

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 01-888B
PROVISIONS OF METRO CODE)
CHAPTER 6.01 RELATING TO THE)
METROPOLITAN EXPOSITION-)
RECREATION COMMISSION)
REGARDING POWERS, BUDGETS AND)
TERMS OF MEMBERS) Introduced by Councilor Susan McLain

WHEREAS, Metro Code Chapter 6.01 establishes the Metropolitan Exposition-Recreation Commission (MERC); and

WHEREAS, Metro Council desires to amend the provisions relating to MERC in order to provide for a more orderly budget process, to clarify the length of terms of members, and to make related changes; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That Metro Code Chapter 6.01, Sections 6.01.020, 6.01.030, 6.01.040, 6.01.50, 6.01.060 and 6.01.100 are hereby amended, as follows:

6.01.020 Definitions

As used herein:

- (a) "Commission" means the Metropolitan Exposition-Recreation Commission established hereunder;
- (b) "Council" means the Metro council;
- (c) "Councilor" means a member of the council;
- (d) "District" means Metro;
- (e) "Council President" means the Council President of Metro, however until January 6, 2003, Council President means the Executive Officer of Metro. ~~"Executive" means the executive officer of Metro.~~

~~(f) "Final action" means an action taken by resolution of the commission that is not a ministerial action and that is not a tentative or preliminary action that:~~

~~(1) Precedes final action; or~~

~~(2) Does not preclude further consideration of the action.~~

~~(g) "Just cause" means habitual absence from meetings of the commission, physical or mental disability that prevents meaningful participation as a commission member, failure to remain a resident of the district, the commission of substantive violation of ORS chapter 244 (Government Ethics) or substantive regulations adopted pursuant thereto, conviction of any felony, or the commission of any action or failure to act of a similar nature that brings into serious question the ethical or legal integrity of the commission member's official actions.~~

~~(f)(h)~~ "Metro auditor" means the Office of Metro Auditor created pursuant to the 1992 Metro Charter.

6.01.030 Commission Created

There is hereby created a metropolitan exposition-recreation commission consisting of seven members. All members shall be residents of the district. ~~The commission members shall be appointed as follows:~~

~~(a) The Council President will make all appointments.~~

~~(b) The Council President may reject a nomination.~~
Appointments of all members are subject to confirmation by the Metro Council.

~~(c) All members shall serve four (4) year-terms. Members may be re-appointed. Prior to December 31, 2001, a member may serve until the successor is confirmed, thereafter, upon the expiration of a term the position shall be considered vacant until a member is appointed or re-appointed and confirmed.~~

~~_____ (a) _____ Members of the commission shall be appointed by the executive officer and confirmed by a majority of the members of the council in accordance with the following procedures:~~

~~_____ (d)(1) Nomination Process. The Council President executive officer will accept nominations to the commission as follows:~~

~~(1) _____ (A) _____ The County Commissions of Clackamas, Multnomah and Washington counties each shall nominate one candidate. The candidates must be residents of the district and nominating county.~~

~~(2) _____ (B) _____ The City Council of the City of Portland shall nominate one candidate for each of two positions. The candidates must be residents of the district and the City of Portland.~~

~~(3) _____ (C) _____ Two nominees shall be at the sole discretion of the Council President executive officer. The candidates must be residents of the district.~~

~~_____ (2) _____ Appointment Process. The executive officer shall, upon concurring in the nominations received from the County Commissions of Clackamas, Multnomah and Washington counties or the City Council of the City of Portland, transmit the names of the persons so nominated to the Metro council as appointments for confirmation. In addition, the executive officer shall transmit two additional names as appointments for confirmation.~~

(e) Appointment Process: _____

(1) _____ For those positions on the commission which are subject to nomination by a local governmental body, the Council President executive officer will receive the nominations from the relevant governing body and review the nomination prior to submitting the nomination to the Metro council for confirmation. If the Council President executive officer fails to concur with any candidate so nominated by a local government, the Council President executive officer shall so notify the jurisdiction, which shall then nominate another candidate. This process shall continue until such time as the Council President executive officer agrees to transmit the name of the individual nominated by the local government. If an appointment submitted to the council for confirmation as a result of this process is rejected by the council, the Council President executive officer shall so notify the local government which shall nominate another candidate and the process shall continue until such time as a candidate

nominated by a local government has been forwarded by the Council President ~~executive officer~~ to the council for confirmation and has been confirmed.

(2) If the council fails to confirm an appointment made at the sole discretion of the Council President ~~executive officer~~, the Council President ~~executive officer~~ may submit the name of another person for confirmation by the council.

(f)(b) A vacancy shall occur from the death, resignation, failure to continue residency within the district and in the case of members nominated by a local government residency within the boundaries of the nominating government, or inability to serve of any member or from the removal of a member by the executive ~~for just cause~~, subject to approval of the removal by a majority of the members of the council.

(g)(c) Vacancies shall be filled pursuant to the procedure governing the initial appointment of members. A vacancy occurring prior to the expiration of a term shall be filled only until the end of the term. ~~– Vacancies in a position originally filled by a member nominated by a local government pursuant to this section shall be filled by the nomination, appointment and confirmation process provided for in this section so that five members of the commission shall be the nominees of the four local government bodies as specified herein.~~

(h)(d) No person who is elected to a public office, or appointed to fill a vacancy in a public office, shall be eligible to serve.

(i)(e) The commission may adopt its own rules of organization and procedure and may elect its own officers for such terms and with such duties and powers necessary for the performance of the functions of such offices as the commission determines appropriate.

6.01.040 Powers

The commission shall have the following power and authority:

(a) To renovate, equip, maintain and repair any convention, trade, and spectator buildings and facilities for which the commission is responsible, and to advise the public owners of these facilities on financial

measures which may be necessary or desirable with respect to initial construction or major capital projects;

(b) To manage, operate and market the use of the convention, trade, and spectator buildings and facilities for which the commission is responsible;

(c) To acquire in the name of the district by purchase, devise, gift, or grant real and personal property or any interest therein as the commission may find necessary for its purposes. The commission may recommend to the council the condemnation of property for use by the commission but may not itself exercise the condemnation power;

(d) To lease and dispose of property in accordance with ORS 271.300 to 271.360;

(e) To maintain and repair any real and personal property acquired for the purposes of the commission;

(f) To lease, rent, and otherwise authorize the use of its buildings, structures and facilities; to fix fees and charges relating to the use of said buildings, structures and facilities; to establish any other terms and conditions governing use of its buildings and facilities; and to adopt any regulations deemed necessary or appropriate for the protection of users and for the protection and public use and enjoyment of its buildings and facilities;

(g) To perform planning and feasibility studies for convention, trade, and spectator facilities within the district;

(h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission;

(i) To employ professional, technical, and other assistance as the commission may find necessary, appropriate, or convenient for its purposes;

(j) To enter into contracts of such types and in such amounts, including intergovernmental agreements, as the commission may deem necessary, appropriate, or convenient for the renovation, equipment, maintenance, repair, operation, and marketing of the use of buildings and

facilities for which it is responsible, and for professional and other services, under contracting rules adopted by the commission;

(k) To enter into intergovernmental agreements for the transfer of convention, trade, or spectator buildings and facilities to the district, or for the transfer of operating and administrative responsibilities for such buildings and facilities to the commission, provided that the council has approved such acquisition or transfer;

(l) To accept gifts and donations and to contract for and receive federal and other aid and assistance;

(m) To determine the type, quality, and scope of services required by the commission in order to conduct its business in a cost effective, entrepreneurial, and independent manner, as required by this chapter. Services of the district including accounting, personnel, risk management, public affairs, and other services ~~shall~~ ~~may~~ be provided by the district subject to compensation being provided by the commission to the district ~~as the district and the commission may agree upon~~. The commission may acquire such services by other means, provided that the ~~Council~~ ~~commission~~ determines by duly adopted resolution that the provision of such services by other means is cost effective, and results in a net benefit to the residents of the district and the regional facilities managed by the commission. The commission's legal services shall be provided to the commission by Metro's Office of General Counsel; ~~fees for such services shall be as agreed to by the commission and Metro~~. The commission may purchase legal services outside of Metro only with the permission of the Metro General Counsel; ~~The commission shall provide Metro with 90 days written notice of its intent to purchase any service outside of Metro which was previously provided by Metro;~~

(n) To recommend to the council and to the other public owners of buildings and facilities managed by the commission such long-term revenue and general obligation measures and other revenue-raising measures for the benefit of the commission's purposes as the commission may deem appropriate for consideration by the council, by the other public owners of buildings or facilities managed by the commission, or the electors of the district, but the commission may not adopt such measures itself;

(o) To recommend to the council the adoption of ordinances carrying criminal and civil penalties for their violation, but the commission may not adopt such ordinances itself;

(p) To do all other acts and things necessary, appropriate, or convenient to the exercise of the powers of the commission.

6.01.050 Budget and Accounts

(a) General Requirements. The commission accounts shall be kept in conformity with generally accepted accounting practices and in accordance with the local budget law, provided that the local budget law shall control in the event of a conflict with generally accepted accounting practices, and the accounts shall be audited yearly at the same time and by the same auditor as are the district's accounts.

(b) Procedure for Commission Approval of Proposed Budget. The commission annually shall prepare a proposed budget and shall approve the proposed budget by duly adopted resolution. The commission's deliberations and actions on its budget, including any work sessions or subcommittee sessions, shall be conducted as public meetings as required by the Oregon statutes governing public meetings. Prior to approving any proposed budget, the commission shall provide a reasonable opportunity for interested persons to testify and make their views known with respect to the proposed budget. The Commission shall include in its budget necessary cost allocations for services provided by the district as recommended by the Executive Officer.

(c) Procedure for Submission of Commission Budget to Metro. ~~Thirty days prior to the date set by the council for the executive officer's budget submission to the council, the~~ The commission shall transmit its proposed budget to the Metro executive at the same time that Metro departments do so, and shall simultaneously provide a copy of the proposed budget to the council. The executive shall review the submitted budget and submit the commission's proposed budget to the council with the executive's general budget submission to the council, together with any recommendations the executive may have for changes in the commission's proposed budget. The executive shall include in the submitted budget the necessary cost allocation for providing services to the commission. The commission's budget shall be subject to review and approval by the council. The Council shall make the final determination of cost allocations for services provided by the district.

(d) Content of Commission's Budget. To the maximum extent permitted by law, the commission's budget shall consist of one commission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the commission. Once the commission's budget has been adopted by the council, any changes in the adopted appropriations not previously approved by the council must be ratified in advance by the council.

6.01.060 Commission Meetings and Form of Action

~~(a) Commission Meetings. All meetings of the commission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The commission shall provide adequate notice of its meetings as required by law. All Metro elected officials shall receive notice of all meetings in the same form, manner and substance given to all commission members. to the media and all interested persons who have requested in writing that they be provided with notice of commission meetings. In addition to these requirements, five working days prior to each regular meeting, the commission shall send a copy of its agenda for such meeting to all elected Metro officials, and to each city and county in the Metro region. In the event of a special meeting, in addition to complying with any and all requirements applicable to special meetings under Oregon law, the commission shall provide each Metro elected official with:~~

- ~~(1) a copy of the proposed agenda for the special meeting, to be hand delivered or transmitted by facsimile device to the Metro elected official at least 24 hours in advance of the special meeting; and~~
- ~~(2) at least 24 hours prior notice by telephone of the time, date, place, and proposed agenda for the special meeting.~~

~~(b) Commission Actions. All final actions of the commission shall be by resolution.~~

6.01.100 Council Regional Facilities Committee/Commission
Business Plans

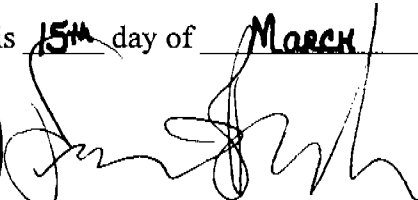
(a) The commission shall prepare business plans for each of its facilities, and shall update those plans as needed. The commission shall provide all Metro elected officials with copies of its business plans.

(b) The commission regularly shall report to the council. ~~regional facilities committee for purposes of review and recommendation on general policy, commission business plans, and budget matters.~~ Such reports shall occur as directed by the Council committee, but in no event less than quarterly.

(c) The commission shall, on an annual basis, set goals and benchmarks for the performance of the buildings, facilities and services managed by the commission. Such goals and benchmarks shall be discussed in public meetings with reasonable opportunity for public input, and shall be adopted by duly adopted resolutions of the commission. Copies of proposed goals and benchmarks shall be provided to all Metro elected officials no later than ten working days prior to formal adoption by the commission. The commission shall include in its quarterly reports to the council ~~regional facilities committee~~ progress reports on the commission's progress towards meeting its adopted goals and benchmarks.

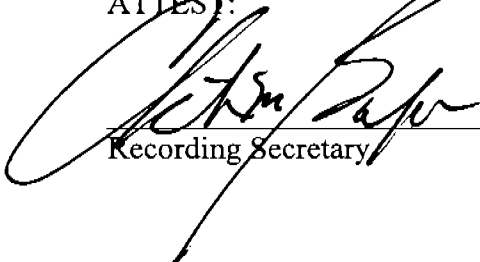
ADOPTED by the Metro Council this 15th day of March 2001.





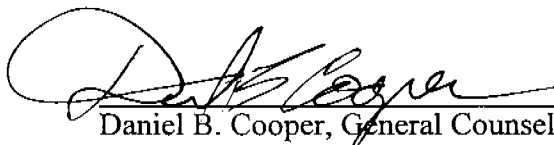
David Bragdon, Presiding Officer

ATTEST:



Recording Secretary

Approved as to Form:



Daniel B. Cooper, General Counsel

6.01.060 Commission Meetings and Form of Action

~~(a) Commission Meetings. All meetings of the commission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The commission shall provide adequate notice of its meetings as required by law, to the media and all interested persons who have requested in writing that they be provided with notice of commission meetings. In addition to these requirements, five working days prior to each regular meeting, the commission shall send a copy of its agenda for such meeting to all elected Metro officials, and to each city and county in the Metro region. In the event of a special meeting, in addition to complying with any and all requirements applicable to special meetings under Oregon law, the commission shall provide each Metro elected official with:~~

- ~~(1) a copy of the proposed agenda for the special meeting, to be hand delivered or transmitted by facsimile device to the Metro elected official at least 24 hours in advance of the special meeting; and~~
- ~~(2) at least 24 hours prior notice by telephone of the time, date, place, and proposed agenda for the special meeting.~~

~~(b) Commission Actions. All final actions of the commission shall be by resolution.~~

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 01-888A
PROVISIONS OF METRO CODE)
CHAPTER 6.01 RELATING TO THE)
METROPOLITAN EXPOSITION-)
RECREATION COMMISSION)
REGARDING POWERS, BUDGETS AND)
TERMS OF MEMBERS) Introduced by Councilor Susan McLain

WHEREAS, Metro Code Chapter 6.01 establishes the Metropolitan Exposition-Recreation Commission (MERC); and

WHEREAS, Metro Council desires to amend the provisions relating to MERC in order to provide for a more orderly budget process, to clarify the length of terms of members, and to make related changes; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That Metro Code Chapter 6.01, Sections 6.01.020, 6.01.030, 6.01.040, 6.01.50, 6.01.060 and 6.01.100 are hereby amended, as follows:

6.01.020 Definitions

As used herein:

- (a) "Commission" means the Metropolitan Exposition-Recreation Commission established hereunder;
- (b) "Council" means the Metro council;
- (c) "Councilor" means a member of the council;
- (d) "District" means Metro;
- (e) "Council President" means the Council President of Metro, however until January 6, 2003, Council President means the Executive Officer of Metro. ~~"Executive" means the executive officer of Metro.~~
- ~~(f) "Final action" means an action taken by resolution of the commission that is not a ministerial action and that is not a tentative or preliminary action that;~~

~~_____ (1) Precedes final action; or~~

~~_____ (2) Does not preclude further consideration of the action.~~

~~_____ (g) "Just cause" means habitual absence from meetings of the commission, physical or mental disability that prevents meaningful participation as a commission member, failure to remain a resident of the district, the commission of substantive violation of ORS chapter 244 (Government Ethics) or substantive regulations adopted pursuant thereto, conviction of any felony, or the commission of any action or failure to act of a similar nature that brings into serious question the ethical or legal integrity of the commission member's official actions.~~

~~(f)(h)~~ "Metro auditor" means the Office of Metro Auditor created pursuant to the 1992 Metro Charter.

6.01.030 Commission Created

There is hereby created a metropolitan exposition-recreation commission consisting of seven members. All members shall be residents of the district. ~~The commission members shall be appointed as follows:~~

~~_____ (a) The Council President will make all appointments.~~

~~_____ (b) The Council President may reject a nomination.~~
Appointments of all members are subject to confirmation by the Metro Council.

~~_____ (c) All members shall serve four (4) year-terms. Members may be re-appointed. Prior to December 31, 2001, a member may serve until the successor is confirmed, thereafter, upon the expiration of a term the position shall be considered vacant until a member is appointed or re-appointed and confirmed.~~

~~_____ (a) Members of the commission shall be appointed by the executive officer and confirmed by a majority of the members of the council in accordance with the following procedures:~~

~~_____ (d)(1) Nomination Process. The Council President executive officer~~ will accept nominations to the commission as follows:

~~(1)---(A)~~ The County Commissions of Clackamas, Multnomah and Washington counties each shall nominate one candidate. The candidates must be residents of the district and nominating county.

~~(2)---(B)~~ The City Council of the City of Portland shall nominate one candidate for each of two positions. The candidates must be residents of the district and the City of Portland.

~~(3)---(C)~~ Two nominees shall be at the sole discretion of the Council President ~~executive officer~~. The candidates must be residents of the district.

~~(2) Appointment Process. The executive officer shall, upon concurring in the nominations received from the County Commissions of Clackamas, Multnomah and Washington counties or the City Council of the City of Portland, transmit the names of the persons so nominated to the Metro council as appointments for confirmation. In addition, the executive officer shall transmit two additional names as appointments for confirmation.~~

(e) Appointment Process: _____

(1) For those positions on the commission which are subject to nomination by a local governmental body, the Council President ~~executive officer~~ will receive the nominations from the relevant governing body and review the nomination prior to submitting the nomination to the Metro council for confirmation. If the Council President ~~executive officer~~ fails to concur with any candidate so nominated by a local government, the Council President ~~executive officer~~ shall so notify the jurisdiction, which shall then nominate another candidate. This process shall continue until such time as the Council President ~~executive officer~~ agrees to transmit the name of the individual nominated by the local government. If an appointment submitted to the council for confirmation as a result of this process is rejected by the council, the Council President ~~executive officer~~ shall so notify the local government which shall nominate another candidate and the process shall continue until such time as a candidate nominated by a local government has been forwarded by the Council President ~~executive officer~~ to the council for confirmation and has been confirmed.

(2) If the council fails to confirm an appointment made at the sole discretion of the Council President ~~executive officer~~, the

Council President ~~executive officer~~ may submit the name of another person for confirmation by the council.

(f)(b) A vacancy shall occur from the death, resignation, failure to continue residency within the district and in the case of members nominated by a local government residency within the boundaries of the nominating government, or inability to serve of any member or from the removal of a member by the executive ~~for just cause~~, subject to approval of the removal by a majority of the members of the council.

(g)(c) Vacancies shall be filled pursuant to the procedure governing the initial appointment of members. A vacancy occurring prior to the expiration of a term shall be filled only until the end of the term. ~~– Vacancies in a position originally filled by a member nominated by a local government pursuant to this section shall be filled by the nomination, appointment and confirmation process provided for in this section so that five members of the commission shall be the nominees of the four local government bodies as specified herein.~~

(h)(d) No person who is elected to a public office, or appointed to fill a vacancy in a public office, shall be eligible to serve.

(i)(e) The commission may adopt its own rules of organization and procedure and may elect its own officers for such terms and with such duties and powers necessary for the performance of the functions of such offices as the commission determines appropriate.

6.01.040 Powers

The commission shall have the following power and authority:

(a) To renovate, equip, maintain and repair any convention, trade, and spectator buildings and facilities for which the commission is responsible, and to advise the public owners of these facilities on financial measures which may be necessary or desirable with respect to initial construction or major capital projects;

(b) To manage, operate and market the use of the convention, trade, and spectator buildings and facilities for which the commission is responsible;

(c) To acquire in the name of the district by purchase, devise, gift, or grant real and personal property or any interest therein as the commission may find necessary for its purposes. The commission may recommend to the council the condemnation of property for use by the commission but may not itself exercise the condemnation power;

(d) To lease and dispose of property in accordance with ORS 271.300 to 271.360;

(e) To maintain and repair any real and personal property acquired for the purposes of the commission;

(f) To lease, rent, and otherwise authorize the use of its buildings, structures and facilities; to fix fees and charges relating to the use of said buildings, structures and facilities; to establish any other terms and conditions governing use of its buildings and facilities; and to adopt any regulations deemed necessary or appropriate for the protection of users and for the protection and public use and enjoyment of its buildings and facilities;

(g) To perform planning and feasibility studies for convention, trade, and spectator facilities within the district;

(h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission;

(i) To employ professional, technical, and other assistance as the commission may find necessary, appropriate, or convenient for its purposes;

(j) To enter into contracts of such types and in such amounts, including intergovernmental agreements, as the commission may deem necessary, appropriate, or convenient for the renovation, equipment, maintenance, repair, operation, and marketing of the use of buildings and facilities for which it is responsible, and for professional and other services, under contracting rules adopted by the commission;

(k) To enter into intergovernmental agreements for the transfer of convention, trade, or spectator buildings and facilities to the district, or for the transfer of operating and administrative responsibilities for such buildings and facilities to the commission, provided that the council has approved such acquisition or transfer;

(l) To accept gifts and donations and to contract for and receive federal and other aid and assistance;

(m) To determine the type, quality, and scope of services required by the commission in order to conduct its business in a cost effective, entrepreneurial, and independent manner, as required by this chapter. Services of the district including accounting, personnel, risk management, public affairs, and other services ~~shall~~ may be provided by the district subject to compensation being provided by the commission to the district ~~as the district and the commission may agree upon~~. The commission may acquire such services by other means, provided that the ~~Council~~ ~~commission~~ determines by duly adopted resolution that the provision of such services by other means is cost effective, and results in a net benefit to the residents of the district and the regional facilities managed by the commission. The commission's legal services shall be provided to the commission by Metro's Office of General Counsel; ~~fees for such services shall be as agreed to by the commission and Metro~~. The commission may purchase legal services outside of Metro only with the permission of the Metro General Counsel; ~~The commission shall provide Metro with 90 days written notice of its intent to purchase any service outside of Metro which was previously provided by Metro;~~

(n) To recommend to the council and to the other public owners of buildings and facilities managed by the commission such long-term revenue and general obligation measures and other revenue-raising measures for the benefit of the commission's purposes as the commission may deem appropriate for consideration by the council, by the other public owners of buildings or facilities managed by the commission, or the electors of the district, but the commission may not adopt such measures itself;

(o) To recommend to the council the adoption of ordinances carrying criminal and civil penalties for their violation, but the commission may not adopt such ordinances itself;

(p) To do all other acts and things necessary, appropriate, or convenient to the exercise of the powers of the commission.

6.01.050 Budget and Accounts

(a) General Requirements. The commission accounts shall be kept in conformity with generally accepted accounting practices and in

accordance with the local budget law, provided that the local budget law shall control in the event of a conflict with generally accepted accounting practices, and the accounts shall be audited yearly at the same time and by the same auditor as are the district's accounts.

(b) Procedure for Commission Approval of Proposed Budget. The commission annually shall prepare a proposed budget and shall approve the proposed budget by duly adopted resolution. The commission's deliberations and actions on its budget, including any work sessions or subcommittee sessions, shall be conducted as public meetings as required by the Oregon statutes governing public meetings. Prior to approving any proposed budget, the commission shall provide a reasonable opportunity for interested persons to testify and make their views known with respect to the proposed budget. The Commission shall include in its budget necessary cost allocations for services provided by the district as recommended by the Executive Officer.

(c) Procedure for Submission of Commission Budget to Metro. ~~Thirty days prior to the date set by the council for the executive officer's budget submission to the council, the~~ The commission shall transmit its proposed budget to the Metro executive at the same time that Metro departments do so, and shall simultaneously provide a copy of the proposed budget to the council. ~~The executive shall review the submitted budget and submit the commission's proposed budget to the council with the executive's general budget submission to the council, together with any recommendations the executive may have for changes in the commission's proposed budget. The executive shall include in the submitted budget the necessary cost allocation for providing services to the commission. The commission's budget shall be subject to review and approval by the council. The Council shall make the final determination of cost allocations for services provided by the district.~~

(d) Content of Commission's Budget. To the maximum extent permitted by law, the commission's budget shall consist of one commission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the commission. Once the commission's budget has been adopted by the council, any changes in the adopted appropriations not previously approved by the council must be ratified in advance by the council.

6.01.060 Commission Meetings and Form of Action

~~(a) Commission Meetings.~~ All meetings of the commission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The commission shall provide adequate notice of its meetings as required by law ~~to the media and all interested persons who have requested in writing that they be provided with notice of commission meetings.~~ In addition to these requirements, five working days prior to each regular meeting, the commission shall send a copy of its agenda for such meeting to all elected Metro officials, ~~and to each city and county in the Metro region.~~ In the event of a special meeting, in addition to complying with any and all requirements applicable to special meetings under Oregon law, the commission shall provide each Metro elected official with:

- (1) a copy of the proposed agenda for the special meeting, to be hand delivered or transmitted by facsimile device to the Metro elected official at least 24 hours in advance of the special meeting; and
- (2) at least 24 hours prior notice by telephone of the time, date, place, and proposed agenda for the special meeting.

~~(b) Commission Actions.~~ ~~All final actions of the commission shall be by resolution.~~

6.01.100 Council Regional Facilities Committee/Commission Business Plans

(a) The commission shall prepare business plans for each of its facilities, and shall update those plans as needed. The commission shall provide all Metro elected officials with copies of its business plans.

(b) The commission regularly shall report to the council, ~~regional facilities committee for purposes of review and recommendation on general policy, commission business plans, and budget matters.~~ Such reports shall occur as directed by the Council committee, but in no event less than quarterly.

(c) The commission shall, on an annual basis, set goals and benchmarks for the performance of the buildings, facilities and services managed by the commission. Such goals and benchmarks shall be

discussed in public meetings with reasonable opportunity for public input, and shall be adopted by duly adopted resolutions of the commission. Copies of proposed goals and benchmarks shall be provided to all Metro elected officials no later than ten working days prior to formal adoption by the commission. The commission shall include in its quarterly reports to the council ~~regional facilities committee~~ progress reports on the commission's progress towards meeting its adopted goals and benchmarks.

ADOPTED by the Metro Council this _____ day of _____ 2001.

David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
PROVISIONS OF METRO CODE)
CHAPTER 6.01 RELATING TO THE)
METROPOLITAN EXPOSITION-)
RECREATION COMMISSION)
REGARDING POWERS, BUDGETS AND)
TERMS OF MEMBERS)

ORDINANCE NO. 01-888

Introduced by Councilor Susan McLain

WHEREAS, Metro Code Chapter 6.01 establishes the Metropolitan Exposition-Recreation Commission (MERC); and

WHEREAS, Metro Council desires to amend the provisions relating to MERC in order to provide for a more orderly budget process, to clarify the length of terms of members, and to make related changes; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That Metro Code Chapter 6.01, Sections 6.01.020, 6.01.030, 6.01.040, 6.01.50, 6.01.060 and 6.01.100 are hereby amended, as follows:

6.01.020 Definitions

As used herein:

- (a) "Commission" means the Metropolitan Exposition-Recreation Commission established hereunder;
- (b) "Council" means the Metro council;
- (c) "Councilor" means a member of the council;
- (d) "District" means Metro;
- (e) "Council President" means the Council President of Metro, however until January 6, 2003, Council President means the Executive Officer of Metro. "Executive" means the executive officer of Metro.
- ~~(f) "Final action" means an action taken by resolution of the commission that is not a ministerial action and that is not a tentative or preliminary action that;~~

~~_____ (1) Precedes final action; or~~

~~_____ (2) Does not preclude further consideration of the action.~~

~~_____ (g) "Just cause" means habitual absence from meetings of the commission, physical or mental disability that prevents meaningful participation as a commission member, failure to remain a resident of the district, the commission of substantive violation of ORS chapter 244 (Government Ethics) or substantive regulations adopted pursuant thereto, conviction of any felony, or the commission of any action or failure to act of a similar nature that brings into serious question the ethical or legal integrity of the commission member's official actions.~~

~~(f)(h)~~ "Metro auditor" means the Office of Metro Auditor created pursuant to the 1992 Metro Charter.

6.01.030 Commission Created

There is hereby created a metropolitan exposition-recreation commission consisting of seven members. All members shall be residents of the district. ~~The commission members shall be appointed as follows:~~

~~_____ (a) The Council President will make all appointments.~~

~~_____ (b) The Council President may reject a nomination.~~
Appointments of all members are subject to confirmation by the Metro Council.

~~_____ (c) All members shall serve four (4) year-terms. Members may be re-appointed. Prior to December 31, 2001, a member may serve until the successor is confirmed, thereafter, upon the expiration of a term the position shall be considered vacant until a member is appointed or re-appointed and confirmed.~~

~~_____ (a) Members of the commission shall be appointed by the executive officer and confirmed by a majority of the members of the council in accordance with the following procedures:~~

~~_____ (d)(1) Nomination Process. The Council President executive officer~~ will accept nominations to the commission as follows:

~~(1) (A)~~ The County Commissions of Clackamas, Multnomah and Washington counties each shall nominate one candidate. The candidates must be residents of the district and nominating county.

~~(2) (B)~~ The City Council of the City of Portland shall nominate one candidate for each of two positions. The candidates must be residents of the district and the City of Portland.

~~(3) (C)~~ Two nominees shall be at the sole discretion of the Council President ~~executive officer~~. The candidates must be residents of the district.

~~(2) Appointment Process. The executive officer shall, upon concurring in the nominations received from the County Commissions of Clackamas, Multnomah and Washington counties or the City Council of the City of Portland, transmit the names of the persons so nominated to the Metro council as appointments for confirmation. In addition, the executive officer shall transmit two additional names as appointments for confirmation.~~

(e) Appointment Process: _____

(1) For those positions on the commission which are subject to nomination by a local governmental body, the Council President ~~executive officer~~ will receive the nominations from the relevant governing body and review the nomination prior to submitting the nomination to the Metro council for confirmation. If the Council President ~~executive officer~~ fails to concur with any candidate so nominated by a local government, the Council President ~~executive officer~~ shall so notify the jurisdiction, which shall then nominate another candidate. This process shall continue until such time as the Council President ~~executive officer~~ agrees to transmit the name of the individual nominated by the local government. If an appointment submitted to the council for confirmation as a result of this process is rejected by the council, the Council President ~~executive officer~~ shall so notify the local government which shall nominate another candidate and the process shall continue until such time as a candidate nominated by a local government has been forwarded by the Council President ~~executive officer~~ to the council for confirmation and has been confirmed.

(2) If the council fails to confirm an appointment made at the sole discretion of the Council President ~~executive officer~~, the Council President ~~executive officer~~ may submit the name of another person for confirmation by the council.

~~(f)(b)~~ A vacancy shall occur from the death, resignation, failure to continue residency within the district and in the case of members nominated by a local government residency within the boundaries of the nominating government, or inability to serve of any member or from the removal of a member by the executive ~~for just cause~~, subject to approval of the removal by a majority of the members of the council.

~~(g)(c)~~ Vacancies shall be filled pursuant to the procedure governing the initial appointment of members. A vacancy occurring prior to the expiration of a term shall be filled only until the end of the term. -- ~~Vacancies in a position originally filled by a member nominated by a local government pursuant to this section shall be filled by the nomination, appointment and confirmation process provided for in this section so that five members of the commission shall be the nominees of the four local government bodies as specified herein.~~

~~(h)(d)~~ No person who is elected to a public office, or appointed to fill a vacancy in a public office, shall be eligible to serve.

~~(i)(e)~~ The commission may adopt its own rules of organization and procedure and may elect its own officers for such terms and with such duties and powers necessary for the performance of the functions of such offices as the commission determines appropriate.

6.01.040 Powers

The commission shall have the following power and authority:

(a) To renovate, equip, maintain and repair any convention, trade, and spectator buildings and facilities for which the commission is responsible, and to advise the public owners of these facilities on financial measures which may be necessary or desirable with respect to initial construction or major capital projects;

(b) To manage, operate and market the use of the convention, trade, and spectator buildings and facilities for which the commission is responsible;

(c) To acquire in the name of the district by purchase, devise, gift, or grant real and personal property or any interest therein as the commission may find necessary for its purposes. The commission may recommend to the council the condemnation of property for use by the commission but may not itself exercise the condemnation power;

(d) To lease and dispose of property in accordance with ORS 271.300 to 271.360;

(e) To maintain and repair any real and personal property acquired for the purposes of the commission;

(f) To lease, rent, and otherwise authorize the use of its buildings, structures and facilities; to fix fees and charges relating to the use of said buildings, structures and facilities; to establish any other terms and conditions governing use of its buildings and facilities; and to adopt any regulations deemed necessary or appropriate for the protection of users and for the protection and public use and enjoyment of its buildings and facilities;

(g) To perform planning and feasibility studies for convention, trade, and spectator facilities within the district;

(h) To employ, manage, and terminate such personnel as the commission may find necessary, appropriate, or convenient for its purposes under personnel rules adopted by the commission;

(i) To employ professional, technical, and other assistance as the commission may find necessary, appropriate, or convenient for its purposes;

(j) To enter into contracts of such types and in such amounts, including intergovernmental agreements, as the commission may deem necessary, appropriate, or convenient for the renovation, equipment, maintenance, repair, operation, and marketing of the use of buildings and facilities for which it is responsible, and for professional and other services, under contracting rules adopted by the commission;

(k) To enter into intergovernmental agreements for the transfer of convention, trade, or spectator buildings and facilities to the district, or for the transfer of operating and administrative responsibilities for such buildings and facilities to the commission, provided that the council has approved such acquisition or transfer;

(l) To accept gifts and donations and to contract for and receive federal and other aid and assistance;

(m) To determine the type, quality, and scope of services required by the commission in order to conduct its business in a cost effective, entrepreneurial, and independent manner, as required by this

chapter. Services of the district including accounting, personnel, risk management, public affairs, and other services ~~shall~~ ^{may} be provided by the district subject to compensation being provided by the commission to the district ~~as the district and the commission may agree upon~~. The commission may acquire such services by other means, provided that the ~~Council~~ ^{commission} determines by duly adopted resolution that the provision of such services by other means is cost effective, and results in a net benefit to the residents of the district and the regional facilities managed by the commission. The commission's legal services shall be provided to the commission by Metro's Office of General Counsel; ~~fees for such services shall be as agreed to by the commission and Metro~~. The commission may purchase legal services outside of Metro only with the permission of the Metro General Counsel; ~~The commission shall provide Metro with 90 days written notice of its intent to purchase any service outside of Metro which was previously provided by Metro;~~

(n) To recommend to the council and to the other public owners of buildings and facilities managed by the commission such long-term revenue and general obligation measures and other revenue-raising measures for the benefit of the commission's purposes as the commission may deem appropriate for consideration by the council, by the other public owners of buildings or facilities managed by the commission, or the electors of the district, but the commission may not adopt such measures itself;

(o) To recommend to the council the adoption of ordinances carrying criminal and civil penalties for their violation, but the commission may not adopt such ordinances itself;

(p) To do all other acts and things necessary, appropriate, or convenient to the exercise of the powers of the commission.

6.01.050 Budget and Accounts

(a) General Requirements. The commission accounts shall be kept in conformity with generally accepted accounting practices and in accordance with the local budget law, provided that the local budget law shall control in the event of a conflict with generally accepted accounting practices, and the accounts shall be audited yearly at the same time and by the same auditor as are the district's accounts.

(b) Procedure for Commission Approval of Proposed Budget. The commission annually shall prepare a proposed budget and shall

approve the proposed budget by duly adopted resolution. The commission's deliberations and actions on its budget, including any work sessions or subcommittee sessions, shall be conducted as public meetings as required by the Oregon statutes governing public meetings. Prior to approving any proposed budget, the commission shall provide a reasonable opportunity for interested persons to testify and make their views known with respect to the proposed budget. The Commission shall include in its budget necessary cost allocations for services provided by the district as recommended by the Executive Officer.

(c) Procedure for Submission of Commission Budget to Metro. Thirty days prior to the date set by the council for the executive officer's budget submission to the council, the commission shall transmit its proposed budget to the Metro executive, ~~and shall simultaneously provide a copy of the proposed budget to the council.~~ The executive shall review the submitted budget and submit the commission's proposed budget to the council with the executive's general budget submission to the council, together with any recommendations the executive may have for changes in the commission's proposed budget. The executive shall include in the submitted budget the necessary cost allocation for providing services to the commission. The commission's budget shall be subject to review and approval by the council. The Council shall make the final determination of cost allocations for services provided by the district.

(d) Content of Commission's Budget. To the maximum extent permitted by law, the commission's budget shall consist of one commission-wide series of appropriations in those categories which are required by local budget law, applicable to all buildings, facilities, and programs managed by the commission. Once the commission's budget has been adopted by the council, any changes in the adopted appropriations not previously approved by the council must be ratified in advance by the council.

6.01.060 Commission Meetings and Form of Action

~~(a) Commission Meetings.~~ All meetings of the commission shall be conducted as public meetings as required by Oregon law, except where executive sessions are permitted by law. The commission shall provide adequate notice of its meetings as required by law to the media and all interested persons who have requested in writing that they be provided with notice of commission meetings. In addition to these requirements, five working days prior to each regular meeting, the commission shall send a copy of its agenda for such meeting to all elected

Metro officials, and to each city and county in the Metro region. In the event of a special meeting, in addition to complying with any and all requirements applicable to special meetings under Oregon law, the commission shall provide each Metro elected official with:

- (1) a copy of the proposed agenda for the special meeting, to be hand delivered or transmitted by facsimile device to the Metro elected official at least 24 hours in advance of the special meeting; and
- (2) at least 24 hours prior notice by telephone of the time, date, place, and proposed agenda for the special meeting.

~~(b) Commission Actions. All final actions of the commission shall be by resolution.~~

6.01.100 Council Regional Facilities Committee/Commission Business Plans

(a) The commission shall prepare business plans for each of its facilities, and shall update those plans as needed. The commission shall provide all Metro elected officials with copies of its business plans.

(b) The commission regularly shall report to the council. ~~regional facilities committee for purposes of review and recommendation on general policy, commission business plans, and budget matters.~~ Such reports shall occur as directed by the Council committee, but in no event less than quarterly.

(c) The commission shall, on an annual basis, set goals and benchmarks for the performance of the buildings, facilities and services managed by the commission. Such goals and benchmarks shall be discussed in public meetings with reasonable opportunity for public input, and shall be adopted by duly adopted resolutions of the commission. Copies of proposed goals and benchmarks shall be provided to all Metro elected officials no later than ten working days prior to formal adoption by the commission. The commission shall include in its quarterly reports to the council ~~regional facilities committee~~ progress reports on the commission's progress towards meeting its adopted goals and benchmarks.

ADOPTED by the Metro Council this _____ day of _____ 2001.

David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

BUDGET AND FINANCE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 01-888, FOR THE PURPOSE OF AMENDING PROVISIONS OF METRO CODE CHAPTER 6.01 RELATING TO THE METROPOLITAN EXPOSITION-RECREATION COMMISSION REGARDING POWERS, BUDGETS AND TERMS OF MEMBERS

Date: 22 February 2001

Presented by: Councilor McLain

Committee Recommendation: At its February 14, 2001, meeting, the Budget and Finance Committee voted 5-0 to recommend Council adoption of Ordinance No. 01-888. Voting in favor: Councilors Hosticka, Bragdon, Burkholder, McLain, and Atherton. Voting against: None. Absent: Councilors Park and Monroe.

Background: Dan Cooper, Metro Legal Counsel, presented the staff report. He explained that the proposed ordinance implements minor changes necessary to clarify the intent of Measure 2610, Metro's Charter Amendment, which was approved by the voters on November 7, 2000, as well as to insert language to comply with Council's budget amendment MERC#3 approved during the FY 2000-01 budget process. He also mentioned that there were several more small technical changes he would be making to the proposed ordinance to ensure that all references to "Executive Officer" would be replaced by "Council President", and that these changes would be incorporated into the document at Council's next reading on February 22, 2001.

Committee Issues/Discussion: Councilor Burkholder commented that he was glad to have the language and direction of the code chapter cleaned up in such a timely manner.

Key Public Testimony: Larry Harvey, representing the Lodging Association, stated that he saw no significant obstacles in the proposed ordinance to the continued efficient management of MERC. He also stated that he appreciated working with Council on strengthening Metro's partnership with local stakeholders.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 01-888 FOR THE PURPOSE OF AMENDING PROVISIONS OF METRO CODE CHAPTER 6.01 RELATING TO THE METROPOLITAN EXPOSITION-RECREATION COMMISSION REGARDING POWERS, BUDGETS, AND TERMS OF MEMBERS

Date: February 1, 2001

Prepared by: Peggy Coats

BACKGROUND

During the fiscal year 2000-01 budget review process, Council approved budget amendment MERC#3, subsequently incorporated into the adopted budget, which specified that a procedure be initiated to eliminate both the Metropolitan Exposition-Recreation Commission's (MERC) ability to negotiate an annual support services contract with Metro, and the corresponding 90-day opt-out clause currently established under Metro Code Chapter 6.01.040(m). It was expected that the changes to Metro Code necessary to effect these changes would be completed prior to adoption of the budget for fiscal year 2001-02.

In addition, on November 7, 2000, voters approved an amendment to Metro's Charter which will, among other things, consolidate the Executive and Council offices and reduce the number of Council districts from seven to six with a Council President elected region-wide, effective January 2003. This amendment requires clarifying amendments to Metro Code Chapter 6.01 relating to definitions, appointment procedures, and terms.

The proposed ordinance, if adopted, produces the following key changes to the existing code:

- Changes nomenclature to reflect the passage of the Charter Amendment (e.g., clarifying transitional and long-term roles of the Executive Officer and Council President)
- Redefines the appointment process to reflect the elimination of the Executive Officer position and the creation of the Council President position
- Clarifies the terms of existing commissioners
- Eliminates MERC's ability to negotiate for Metro support services
- Eliminates MERC's 90-day option to purchase support services outside of those provided by Metro
- Ensures that cost allocations for services provided by Metro be included in MERC's budget, with final approval by Council
- Ensures that MERC follows the same public meeting requirements as Metro

ANALYSIS/INFORMATION

1. **Known Opposition** – MERC initially expressed opposition to the proposed changes relating to budgeting and support services during the fiscal year 2000-01 budget review process, but no further opposition is anticipated at this time.
2. **Legal Antecedents** – Metro Code chapter 6.01, governing the activities of the Metropolitan Exposition-Recreation Commission, was last updated via ordinance in April 1997.
3. **Anticipated Effects** – This action is aimed at providing for a more orderly and predictable budget process for both Metro and MERC, and for clarifying language, roles, definitions, and procedures relative to the passage of the Charter Amendment.
4. **Budget Impacts** – There are no anticipated budget impacts in regards to clarifying language changes in the code. The code changes regarding budgeting and powers will allow Metro to forecast costs more methodically, and to ensure, as a matter of policy, that MERC comply with Metro's standard operating procedure of each department or program area meeting their financial obligations in full for services provided through the cost allocation plan.

RECOMMENDED ACTION

That Council conduct public hearings and subsequently approve Ordinance 01-888, For the Purpose of Amending Provisions of Metro Code Chapter 6.01 relating to the Metropolitan Exposition-Recreation Commission Regarding Powers, Budgets, and Terms of Members.