan apply to that portion of the property? Mr. Benner said it did not apply. Mr. Grillo said he assumed then that piece of the property could be divided. Mr.

Benner suggested neither the claimant nor Metro staff took into the account that this was not in the jurisdictional boundary. He suggested that it was possible that the claimant would not want to pursue the claim. Councilor Park asked what happened if the claimant petitioned to come into Metro's jurisdictional boundary, would he then have a valid claim? Mr. Benner said he would, if Oregon City had not completed its planning. Councilor Liberty added his comments about urbanization of the property in the future. Deputy Council President Hosticka summarized Clackamas County's order that they considered this a valid claim. Mr. Grillo said they might not have the same controversy coming into this proceeding. He would be willing to consider a short postponement to determine the jurisdictional issue.

Councilor Burkholder said the claimant did not have a valid claim. There were additional issues that the Council needed to discuss about bringing the land into the UGB. He felt the valuation work showed clearly that there was no "wipe out". There was no reason to waive Metro's requirement. Councilor Newman asked the claimant if they wanted to move forward today? Deputy Council President Hosticka said the claimant bought the property in 1998 and then the State law required the 20-acre minimum lot size. Then, Metro brought the property into the UGB. Was there a reduction in value? Councilor Liberty asked if there was background assessment made by Clackamas County? Mr. Benner said Clackamas County had done an analysis. Councilor Liberty said he felt they needed to hear from Clackamas County and Oregon City in case other properties claims came up. Councilor McLain said she wanted more analysis about the inside and outside the jurisdictional boundary. Mr. Benner responded to her question. Metro only had authority for the 2.5 acres that was inside the jurisdictional boundary. Councilor McLain was concerned about the domino effect. She suggested a continuance. Mr. Benner summarized her comments. Councilor Newman suggested the claimant talk with Oregon City. This Council took action in March to create a fund for planning. Mr. Benner added that when Council brought the land into the UGB, they imposed a four-year planning requirement. Mr. Grillo said he was trying to get to some kind of date certain. His proposed solution was to put a date certain on opportunity to develop.

Deputy Council President Hosticka said they would continue this hearing.

7. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, said the March deadline was for concept planning.

8. COUNCILOR COMMUNICATION

There will be a Tax Supervision and Conservation Commission (TSCC) public hearing regarding Metro's budget next Wednesday at 2:00 p.m. Margo Norton, Deputy Chief Financial Officer, provided a copy of the TSCC's questions to the Council. She indicated staff was working on the responses. Councilor McLain asked about the adoption of the budget. Councilor Burkholder asked whether TSCC should be raising policy questions. Michael Jordan, COO, responded to Councilor Burkholder that they could ask any question they wanted and that they needed to approve Metro's budget.

Councilor McLain talked about the Regional Water Consortium meeting last night. She also attended the Metro Committee for Citizen Involvement (MCCI) meeting. She noted that there were 10 spots open on MCCI. They were looking for good new members.

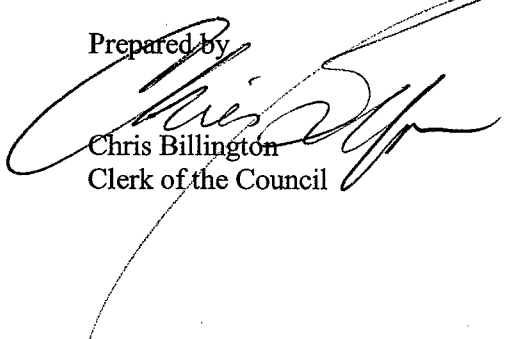
Councilor Burkholder reported on Joint Policy Advisory Committee on Transportation (JPACT) actions this morning.

Councilor Newman said there was a Regional Forum on June 23rd.

9. ADJOURN

There being no further business to come before the Metro Council, Deputy Council President Hosticka adjourned the meeting at 4:55 p.m.

Prepared by



Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JUNE 8, 2006

Item	Topic	Doc Date	Document Description	Doc. Number
4.1	Minutes	6/1/06	Metro Council meeting minutes of June 1, 2006	060806c-01
3	Power point presentation	June 2006	To: Metro Council From: Debbie DeShais, Senior Auditor Re: MERC Facilities Efficiently Maintained – Maybe too efficiently	060806c-02
8	TSCC Questions	6/14/06	To: Metro Council From: Margo Norton, Deputy Chief Financial Officer Re: TSCC Budget Review 2006-07	060806c-03