

METRO COUNCIL GOVERNMENTAL AFFAIRS COMMITTEE

Monday, March 16, 1998

Council Chamber

Members Present: Susan McLain (Chair), Lisa Naito (Vice Chair), Ruth McFarland

Members Absent: None

Chair McLain called the meeting to order at 1:31 P.M.

1-A. RESOLUTION NO. 98-2623, FOR THE PURPOSE OF ENCOURAGING GOVERNOR KITZHABER TO CONSIDER THE LOCATION OF A WOMEN'S PRISON AND INTAKE CENTER AT THE PROPOSED ALTERNATE SITE LOCATED IN AN AREA OF METRO'S URBAN RESERVE AREA (RURAL INDUSTRIAL ZONE)

Chair McLain said she was adding an item to the agenda. She asked Mike Burton, Metro Executive Officer, to address the timing issues of Resolution No. 98-2623. A copy of Resolution No. 98-2623 is included in the meeting record.

Executive Officer Burton said about two years ago, the Council passed a resolution regarding the potential siting of an inmate intake center on the Dammasch property in Wilsonville. He said the Council voted to oppose the prison siting in Dammasch because of Metro and Wilsonville's joint effort to develop that site as mixed-use. Executive Officer Burton said the process continued in spite of Metro's efforts, and it appears that Dammasch will be the site of a women's prison and intake facility. He said the mayor and citizens of Wilsonville have found an industrial area that may be a better site for the prison than Dammasch. Mr. Burton said it is in the region's interest to encourage the governor to work with the City of Wilsonville and site the prison in the proposed industrial area. He encouraged the committee to consider Resolution No. 98-2623.

Councilor McFarland asked how the size of the proposed site compares to the Dammasch property. Charlotte Lehan, Mayor of Wilsonville, said size is not an issue for the Oregon Department of Corrections, as both sites would be large enough.

Mayor Lehan said that at the alternate site, the prison would be a compatible land use with the other industrial users, generally high-security distribution centers. She said that without the ability to develop housing at the Dammasch site, Wilsonville will have to add exclusive farm use (EFU) land to the UGB. She said quick passage of the resolution is important because the city is trying to assure the Department of Corrections and the governor's staff that changing sites will not create significant time line problems or land use battles.

Councilor McFarland said she is not comfortable with paragraph 25 of the resolution. She said the Council is not objecting to the Dammasch site, but recommending a better site. She recommended that the committee delete the paragraph. She recommended changing the word "strong" to "careful" in paragraph 26, which would mirror the language in the second paragraph. She said that with those two changes, she would be comfortable supporting Resolution No. 98-2623.

Chair McLain said Councilor Naito had also recommended the deletion of paragraph 25. Chair McLain said she did not object to paragraph 25 because in a previous vote she did oppose the siting of a prison on the Dammasch site. However, she said she would support a committee decision to delete paragraph 25. Chair McLain said in paragraph 26 she would support using both "strong" and "careful." She suggested that the committee vote on the two amendments separately.

Councilor Naito said she is comfortable suggesting that the governor consider other sites, however she cannot presume to tell the governor where to site the prison.

Chair McLain asked Executive Officer Burton for comments.

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Executive Officer Burton said paragraph 25 may be unnecessary because Metro's position is stated in the above paragraphs. He said deletion of paragraph 25 would not affect the intent of the resolution.

Motion:

Councilor Naito moved to recommend Council adoption of Resolution No. 98-2623.

Motion to Amend Main Motion:

Councilor McFarland moved to delete paragraph 25 of the resolution: "The Metro Council opposes and objects to the siting of an inmate intake center, a medium security women's prison, a men's medium security complex or any other correctional facility on the Dammasch State Hospital property."

Vote on Motion to Amend Main Motion:

Councilors Naito, McFarland and McLain voted aye. The vote was 3/0 in favor and the motion passed unanimously.

Councilor McFarland said the resolution is more likely to receive open-minded consideration if the Council asks for the governor's careful consideration, rather than his strong consideration. She said using the word "strong" may give the impression that the Metro Council is trying to force its views on the governor.

Councilor Naito said that grammatically, the phrase "careful consideration" makes more sense.

Executive Officer Burton suggested amending the language in paragraph 26 to say "The Metro Council recommends that the governor consider the proposed alternative site"

Chair McLain said committee consensus appears to support the phrase "careful consideration."

Motion to Amend #2:

Councilor McFarland moved to amend paragraph 26 to read "The Metro Council recommends careful ~~strong~~ consideration of the proposed alternative site located in an area in Metro's Urban Reserve Area (Rural Industrial Zone) in Wilsonville."

Vote on Motion to Amend #2:

Councilors McFarland, Naito, and McLain voted aye. The vote was 3/0 in favor and the motion passed unanimously.

Chair McLain said she will give Resolution No. 98-2623A to Presiding Officer Jon Kvistad and Jeff Stone, Assistant to the Presiding Officer. She asked committee members, Executive Officer Burton, and Mayor Lehan to request that Presiding Officer Kvistad quickly bring the resolution to the full Metro Council. She said if the Council publishes a revised Council agenda, Resolution No. 98-2623A could be added to the agenda for March 19, 1998.

Councilor McFarland made a point of order. She said the committee had not yet voted on the main motion as amended.

Councilor Naito asked why timing is critical.

Mayor Lehan said she supports the committee's amendments to the resolution. She said the purpose of resolution is to send a message to the governor's office and the Department of Corrections that if they choose the alternate site, Metro will give its full cooperation. She said it is important to send the message while they are still in deliberation about the site.

Councilor Naito said because the resolution will be fast-tracked, it is important to do everything possible to give adequate public notice. She asked the media in the audience to assist in notifying the public of the resolution. She asked staff to notify each council member that an additional item will be added to Thursday's Council agenda, and to notify any interested parties.

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Councilor McFarland agreed with Councilor Naito, but added that the Council has considered the issue several times. She said timing is important because the governor should look at the alternate site before bulldozers begin working at Dammasch. Mayor Lehan agreed.

Vote on Main Motion as Amended:

Councilors Naito, McFarland, and McLain voted aye. The vote was 3/0 in favor and the motion passed unanimously.

Chair McLain will carry Resolution No. 98-2623A to the full Metro Council.

1. CONSIDERATION OF THE FEBRUARY 23, 1998, AND MARCH 2, 1998, GOVERNMENTAL AFFAIRS MEETING MINUTES

Motion:

Councilor McFarland moved for adoption of the minutes of the February 23, 1998, and March 2, 1998, Governmental Affairs Committee meetings.

Vote:

Councilors McFarland, Naito and McLain voted aye. The vote was 3/0 in favor and the motion passed unanimously.

2. DISCUSSION OF ETHICS CODE AND LOBBYIST REGISTRATION

Chair McLain said that at the last meeting, the committee asked legal counsel to integrate the committee's work on the ethics code and lobbyist registration with the Metro Code.

Marv Fjordbeck, Senior Assistant Counsel, reviewed the draft ordinance. A copy of the ordinance, with cover memo from Chair McLain, is included in the meeting record.

Councilor McFarland questioned the language in Section 3(b)(2) and asked if any study has been conducted to ensure that Metro officials do operate under the highest ethical standards in the state of Oregon. She said other jurisdictions may not agree that Metro's ethical standards are higher than their ethical standards. Mr. Fjordbeck said Section 3(b) states the Council's intent, which is to adopt the highest standard in the state.

Mr. Fjordbeck highlighted the definitions of "gift" (Section 4(c)), "Metro official" (Section 4(h)), and "whistle-blowing" (Section 4(l)).

Councilor Naito proposed an amendment to Section 13. She said her amendment would delete the term "such sanctions as the Metro Council may prescribe," and replace it with "a civil penalty as determined by the Metro Council in an amount not greater than \$500." She said a fine for violations is more appropriate than a jail sentence. She recommended that the Executive Officer determine an appropriate sanction for any violation by his own staff. She said the amendment clarifies that the maximum civil penalty would be \$500. A copy of the ordinance with Councilor Naito's amendment is included in the meeting record.

Councilor McFarland asked if the amendment would apply to lobbyists' reports or Metro officials' reports.

Councilor Naito said the amendment would apply to both parts of the ordinance. She said she is proposing the amendment because if, for example, a citizen lobbyist does not realize he or she needs to register, there would be a civil penalty rather than a threat of imprisonment. She said she felt a criminal sanction for a violation of the ordinance would be far too strong.

Chair McLain asked if Councilor Naito's amendment establishes a penalty cap, and more specific penalties could be delineated at a later date.

Mr. Fjordbeck said that under the current language, the Council would be able to develop sanctions of its choice at a later date. He said that under Councilor Naito's proposed amendment, the Council would be limited to a civil penalty, not a criminal penalty, and the civil penalty could not be greater than \$500. He said the Council would still be responsible for determining any specific penalty in a quasi-judicial proceeding.

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Councilor Naito said she thinks it is important not to have a criminal penalty because there are already state laws that would still apply for anything that might be more egregious. She said state law would still be in effect.

Chair McLain said she supports the amendment because it give a specific penalty. She asked legal counsel to confirm that state law would still apply to criminal penalties.

Mr. Fjordbeck said state law would apply with regard to the state’s lobbyist requirements. He said, however, that with regard to the ethical requirements, the Council would be applying a more difficult standard on itself, so the standard in Section 13 would apply.

Chair McLain asked for additional comments and questions about Councilor Naito’s amendment. There were none.

Mr. Fjordbeck reviewed Sections 14 and 15 of the ordinance.

Councilor McFarland asked Mr. Fjordbeck if Metro cannot do business with a former Metro official until a full year has passed.

Mr. Fjordbeck said yes, but added that Section 15 has a different set of definitions than the rest of the ordinance.

Councilor Naito asked if Section 15 is existing law under Metro Code and applies only to department directors and elected officials. Mr. Fjordbeck said yes. Councilor Naito asked if Section 15(c)(7) should be amended to read “Metro councilor” rather than “Metro commissioner.”

Chair McLain said Section 15(c)(7) applies to any person appointed to a position on a commission. She asked for additional questions. There were none.

Motion: Councilor Naito moved that the ordinance be moved the full Metro Council with a recommendation for approval.

Motion to Amend Main Motion: Councilor Naito moved to amend Section 13 of the ordinance to read “Notwithstanding any other provision of the Metro Code, a person who violates any provision of this ordinance or fails to file any report, registration or statement or to furnish any information required by this ordinance shall be subject to a civil penalty as determined by the Metro Council in an amount not greater than \$500.”

Vote on Motion to Amend Main Motion: Councilors McFarland, Naito and McLain voted aye. The vote was 3/0 in favor and the motion passed unanimously.

Chair McLain asked Alexis Dow, Auditor, to speak to the ordinance. She said Ms. Dow has reviewed the ordinance and has conducted an audit on the subject of ethics codes.

Ms. Dow said she has watched the development of the ethics code and it is evident that much thought and consideration has been given to the ordinance. She said she supports the committee’s decision to change the ethics code from a resolution to an ordinance. She said she has reviewed the document with Chair McLain and she believes it is a good draft and very inclusive. She said she would endorse the ordinance.

Chair McLain thanked Ms. Dow for her comments. She asked for additional testimony. There was none.

Chair McLain directed legal counsel to begin the process of assigning the ordinance a number. She said she would like to have the ordinance introduced to the full Metro Council by the committee. She said it would be appropriate to list all three Councilors’ names on the ordinance because the entire committee has agreed to the document. She asked for additional instruction to staff. There was none. Chair McLain told Mr. Fjordbeck that the ordinance did not need to come back to the committee after it is first read in Council.

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Mr. Fjordbeck said he understands that Chair McLain desires to send the draft ordinance to the Council for first reading, then she will request that Presiding Officer Kvistad not send the ordinance back to committee as the committee drafted it and approves of it. Chair McLain said yes. Mr. Fjordbeck said it would be a matter of the Presiding Officer's discretion following the introduction of the ordinance.

Chair McLain asked Mr. Fjordbeck to submit the ordinance for an ordinance number as quickly as possible.

Councilor Naito asked if the committee can forward the ordinance directly to the Council as an ordinance from the committee.

Mr. Fjordbeck said the ordinance has not yet been officially introduced, so there is nothing yet to forward.

Vote on Main Motion as Amended:

Councilors Naito, McFarland and McLain voted aye. The vote was 3/0 in favor and the motion passed unanimously.
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Councilor McFarland announced that Resolution No. 98-2623 has been officially added to the Council agenda for Thursday, March 19, 1998.

Chair McLain asked Gregory Nokes, *The Oregonian*, to announce the upcoming legislation in the newspaper.

3. OUTREACH PROJECTS AND IDEAS

Chair McLain recommended that the committee develop a work plan to accomplish the tasks listed in Exhibit A to Resolution No. 97-2552A. She said that without planning, the resolution will not be fulfilled by the end of the year.

Councilor Naito said the committee should recognize that the Council has already accomplished many of the tasks in Exhibit A to Resolution No. 97-2552A. She said a recognition party was held for volunteers, an elected officials orientation is being planned, Council evening meetings have been set, and there is a standing time slot on the Metro Council agenda for the Metro Policy Advisory Committee (MPAC). She said Council meetings in Councilor's districts are simply upon the request of individual Councilors. She said the only outstanding issue is joint meetings with advisory boards. Councilor Naito said the joint meetings should be during regularly scheduled afternoon or evening Council meetings. She said the joint meetings were intended to develop familiarity among the boards, and the meetings do not need to be lengthy.

Chair McLain said the major issue is planning the joint meetings with advisory boards. She agreed with Councilor Naito that most of the items on Exhibit A have been completed. She said work on the elected officials orientation has begun, but more work will be needed to ensure that the orientation focuses on appropriate issues. She recommended forming an outreach group or holding a committee meeting to receive suggestions on which topics should be covered in the orientation. Chair McLain said she wants to request an evening Council meeting in her district. She asked the committee to address the potential problem that some Councilors only expect four evening meetings this year, yet it is possible for all seven Councilors to request evening meetings in their districts.

Councilor Naito suggested that Chair McLain could request a Council meeting in her district on one of the regularly scheduled evening Council meetings. Councilor Naito said she would not request a Council meeting in her own district, because the Metro Regional Center is not far from her district.

Chair McLain asked if it would be appropriate to ask staff to poll the Councilors to see when and if they are planning to request a meeting in their districts. She said the information will be necessary to plan for the joint meetings with advisory groups. She said she would like to actively figure out, with the Presiding Officer, how all of the advisory committees will be addressed.

Councilor McFarland said evening meetings in outlying districts can be very effective, but it is important that the Council commits to attend the meetings. She said it is not acceptable for only three or four Council members to attend.

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Chair McLain asked if the committee desired to address the issues of joint meetings with advisory boards and evening meetings in Councilor districts. She asked if the issues should be addressed in committee, by the chair, or by individual Councilors.

Councilor Naito recommended that someone contact the Councilors to ask if they desire a meeting in their districts, and if they would prefer an evening or afternoon meeting. She said she believes Councilors will attend evening meetings in the districts if the meetings address regular Metro business. She suggested that some of the joint meetings with advisory boards could be scheduled as luncheon meetings on regular Thursdays.

Chair McLain asked Meg Bushman, Council Analyst, to prepare a survey for the Councilors and to write a letter to each of the advisory boards that lists the options for joint meetings and asks for their opinions. Chair McLain said she would return to the committee with the advisory boards' comments and then meet with the Presiding Officer.

4. COUNCILOR COMMUNICATIONS

There were none.

Respectfully submitted,

Suzanne Myers
Council Assistant

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ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF MARCH 16, 1998

The following have been included as part of the official public record.

<u>ORDINANCE/RESOLUTION</u>	<u>DOCUMENT DATE</u>	<u>DOCUMENT DESCRIPTION</u>	<u>DOCUMENT No.</u>
Resolution No. 98-2623	3/9/98	Staff report and Resolution No. 98-2623	031698gm-01
Ethics Code and Lobbyist Registration	3/13/98	Unnumbered Draft Ethics Code Ordinance	031698gm-02
	3/16/98	Unnumbered Draft Ethics Code Ordinance with Councilor Naito's amendment to Section 13	031698gm-03