

A G E N D A

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METRO

Agenda - Revised

MEETING: METRO COUNCIL REGULAR MEETING
DATE: January 9, 1997
DAY: Thursday
TIME: 2:00 PM
PLACE: Council Chamber

<u>Approx. Time*</u>		<u>Presenter</u>
2:00 PM	CALL TO ORDER AND ROLL CALL	
(5 min.)	1. INTRODUCTIONS	
(5 min.)	2. CITIZEN COMMUNICATIONS	
(5 min.)	3. EXECUTIVE OFFICER COMMUNICATIONS	
(10 min.)	4. REGIONAL PARKS AND GREENSPACES ADVISORY COMMITTEE REPORT	Akers
(10 min.)	5. SEMI-ANNUAL REPORT ON CONTRACTS	Moss
	6. CONSENT AGENDA	
2:35 PM (5 min)	6.1 Consideration of Minutes for the December 12, 1996 Metro Council Regular Meeting and Work Session and December 19, 1996 Council Regular Meeting.	
	7. ORDINANCES - FIRST READING	
2:40 PM (5 min)	7.1 Ordinance No. 96-670 , An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule in the Zoo Capital Fund by Transferring \$103,206 from Contingency to Materials and Services to Pay for September Elections Expenses; and Declaring an Emergency.	
	8. RESOLUTIONS	
2:45 PM (5 min.)	8.1 Resolution No. 96-2424 , For the Purpose of Authorizing the Executive Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Amended Open Spaces Implementation Work Plan.	Washington

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|---------------------|-----|--|------------|
| 2:50 PM
(5 min.) | 8.2 | Resolution No. 97-2445 , For the Purpose of Approving a Service Plan to provide assistance, including rate relief, to regional citizens and local governments in the Metro region for disposal of storm and flood-related debris. | Morissette |
| 2:55 PM
(5 min.) | 8.3 | Resolution No. 96-2416 , For the Purpose of Appointing Barry Bennett to the Metro Solid Waste Rate Review Committee. | McCaig |
| 3:00 PM
(10 min) | 9. | COUNCILOR COMMUNICATION | |
| | | ADJOURN | |

CABLE VIEWERS: Council meetings, the second and fourth Thursdays of the month, are shown on Channel 30 the first Sunday after the meeting at 8:30 pm. The entire meeting is also shown again on the second Monday after the meeting at 2:00 pm on Channel 30.

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Agenda Item Number 5.1

Consideration of the December 12, 1996 Metro Council Meeting and Work Session and the December 19, 1996 Council Meeting Minutes

Metro Council Meeting
Thursday January 9, 1997
Council Chamber

MINUTES OF THE METRO COUNCIL MEETING

December 19, 1996

Council Chamber

Councilors Present: Jon Kvistad (Presiding Officer), Don Morissette, Susan McLain, Ed Washington, Patricia McCaig, Ruth McFarland, Rod Monroe

Councilors Absent: None.

Presiding Officer Jon Kvistad called the meeting to order at 2:05 p.m.

1. INTRODUCTIONS

Presiding Officer Kvistad announced that Bonnie Hays, former County Commissioner passed away today and called for a moment of silence.

The Presiding Officer then awarded Mr. John Houser, Councilor Senior Analyst, a certificate of appreciation and a pin for five year of service with the Metro Council.

2. CITIZEN COMMUNICATIONS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. KPMG PEAT MARWICK AUDIT REPORT

Alexis Dow, Metro Auditor, said that Metro's financial statements for the year ending June 30, 1996 have been audited in compliance with the state law by KPMG Peat Marwick. They had issued a clean report with no significant exceptions to the financial statement. These financial statements were prepared in house by the Accounting Division of the Administrative Services Department. Don Cox and Karla Lenox assumed primary responsibility for the statements preparation. The financial statements had a clean report themselves, there were some exception situations, specifically some over expenditure of budget appropriations and some question of compliance with legal requirements pertaining to soliciting competitive quotes when awarding public contracts. She introduced Mr. Joe Hoffman and Mr. Max Downing, from KPMG Peat Marwick.

Mr. Don Cox, from Administrative Services, noted the written report by KPMG Peat Marwick. He then recognized Karla Lenox, the Financial Control Supervisor in the Accounting Division whose efforts were to prepare this report. He felt she had done a very good job for Metro. He said that Metro had received a certificate of achievement for excellence in financial reporting for last year's report. This year's report would be submitted for that consideration as

well. They fully expected to receive that award this year as well. Some of the major changes in the report included page 65 of the report, reporting on the activities of the Open Spaces fund, this past fiscal year was the first year that fund had been in existence. The format of reporting for the component unit of the Metropolitan Exposition Recreation Commission on page 89 was changed to conform more closely with Gasbian GFOA requirements for reporting. What that did was pull all of the budgetary schedules for a MERC component unit back into a separate section of the report as opposed to being on a fund type basis as they had been in the past. He pointed out that an unqualified opinion on the financial report was received. That was the best opinion auditors could give and meant that the financial statements were fairly presented. He noted in the back of the report there were also additional comments that were required by state law.

Mr. Hoffman spoke of the audit, the scope of the work and the results of their company's work. The purpose of the work with Metro was four fold, first, was to perform an audit in accordance with generally accepted auditing standards and to express an opinion on Metro's CAFR, second, was to test for Metro's compliance with Oregon minimum standards and report the findings in that regard, thirdly, was to conduct an audit in accordance with the single audit act of 1984. The scope of that work was to look at Metro's compliance with all of the federal grants moneys that Metro received and to look at the administrative and internal control surrounding the application of those funds. Lastly, the auditors used the opportunity they had during the course of the audit to identify the opportunities for improving control or improving operational efficiencies, these were reported in the form of a management letter.

Mr. Hoffman indicated that Mr. Cox had mentioned, with regard to the audit of the financial statements of Metro, the auditors had in fact issued an unqualified opinion. That opinion appeared on page 2 of the Comprehensive Annual Financial Report. He reviewed that, in that opinion, it was an unqualified opinion but second, the scope of the work was one of a test nature. The objective of the work was to obtain a reasonable assurance that the financial statements were fairly presented. It was not an absolute. The responsibility for the financial statements were that of Metro's management. Several of items that the auditors were required by their professional standards to point out to Metro as it related to the financial statements were, first, the management must decide how to account for certain things under generally accepted accounting principles and the significant accounting policies that Metro follows were outlined in footnote 2 on page 17. There were no significant changes from the past year, as Mr. Cox previously pointed out. One wanted consistent application of accounting principles from year to year. He said accounting was not an exact science and there were certain areas where Metro's management must apply judgment in determining how to account for certain things. Several items that were particularly significant at Metro were in the areas of the landfill post closure liabilities and second was in the area of self insurance liabilities. In both of those situations, Metro management used engineering expertise in the cases of post closure land fill liabilities or actuarial expertise in the case of the self insurance liabilities. The auditors reviewed the work that was done and form their own conclusion as to where those liabilities are reasonable. The auditors believed that they were reasonable, but there was a significant amount of judgment in coming up with those numbers. There was a smooth audit this year with no difficulties encountered, no significant audit adjustments that came out of the work, no disagreements with management and to the auditor's knowledge there were no consultation with Metro management with other auditors, which if there was would be something the auditors would report to the

Council. In addition, the auditors were not aware of any issues that would prevent them from being reappointed to do the work again in the future.

Mr. Hoffman then focused on the single audit. The purpose of the single audit was to look at Metro's compliance with federal grants in accordance to the Single Audit Act of 1984. The output of the work in the area of the single audit was six reports, one was a report on the schedule of Federal financial assistance and their opinion on that report stated that they believed that schedule was accurate. Then five other reports were issued, one on compliance with requirements applicable to the major federal financial assistance programs, one on the internal control structure, one on the internal control structure as it related to administering federal financial programs and then one on compliance of general requirements relative the administration of federal financial assistance programs. In each case, those reports were clean opinions, they had no findings reported. They found things to be in good shape.

Presiding Officer Kvistad said last year there were some questions about the federal contracts. He asked if the auditors found in this audit those concerns addressed?

Mr. Hoffman responded, yes, the auditors always followed up on findings they had seen in the past. If they had been cleared up, there was no need to repeat them. The third area was compliance with Oregon minimum standards. The auditors issued two reports which were found in the back of the CAFR. There were several minor findings, one dealt with over expenditures, those over expenditures were set forth in footnote 4 to the financial statements. The second finding dealt with compliance with legal requirements pertain to soliciting competitive bids. The auditors chose to put that particular issue into a management letter. Those two findings were considered relatively minor findings. These were reported. The auditors had a professional requirement to report anything that was a material weakness in internal controls. They found none of these items and their letter stated that fact. They found some observations about things which could be improved and asked his associate to review those.

Mr. Max Downing reviewed the first item presented in the management letter which related to the question about compliance with procurements procedures and Metro Code relating to the solicitation of competitive quotes. Metro, during 1996, conducted an internal investigation and found it difficult to obtain the supporting documentation which would support that the Purchasing Department did perform the procedures required by Metro Code when soliciting competitive quotes under a certain dollar threshold. The management letter comment focused on the fact that that documentation was not available and simply offered suggestion as to going forward, how that documentation should be made available each time. The second comment that the auditors had related to a transaction initiated and performed by MERC. There were some communication issues between Metro and MERC and because of the relationship between these two entities, the financial information was required to be reported into Metro's CAFR. Due to a number of things including some communication issues, there was a budget over expenditure in MERC's budget that was reported in Metro's CAFR. The auditor's comment focused on how to alleviate that type of problem going forward. The third comment related to the federal financial assistance programs and to reiterate they did not find any instances of non-compliance when the federal program audit work was done. There could be some improvements in terms of making the subrecipient monitoring process more effective. What that process involved was when Metro passed money to sub-grantees to perform under the guidance of the federal grant received

by Metro, Metro was then required to monitor those sub-grantees to insure that they were performing certain procedures. The auditor's comment focused on improving that monitoring process.

Mr. Hoffman expressed his appreciation to Don Cox and Karla Lenox. Ms. Lenox did an excellent job of putting the CAFR together. To the extent that she did an outstanding job made the auditor's job easier.

Councilor Washington echoed Mr. Hoffman's commentary on Karla Lenox. He thanked her for a job well done and suggested keeping up the good work.

Presiding Officer Kvistad thanked the auditors and the staff for all of the hard work.

5. CONSENT AGENDA

5.1 Consideration of the Minutes for the December 12, 1996 Metro Council Meeting.

The minutes were delayed until the January 9, 1997 Council meeting for consideration.

6. ORDINANCES - FIRST READING

6.1 Ordinance No. 96-669; An Ordinance Amending the FY 1996-97 from the Planning Fund contingency to materials and services to provide a metro contribution to a regional car-sharing feasibility study; and Declaring an Emergency.

Ordinance No. 96-669 was assigned to the Transportation Committee.

6.2 Ordinance No. 96-671, For the Purpose of Amending the Metro Code to Provide Temporary Assistance for the Council; and Declaring an Emergency.

Ordinance No. 96-671 was assigned to Council.

6.3 Ordinance No. 96-672, For the Purpose of Amending the FY 1996-97 Budget and Appropriations Schedule in Various Funds to Enable the Office of General Counsel to Prepare Findings Needed for the Urban Reserve Selection Process, and Declaring an Emergency.

Ordinance No. 96-672 was assigned to Council.

Councilor Morissette asked if there was something going on in the press right now about what the Council had done with Urban Reserves. He asked if the Council was currently moving a head with all 18,000 acres and having the findings done on them. He asked, as the Executive Director had said, if some of them may not have findings?

Presiding Officer Kvistad responded that the Metro Council was the body responsible for policy development in this agency. The Council had directed the manager of this agency to do the work. The manager of the agency, based on a memo he had sent to him at the beginning of this week, had said he would be doing that work. The Council would be tracking that to make

sure that that work was done, he was responsible for doing it and that work would be done in a timely manner.

7. ORDINANCES - SECOND READING

7.1 Ordinance No. 96-666, For the Purpose of Granting a Yard Debris Processing Facility to License to Scotts Hyponex Corporation to operate a Yard Debris Composting Facility; and Declaring an Emergency.

Motion: Councilor McLain moved the adoption of Ordinance No. 96-666.

Seconded: Councilor Washington seconded the motion.

Discussion: Councilor McLain reviewed the ordinance which dealt with the yard debris composting facility that Metro would be licensing with this motion. Scotts Hyponex Corporation, located in Clackamas County, had met all of the responsible Code issues as far as this type of facility. There was a full discussion of this at the REM Committee. This motion authorized the Executive Officer to enter into the attached licensing agreement for the yard debris processing facility within 10 days of the ordinance. Second, an emergency was declared for the reasons stated in the ordinance packet.

Presiding Officer Kvistad opened a public hearing at 2:29 p.m.

No one came forward to speak.

Presiding Officer Kvistad closed the public hearing at 2:30 p.m.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7.2 Ordinance No. 96-668, An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule for the Purpose of Transferring \$39,100 from Contingency to Personal Services within the Zoo Capital Fund for Funding a Limited-Term Project Manager Position for the Zoo's Oregon Project; and Declaring an Emergency.

Motion: Councilor McFarland moved the adoption of Ordinance No. 96-668.

Seconded: Councilor Monroe seconded the motion.

Discussion: Councilor McFarland spoke to the ordinance. The region voted a \$30.5 project for the Zoo which was called the Zoo's Oregon Project. Mr. Butler came before the Regional Facilities Committee and requested that this position be created for the period time of when the Zoo project was in process of being built. The primary duties of this position would include the preparation and monitoring in the project's budget, schedule coordination and management of the wide variety of project tasks related to both designing and construction and acting as Metro representative and contract manager for the project's major contracts with the architect, the exhibit fabrication consultant and the CM/GC. This person would report to the Director of Administrative Services Department, Mr. Butler. Should this ordinance be approved,

the position would be filled in January 1997 and the salary and fringe benefits for this fiscal year would be \$39,100. The position was dedicated to the Oregon Project. Funding from this limited term position would come from the project's bond proceeds. The fiscal year 1996-97 Council included \$5 million in the contingency for the Oregon Project to cover costs related to start up. The recommendation of the Committee was that this ordinance pass.

Presiding Officer Kvistad called a public hearing at 2:34 p.m..

No one came forward to speak.

Presiding Officer Kvistad closed the public hearing at 2:35 p.m.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7.3 **Ordinance No. 96-663, Amending the FY 1996-97 Budget and Appropriations Schedule Transferring \$715,333 from the Contingency of various funds to the Personal Services of the Same Funds to Cover Labor Contracts and Changes in Pay Plans; and Declaring an Emergency.**

Motion: **Councilor Washington** moved the adoption of Ordinance No. 96-663.

Seconded: **Councilor Monroe** seconded the motion.

Discussion: **Councilor Washington** asked Ms. Jennifer Sims to come up and give a background on this ordinance.

Ms. Jennifer Sims indicated that this budget amendment implemented previously approved actions by the Council, negotiated labor contract with AFSCME Union and pay plan changes. This was drawing from contingencies within the various operating funds of the organization and transferring those to the personal services line stemmed to pay salaries and wages in accordance with those previous Council actions.

Presiding Officer Kvistad opened a public hearing at 2:37 p.m.

No one came forward to speak.

Presiding Officer Kvistad closed the public hearing at 2:38 p.m.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7.4 **Ordinance No. 96-662, An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule for the Purpose of Transferring \$20,000 from the Building Management Fund contingency to interfund transfers to provide sufficient funding for the Metro Regional Center Debt Service Payments for the FY 1996-97; and Declaring an Emergency.**

Motion: **Councilor McLain** moved the adoption of Ordinance No. 96-662.

Seconded: **Councilor Washington** seconded the motion.

Discussion: Councilor McLain addressed this ordinance which was to transfer \$20,000 from the Building Management Fund to interfund transfers for the purpose of providing funding for the Department Service Payment and the General Revenue Bond Fund. This money needed to be in the right fund to implement this transaction.

Presiding Officer Kvistad opened public hearing at 2:39 p.m.

No one came forward to speak.

Presiding Officer Kvistad closed the public hearing at 2:40 p.m.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7.5 **Ordinance No. 96-664**, Amending the FY 1996-97 Budget and Appropriations Schedule for the Purposes of Transferring \$38,905 in the Support Services Fund From Administrative Services Department Capital Outlay to Personal Services to Provide Staff Support for the InfoLink Project and Adding 0.6 FTE; and Declaring an Emergency.

Motion: Councilor McFarland moved the adoption of Ordinance No. 96-664.

Seconded: Councilor Monroe seconded the motion.

Discussion: Councilor McFarland asked Ms. Sims about the change in the ordinance related to the recommended change from 0.6 to 0.5 FTE.

Presiding Officer Kvistad indicated he had a proposed substitution.

Councilor McFarland said we needed to transfer some funds for expenditure for updating the computer system. It was found that some of the parts of this project could be done at less expense therefore there were extra funds in that fund. There was a need for a part-time employee during a period time while this project was being put together. The original plan called for a 0.6 FTE with permanent status and benefits.

Motion to

Substitute: Councilor Monroe moved to substitute Ordinance No. 96-644A for No. 96-664.

Seconded: Councilor McFarland seconded the motion.

Discussion: Councilor McFarland said that this amendment moved the total transfer of funds from \$38,905 to \$26,653 because the new position would be hired as a temporary position therefore reducing the costs.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion to substitute Ordinance No. 96-664A passed unanimously.

Discussion: Councilor McFarland indicated that this money did not come out of contingency. It was a transfer within fund that the Council had already designated for this operation. They found that they needed more money one place and less money in another. The contingency fund for this operation remained intact.

Councilor Monroe indicated that the comfort level with the amended version was much higher in that it cut the cost of the position and made it clear that this was a temporary position and would not carry any permanent status or budgetary implications into the future.

Presiding Officer Kvistad said that at the last Finance Committee he was the person that spoke against creating a permanent position. He had spoken to Ms. Sims about the project in total about the fact that he was going to hold her accountable to deal with this project with the staff that currently existed. She had made a compelling case since that point. He had done independent fact finding on the position and found that this additional position would help the staff work better. The funds that were being used came from savings within the current existing program, this was not additional money that would be expended out of the general fund. He supported the temporary position.

Councilor Morissette questioned Ms. Sims about whether this was the same program that he did not support because of the cost per hour to bring the project up to speed and the administrative costs that were being paid to the consultant.

Ms. Sims responded that Councilor Morissette had a good memory, this was in fact that project.

Councilor Morissette asked if the costs were being lowered with this proposal even though he thought this project was too high initially.

Presiding Officer Kvistad responded by saying that what was being done was in implementing the proposal there was more work required of the staff to keep staff functioning at full efficiency as well as keeping staff on schedule making sure that everyone was trained to use the new system. This additional help was needed by the department in order to complete the project on time. They were using funds that have been saved from the work on the project to fund the temporary position rather than using additional moneys.

Councilor Morissette synopsized that he did not prevail on whether or not we should do this contract. Now that we had the project because it did prevail, we were in a situation where the project could be more efficiently done or was this just a more complicated way of driving the cost up?

Ms. Sims responded that as she understood Councilor Morissette's question, he was asking if this position was in addition to the outside help that he felt was overpriced or if it was some how helping reduce the cost of that contract. Metro still had the outside contract for the same dollar amount that was proposed and won the contract for. This position would alleviate the workload of staff who were working with that consultant and in directly it did save dollars with the consultant because the staff would be more effective in working with the consultant. It did not relieve the cost of that consultant in terms of the hourly rate that Metro was paying.

Councilor Morissette said, so in essence, even though he believed that Metro was paying a lot for this consultant, Metro now had to add some staff to make it through the process.

Ms. Sims said that their research on how to do this project effectively after having worked with the consultant, the software company and the other organizations who are buying this software was that the most effective use of the resources that had already been allocated to the project would be to backfill existing staff so that they could work on this project. spend more time on this project. But as other Councilors had already spoken to, they were redirecting resources. within the project, they were not adding anything, they were still on time and still on budget.

Presiding Officer Kvistad opened a public hearing at 2:48 p.m.

No one came forward.

Presiding Officer Kvistad closed the public hearing at 2:49 p.m.

**Vote on the
Amended**

Motion: The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilors McFarland, McLain, Washington, Monroe, McCaig and Presiding Officer Kvistad voted aye, Councilor Morissette voted nay.

8. RESOLUTIONS

8.1 Resolution No. 96-2429, For the Purpose of Appointing New Members for Vacancies on the Regional Transportation Plan Citizens Advisory Committee.

Motion: Councilor Morissette moved the adoption of Resolution No. 96-2429.

Seconded: Councilor Monroe seconded the motion.

Discussion: Councilor Morissette believed that the new members were a great group of people and encouraged the Council to support their appointment.

Presiding Officer Kvistad asked if Councilor Morissette would like to review what these people would be doing.

Councilor Morissette said that there were vacancies which needed to be filled on this committee, there were individuals who had applied, there was a meeting to review the applicants. The committee went through the process of picking a good distribution from each of the communities.

Councilor Monroe added that this agency functioned as successfully as it does because of the many citizen's advisory committees that Metro had and because of the many very qualified citizens that agreed to serve gratis on these various committees. In transportation decision making, it was particularly important to have knowledgeable citizens to give input and advise. This was such a committee. He urged the Council's support.

Councilor Washington asked Councilor Morissette to review the recommended qualifications of the appointments.

Councilor Morissette said that there had been one volunteer from the Vancouver area, two individuals from Washington County, one of them a former Councilor, Mr. Ed Gronke.

Councilor McFarland noted that Councilor Morissette was listed as one of the people that the advisory committee had put on the committee. She questioned this, she believed that this was the Council's prerogative as to who was put on that committee. It was not that the Council would not put Councilor Morissette on the committee, she believed that the Council should choose who came from the Council to sit on the committee. She said that unless the name of the Council representative was removed from the list, she planned to vote against the resolution.

Presiding Officer Kvistad reviewed what Councilor McFarland had said, as he understood it, Councilor McFarland was going to vote against the nominating committee who did the work to nominate these individuals.

Councilor McFarland said that she was because they could not nominate who came from this Council.

Councilor Morissette said he volunteered to serve on that committee.

Councilor McLain said that she understood that that committee was the committee that sent forward the selection and that Councilor Morissette would not be serving on the TPACT group but only helped the committee choose the representation that was brought forward. He was just on the nominating committee.

Presiding Officer Kvistad concluded that he believed that Councilor McFarland knew this and was just jesting with Councilor Morissette.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

8.2 Resolution No. 96-2434, For the Purpose of Approving Change Order No. 7 to the Waste Disposal Services Contract.

Motion: Councilor McFarland moved the adoption of Resolution No. 96-2434.

Seconded: Councilor Monroe seconded the motion.

Discussion: Councilor McFarland said that they had had their negotiating teams working on this for a long time and they had come before the Committee. She said that it would save Metro if this change order was enacted around \$85,000 a month even to start and some \$37 million for the rest of the life of the contract that Metro had with their partners. She continued that she believed Councilor McLain would be coming forward with amendments that she had that changed the language so that she could be totally in favor of this resolution. The implication that was in an ad in the newspaper that it had not come before any of the Council Committees

was incorrect, it had come before both REM and Finance as well as being aired with public hearings. She urged the Council not to delay and that the Resolution be moved forward and adopted.

Presiding Officer Kvistad asked Councilor McFarland if she would recommend that the Council move forward with the McLain amendments before moving into a general discussion?

Councilor McFarland said she was willing to do that.

Councilor McLain reviewed that there were three items before the Council that were titled Resolution No. 96-2434A including an exhibit A.

Motion to

Amend: **Councilor McLain** moved an amendment to Resolution No. 96-2434 making it an A version.

Seconded: **Councilor McFarland** seconded the resolution as amended.

Discussion: **Councilor McLain** said that there were several issues that were of concern to her that were addressed in these amendments. The first issue dealt with recycling. Anytime Metro tied a tonnage price or rate to a specific tonnage, there was a tendency not to do as good a job as we wanted to on recycling or diversion of waste including such items as dry waste of which there is a pilot project at this time. She requested that the legal staff and the negotiating team go back and look at this and talk to Waste Management about these issues. They found some agreement on some language. In the resolution it was add, "whereas Metro will continue to make every effort to maximize the diversion of waste from landfills consistent with the adopted Metro Regional Solid Waste Management Plan." It repeated that in the be it resolved clauses and said, "that Metro shall continue to maximize diversion of waste from landfills consistent with the adoption of the Metro Solid Waste Plan." The amendment verified that this agency and staff would make every effort possible to divert any type of waste that Metro could and also that Metro would be working with their transfer stations to make sure they were diverting as much waste as possible to continue on with Metro's recycling goals. The second issue was Exhibit A, which was a package of housekeeping amendments that came from legal staff. These were legal wording that must be in the resolution. The third package, Exhibit A, items 8 and 9, dealt with the reference to an amendment which she never ratified and never would. Reviewing 8 and 9, they came up with language that both Waste Management and the legal staff could agree with, that was, that the provision contained in the attached schedule A, that indicated anything that came out of Amendment Four, which was not ratified, was retyped and was part of Change Order No. 7, not of a non-ratified Amendment 4. No. 9, the Contract Amendment No. 4, superseded by the provisions of this Change Order No. 7 and Contract Amendment No. 4 was null and void. Her concern was that it could be null and void and never have been ratified.

Mr. Dan Cooper responded that that was correct.

Presiding Officer Kvistad asked about the two Exhibit A's on this amendment that were attachments.

Mr. Cooper responded that the second Exhibit A which Councilor McLain referred to which had the new language underlined in 8 and 9 actually already incorporated the changes that were underlined in the first Exhibit A. The only purpose for giving two Exhibit As was so that these two issues were separately identified. The first version handed out was unnecessary and superfluous.

Presiding Officer Kvistad said that they would set aside the Exhibit A version that came out first and deal only with Exhibit A that was just explained by Councilor McLain.

Mr. Cooper said, that was correct, the Exhibit A that had no underlining on the first page and had the underlining a strike outs in section 8 and 9 on the second page contained all of the details.

Presiding Officer Kvistad reviewed that they had the amendment that was before the Council and an Exhibit A as amended incorporating all of the discussion which had happened.

Councilor McLain said that these two amendment took away two thirds of all of the issues and concerns that she had and she would speak to the main motion when the Council was ready to do this.

**Vote to Amend
to Main Motion:**

The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously, Resolution No. 96-2434 became Resolution No. 96-2434 as amended.

Councilor Monroe said one of his most serious concerns about amendment 7 was what impact it would have on recycling. Most of his other concerns had been taken care of. He had done quite a bit of investigating in terms of the numbers that Council was given, in terms of the savings and comparability with Seattle. He liked the new language added by Councilor McLain to try to continue to divert as much as possible but he also was looking at the rate structure and understanding the concerns from the City of Portland and others that that rate structure in itself may make it less economic to do additional recycling. He asked to hear from Mr. Warner or Mr. Cooper to speak to that concern. He believed that it was a real concern and one of the mandates that Metro had was a mandate to do as much recycling as possible and he wanted to make sure that when this amendment 7 was voted it that it did not detract from that effort.

Bruce Warner, Director of REM, noted a December 17, 1996 memo, which attempted to outline or answer various questions raised at the previous meeting on this matter. There was a memo included in that packet which attempted to answer the Council's concerns on that particular issue. The memo was from Doug Anderson, Acting Waste Reduction Planning Service Manager and himself, titled Impact of Change Order No. 7 on Waste Reduction. This memo indicated that very clearly this change order did not require any changes in state mandates or law or Metro's Regional Solid Waste Management Plan (RSWAMP) or any of the goals or objectives that were outlined in that particular plan. The change order itself did not contradict any state or regional goals or mandates. Change Order No. 7 did not alter the position of his staff and department relative to implementing waste reduction programs or meeting the RSWAMP and statewide goals and objectives. More importantly, the discussion that the Council would have regarding

disposal rates, the tipping fees, was probably the major policy area where the Council would have some impact about what was the cost to dispose of materials through Metro's transfer stations. In other words, as a result of this, he assumed that Council would want to have a discussion about Metro's tipping rates and did we want to lower those tipping rates? REM had done some work with the industry and knew that that was the most sensitive thing in terms of an impact on recycling. So by a subsequent action by the Council in terms of adjusting the rates, they would have to grapple with that. REM's analysis and input with the industry had shown that if one went from a current \$75.00 level down to even \$70.00, there was minimal impacts on the recycling rate but if one went below that it was much greater. He believed there would be a debate again about what that rate should be. It was his department's intent to look at the total average cost of disposing of waste rather than look at the marginal cost when one hit that threshold outlined in the rate schedule. He believed that this change order itself did not impact the recycling programs but obviously anything one started talking about lowering the cost of the disposal materials one would have impacts on recycling. The Council's ability to impact that would be through the rates, which he assumed the Council would be talking about through the budget process early in 1997.

Councilor Monroe concluded that it was the total impact on reduced cost that might in fact drive a lower tipping fee, lower than the current \$75.00, rather than the disparate rate structure where one had a relatively high disposal rates for the first 550,000 tons and a very low disposal rate for additional tons that would have potential impact on recycling. The terms he had heard were that that convoluted rate structure in itself might have an impact on recycling rates. He asked Mr. Warner to speak to that issue.

Mr. Warner reiterated, the rates themselves would impact the recycling, however, if the rates were adjusted so that again they went down when you hit a certain threshold that would have an impact. But what he suggested to the Council was that they would want to look at the average costs over a year for budgetary purposes and for setting rates. If the rates were kept at an average rate across the year, the impact would be minimized. He said that he suspected that there would be a push to reduce the rates as a result of this action from Change Order 7 if it would be endorsed.

Councilor McLain indicated she had received a number of phone calls and the only one that had a question that she had not heard before was something she had previously spoken of but wanted to make sure she understood. She asked Mr. Warner if on the \$1.24 per ton DEQ fee, Metro was picking up all of it now, where only part of it was picked up before by Metro, what was the difference between that amount pre-Change Order 7 and if the Change Order was to be accepted.

Mr. Warner responded that he would get those figures for Councilor McLain before the end of the meeting.

Presiding Officer Kvistad said he had discussed a 30 day delay in the consideration of adoption of this item based on several different factors. He noted a letter from the City of Portland's City Council requesting such as delay so that this item could be reviewed. His concerns on this had been long standing. This discussion had been on going since the initial signing of Contract Amendment No. 4 over 2 and a half years ago. The Council received the information on the discussion and on this agreement before the Financial Committee only yesterday. At that time

the Council had opportunity to look it over and it was moved forward to Council for discussion. He did not believe he had the information available on this item to be comfortable with moving forward this item at this time. He was not saying he would not support this item. He believed there was some very good things that were accomplished in the negotiation. He also believed that if indeed a delay was granted so that he could be comfortable by seeing the bids from Thurston County that would come out on about January 10, 1997, which separated out the bid between transportation and disposal, if those number came down in the ball park of what Metro had been offered in this contract, then he would also support this item. There were several items that were of deep concern to the Presiding Officer. First, by going forward with Change Order No. 7, what the Council was doing was giving up permanently the most favored rate clause in that there was still an on going law suit and contract dispute. The second part was that Metro would have to, in dropping the law suit, according to the information presented, defend both Waste Management and themselves from any further legal action having to do with that most favored rate clause and the contract that Metro had with them pre-Contract Amendment No. 4. This item had taken 2 and a half years of review and concerns and yet the Council only had six working days in order to review this and move forward with a multi-million dollar contract. He felt that this was not enough time for the Council to adequately address these items. With the City unanimously requesting a delay from the Council, also with the fact that this item had not been before the Rate Review Committee or the Solid Waste Advisory Committee, he believed those things could be accomplished within the next 30 days. Both Committees would have the opportunity to review this item and come back to Council. The numbers from Thurston County would also be in place which would allow the Council to make sure that the numbers they had received were the numbers that would be in place and were comparable to the numbers that Metro was given for the Seattle contract. He thought it was a valuable and important delay for the Council. He, beyond anyone, wanted to get this item moving and dealt with, he also wanted to move forward with having and getting the savings for the people of this region. However, a six day review period and the lack of reasons for dealing with this on such a quick turn around concerned him greatly.

Motion to Delay: Presiding Officer Kvistad moved to delay a decision on Resolution No. 2434A until the Council meeting directly following the release of the bid to Thurston County (anticipated for January 10, 1997).

Seconded: Councilor McLain seconded the motion.

Discussion: Councilor McLain indicated that the Thurston County numbers could be as late as January 24, 1997.

Councilor Washington said that if Thurston County was late in their bid, how would the Council deal with that? Did the Council delay 60 days?

Presiding Officer Kvistad reiterated that his motion was that it would go on the Council agenda directly following the release of the numbers as an action item.

Councilor Washington said that the Presiding Officer had no control over Thurston County but could someone at least address the issue, was there a guarantee that the Thurston County information would be available by January 24, 1997 or was this just an assumption?

Mr. Warner said the latest information was that Seattle had extended the deadline of the receipt of proposals to January 24, 1997. He would assume that shortly thereafter there would be information available to the Council.

Councilor Washington asked Mr. Warner to take his best shot at when the information from Thurston County would be available, the Council meeting after January 24th would be in February, thus pushing this decision beyond 30 days.

Presiding Officer Kvistad said that at worst case it might be 45 days.

Mr. Warner said they could possibly have the data for information on proposal by January 24, 1997. He would also assume that the Council would like staff to do some sort of an analysis comparing that data against the information in Change Order No. 7. That could take a few days. He suspected that there would need to be a delay of a week or two to allow staff to put together a staff report and information so that the Council could see it and the REM staff could answer questions about the differences. He would recommend that the Council look toward the second or third meeting in February to revisit this item.

Councilor Washington asked what the calendar day was for the third week in February.

Mr. Jeff Stone, Assistant to the Presiding Officer, said that the first meeting in February would be February 6, 1997 and the second meeting was February 13, 1997.

Councilor Washington said that if the Council was looking at any delays, that they needed to be specific in terms of the dates. He understood the importance of this item but if there was a delay, the Council owed it to everyone involved to be specific about the dates and not have the potential for confusion on the dates.

Presiding Officer Kvistad indicated that at the very latest the decision would be made on February 13, 1997, if it could be handled before, should the number come in prior to that, it would go on the very first possible Council agenda.

Councilor McFarland reminded the Council that this was a contract between Metro and Oregon Waste Systems. She had a lengthy discussion with the legal Counsel about what would be appropriate and what would be inappropriate. It was totally appropriate that this came before the committees of this Council. It was not appropriate that this come before advisory groups from out in the industry to pass muster on a contract between Metro and one of the principles. If both parties wished to do this, then, it might be possible, however, she did not believe that Waste Management Systems wanted the piece of this contract discussed out in the real world. She was unhappy with those individuals who kept requesting delays, she suspected that this wouldn't be done until next July if the Council didn't act upon it now. She reiterated that this was a contract for the Council to talk about and the people that Metro had the contract with, it was not other people. She didn't remember the City of Portland checking with Metro about their contracts. She suggested that Metro could handle their own contracts. She strongly opposed a delay in this decision, she believed it was a mistake, a continuing mistake.

Councilor Monroe said that he assumed there were individuals at this meeting who came to testify. It was his hope that they would have that opportunity before a vote was taken on a potential delay. He asked Mr. Warner about the delay particularly to receive information on Thurston County who would be breaking down the transportation and disposal costs. He asked how comparable was Thurston County to Metro and would that information be helpful or we would be comparing unlike situations?

Mr. Warner believed that there may be some additional information that may be helpful. There were, however, true difference between Metro's situation and the contract the Thurston County was looking at. Thurston County was requesting costs on siting, constructing and operating a transfer station. They were also interested in transporting and disposing of 125,000 tons of waste per year. Further, the contract terms would be seven years and would begin in the year 2000 with a potential 7 year extension. In terms of the data he could not answer if we would be able to compare 'apples to apples' other than to say there were some clear differences in the tonnage, the size of the contract, the length of the contract and a question about whether Waste Management, if they chose to participate in this proposal, would go to a different landfill. There was another facility in Washington so there may be a lack of comparison there. Thurston County would be making their decision based on a combined cost of transport and disposal. Even though the costs could be broken down, the question was, how they had loaded things up would be up for debate. There may be difficulties comparing Metros' contract and rates with what we would see in Thurston County. Any additional information gave further opportunities to view things in a different way. He suspected it would bring up many more questions about the analysis.

Councilor Monroe verified what Mr. Warner said, even though Thurston County would be bidding with a breakdown between transportation and disposal they might choose to make their profit more heavily on one side of that ledger and take a loss on the other side.

Mr. Warner responded that he did not know how the bidders would be preparing their proposals in Thurston County or how they would be submitting data for transportation versus disposal. This was the exact debate that the Council was getting into with the current Change Order No. 7, what was in transportation and what was in disposal. He would submit to the Council that if Thurston County would be looking at a total price package combining the two that would be the determining factor on who won in their particular proposal. Metro would still not know the underlying assumptions in all of those breakdowns of individuals costs for transportation or for disposal. It was clearly up for questions but he would not want to intimate that some of the firms would do unbalancing of their bids, however, he had seen this in road construction contracts a number of times.

Councilor Morissette said he didn't get the Thurston County connection. Metro had negotiated with a vendor to try and lower the rates for the regional rate payers. He did understand where the Presiding Officer was coming from, however, he thought that Metro had lost Contract Amendment 4 prior to him being on this Council with action that the previous Council took. He realized that that was an ongoing debate and he would rather not second guess what a judge would do. He understood that this was being challenged but it was his opinion that Metro did not have Contract Amendment No. 4 and he believed that the Executive Officer had gone out and negotiated in good faith to put something together. He suggested that it was difficult for him to analyze the situation where 'if they get a better deal, I want a better deal too'. As Metro went

through this process, it would be more how we were handling our negotiations as to whether or not this was a good deal for Metro not whether or not Thurston County got a better deal down the road potentially causing Metro to want to get a better deal. He would opt for the \$85,000 per month savings. He has had enough time to look at this and to decide that this seemed like a pretty good deal from a group who did not have to negotiate anything with Metro.

Councilor Monroe requested a public hearing prior to the vote on the delay.

Presiding Officer Kvistad opened a public hearing at 3:30 p.m. on the vote delay was well as the resolution itself.

Scott Bradley, Manager of Landfill Operations for USA Waste Services Inc., supported a delay to have a further review. He was a competitor of Waste Management Services and a contract amendment like this bothered him to some degree. He believed the questions had been asked although he did not know if the answers were there nor if this was as good a deal as Seattle's. He suggested that everyone needed to have a look and see if it was truly a good deal. He would support that the delay be enacted and recommended that someone in a financial capacity independent of all entities review this, have access to all of this information and present whether this was a fair deal or not. Councilor Morissette had brought up a good point by saying why would a vendor be here with this if they did not have to be here. Mr. Bradley responded that they didn't have to be here, they were here because they knew that Amendment Four would most likely be overturned and they would be back to the original contract which contained the most favored rate clause which would be substantially more savings than \$37 million over the life of the contract. That was why they were here.

Councilor McCaig asked Mr. Bradley if his company participated in the advertisement in the Oregonian this morning?

Mr. Bradley responded that his company had participated in the ad.

Councilor McCaig said that this resolution was before the Solid Waste and Finance Committees on Wednesday, December 4, 1996. She had questions about how quickly the resolution was put on and understood that Mr. Bradley's company wanted an opportunity to lobby people. She asked Mr. Bradley if he had contacted her in the last two week. She was actually one of the Councilors who had moved for a delay.

Mr. Bradley indicated he had not contacted her and was unsure if anyone from his firm had done so.

Councilor McCaig said that the answer was 'no', no one had contacted her. She was curious as to what benefit he saw for asking for the delay or the Thurston numbers. What was the benefit of the delay.

Mr. Bradley said if the delay was going to consist of the current vendor coming back to staff and convincing staff that these numbers were correct noting the true disposal costs for both Seattle and Portland then there would be no purpose in a delay. However, it was Mr. Bradley's hope, if their was any benefit, that that purpose would be an independent review of these figures.

He believed that there had been enough questions asked and enough information brought forward at those two meetings to the effect that maybe the number out there reported by the vendor as to the disposal cost that they gave Seattle would not be it. He believed that earlier this year, the Council had heard from their own auditor, when asked the question about the true break out costs for Seattle, that there was not enough information. She could not ascertain that information from the staff.

Councilor McCaig synopsisized that it would be possible then that the Council could find another date that would be acceptable independent of the other numbers that might be helpful in arriving at a conclusion.

Mr. Bradley said he believed so.

Councilor McCaig said, for the record, she was offended by the company's advertisement.

Councilor McFarland said that normally all input was welcomed from people who came from far and wide but she was offended by Mr. Bradley's implication that what Metro had been given were lies. She did not believe that Mr. Bradley had any proof that this was true. She requested the Mr. Bradley not imply this again.

Presiding Officer Kvistad closed the public hearing.

Councilor McCaig indicated that she intended to support the proposal. She believed that this resolution was a good deal but she continued to have a problem with the time of the process. She was not particularly interested in waiting until February 6 or 15. She did think that there was some benefit in responding to Metro's partners in all of this even though they may not be our technical partners. This resolution had been before Council for about 10 days, not a very long period of time. She did intend to support the proposal to postpone action on the resolution for a short time and then saw the ad in the Oregonian this morning which implied all sorts of things about the job Metro was doing. She was uncertain as to what information would be received within the period of time she would ask to delay, which was three weeks. The City of Portland made no indication that they were interested in the Thurston numbers. She asked Council if there was support for not delaying it until February 6, 1997 but delaying until the middle of January to give those individuals who wished to have one more opportunity to give input to the Council the opportunity to do this or was it necessary to wait for Councilor Kvistad's information request before acting upon the resolution. She believed waiting until February 6 or 15 was too long.

Presiding Officer Kvistad said that it had been his understanding that the information from Thurston County would be available on January 10, 1997. It was only in the last hour that he found it was later in the month. His concern was the he wanted independent verification of numbers based on what was given to someone else because Metro was giving away the most favored rate clause by stepping back from the legal action. He wished to be comfortable with that, he was trying to deal with this in good faith. His intention was not the delay, it was so he was comfortable by having the numbers. He understood where Councilor McCaig was coming from. If she would like his motion to not include a time certain and should the Council at some point earlier than that be comfortable, he would be willing to bring it up for a review mid-

January on the Council agenda. The only reason the February dates came up was due to Mr. Warner and some other information that he received directly prior to this Council meeting.

Councilor McCaig addressed Mr. Cooper, Councilor McFarland and Presiding Officer Kvistad and asked if it were possible to go ahead and vote on the contract at this Council meeting and to postpone the enactment date until after the Thurston County numbers came in where it would then take a motion of the Council to bring it back to the table.

Dan Cooper said that he understood the question that was being asked was that, if the resolution could have a delayed effective date that would in effect be an action by the Council that on or after February 1, 1997, the Executive Officer would be authorized to enter into and execute Change Order No. 7 and then the Council would leave itself time, by a subsequent resolution, repeal the authorizing resolution before it went into effect? He believed that the Council could do that but it would be an extraordinary procedure for the Council to follow.

Councilor McCaig said she felt that this was not an extraordinary case.

Councilor McLain said that she did get an answer back on the DEQ fees. If Change Order No. 7 would be passed it would be about \$.15 a ton or about \$100,000 a year that Metro would be picking up. Secondly, the reason she seconded the Presiding Officer's delay request was because the City of Portland, the Tri-County Council and at least four industry members or representative had all sent information indicating that they wanted an opportunity to review the resolution. She personally believed that this was a public contract. It was public dollars, public money and this public contract was something that Metro had in the public eye through public requests for information. That information was not a private document in a sense that Metro was a public agency dealing with a private vendor. She believed that the delay was not to see the Thurston numbers or in re-analysis as to whether Metro got as good of a deal as Seattle but basically because of public understanding or lack of understanding and also requests by an industry and partners who were in part of the system. They were the ones that franchised the haulers, that had the rates for the cans, that had to use our disposal facilities and deal with the tipping fee. They were very much involved in this process and in this solid waste system that Metro was responsible for handling. She was not that inflexible that she would take that short time to review information that there were a lot of others who were wanting some confidence that this was a good public contract from our agency. She did not see that it would hurt Metro to make sure that they understand why Metro felt it was an appropriate action. She also wanted to make it known to the public that she felt personally comfortable with the language that was in the resolution, with the changes in the amendments that were passed today. She felt that the staff had been very conservative in the amount of tonnage that would actually go to Arlington so she believed that Metro would reach a Seattle rate sooner than given to Council by staff. But there was one issue that was out there and would remain to be out there whether she voted yes or no. The rate structure for this Change Order No. 7 was still tied to 500,000 tons in other words a larger amount tons going to a single facility to get the rate, only getting the additional better rate compared to Seattle's if Metro sent more tons. It was not a flat rate, it was a sliding scale issue. She believed that Metro would always make and it would always mean that some of the savings had been left on the table. She thought that it was very important to recognize what the Council was doing, whether the Council thought it was a good deal, whether the Council believed that the \$37 million that was offered by the Change Order No. 7 was enough of a good deal to make it

now and hope for more later. She would continue to asked for a short delay and agreed with Councilors McCaig and McFarland that those Thurston numbers, what was known of that deal and what was known of the Seattle rates, the additional information that would be received from the Thurston number could be guessed on now. As far as making sure that the Council and the public was comfortable with this, she did not see why it would be voted on after 10 days. She reminded the Council that they took 8 months on Amendment Four.

Amendment

to the Motion: Councilor McLain moved that the Council would vote on this resolution on Thursday, the third week in January, 1997.

Discussion: Councilor McLain indicated that this delay allowed an opportunity to be convincing to the public and Metro's partners that this was indeed a reasonable request and a reasonable change order.

Presiding Officer Kvistad asked Councilor McCaig if Councilor McLain's recommendation was an accepted date if he were to change his motion? He asked Mr. Stone what specific date that was.

Jeff Stone responded that it was January 16, 1997.

Councilor McCaig said that date would be acceptable if it were a guarantee that the vote would occur on that date.

Motion to

Amend: Presiding Officer Kvistad accepted a friendly amendment to amend his motion to vote on Change Order No. 7 on January 16, 1997.

Seconded: Councilor McLain accepted the friendly amendment.

Councilor McFarland asked Mr. Cooper about item No. 1, paragraph 2, 'as a part of the negotiated settlement for eliminating the lump sum payment of \$1,802,950 per year, Metro agreed to a one time lump sum payment of \$1,250,400 to be paid on January 10, 1997 or the effective date of this amendment which ever came later. Even with the lump sum payment in FY 1996-97 Metro still saved an additional \$1.1 million compared to Amendment 4.' Would this delay effect that payment or would there be another year's payment due before Council would put this into play.

Dan Cooper responded that the Change Order as negotiated did not require that it be effective before January 10, 1997. It specifically contemplated that it could go into effect afterwards. Metro was paying currently a monthly lump sum of approximately \$150,000 per month. Every time Metro delayed, they kept paying under the old version. It would be a question of economics not of changing the words of the agreement as negotiated if there was a delay.

Councilor McFarland asked Mr. Cooper if the Council delayed consideration of this resolution for another month, then, that \$150,000 per month would be in addition to the \$85,000 that Metro loses in difference in tipping fees, would it not?

Dan Cooper suggested that that question be directed to Mr. Warner.

Councilor McFarland asked Mr. Warner to respond to her question.

Mr. Warner said that this would not be above the savings that Metro would have normally. In other words, the \$85,000 was factored over a year's worth of savings over the life of the contract. It actually changed every month dependent upon where the rates were. That would not be in addition to that \$85,000.

Councilor McFarland asked for clarification. If Metro found themselves paying an additional \$150,000 how could that not be in addition to it?

Mr. Warner said that they were eliminating a lump sum payment, that equivalent annual payment that they would have to pay, if you equated that out over twelve months, that would be so much savings. In addition to that you had savings equating to the decrease in the rate for tonnage. All of these combined equated to about one million dollars for the first year. This was the remainder of this particular year. He indicated that the \$150,000 was the correct number for this next month's payment.

Councilor McFarland said that the \$150,000 was the correct number for next month's payment and by the Council enacting the Change Order No. 7 now, Metro would eliminate that for the future, but until the change order would be enacted, Metro would be paying that fee every month plus what ever other more costly expenses that Metro was paying for the disposal of putrescible waste.

Mr. Warner said that Councilor McFarland's assessment was correct.

Councilor McFarland reviewed that it would be more than \$150,000 but Mr. Warner was not prepared to say how much more it would be.

Presiding Officer Kvistad responded that what Mr. Warner was saying was that it was possible but that he did not have any of those numbers.

Councilor McFarland said that she believed it was probable.

Councilor Washington asked if this resolution was delayed until January 16, 1997, he would assume that this would be the last delay.

Presiding Officer Kvistad responded that he would not be bringing anything further than his amendment which was on the floor at the time.

Councilor Washington said he was addressing the entire Council.

Presiding Officer Kvistad said that Council would cast a vote on that date if his amendment passed.

Councilor Washington said that there always seemed to be something that came up on this particular item. He suggested that there was about 28 days left to get it nailed down. He asked Council to verify that he was correct.

Presiding Officer Kvistad reiterated that Councilor Washington was correct, this would be the only time that additional input could be given, on January 16, 1997 a vote would be cast.

Councilor McLain said she believed that if Councilor Washington voted for this motion that a date was included as January 16, 1997.

Councilor Washington confirmed that that date was the end of the line, no further consideration would occur?

Presiding Officer Kvistad said that he would also guarantee his lack on lobbying on anything further on this item.

Councilor Morissette said he was unsure what 25 days would do, assuming that lobbying was important. On its surface, with some assumptions, he believed that Metro had lost Contract Amendment No. 4. Without that though, with the process of a contract with someone for 13 years, this resolution looked like a pretty good deal. In the process of evaluating a deal, he did not have to keep going over and over it again so he would not lobby anyone on how they should vote, however, this resolution made sense to him and more information wouldn't make a whole lot of difference to his position. Ultimately, as the Council went through this process, they needed to get to decisions. He had enough information and was comfortable enough with the information he had to make a decision. He respected what other local jurisdictions and others may have in looking at this resolution but as the Council went through this for Metro, he believed that Metro's staff had negotiated a great deal. He was unsure that the people that Metro negotiated with had to do that. He suggested to the Council that if they felt that they needed more time to make a decision that they should vote for a delay, however, he had enough information now to vote on the resolution.

Councilor McCaig responded that Councilor McLain's point was well taken. She did not believe that she needed more information but her partners in this and her district included the City of Portland. She believed that if the City came to the Council unanimously and asked for a delay that out of courtesy and respect to them, she was willing to give them a two week delay after Christmas. Out of respect for the process, she believed it was not going to cost very much in terms of the actual contract. Again, she moved this resolution out of both committees, it would take something extraordinary to move her away for it.

Councilor Monroe spoke to the timing because the Council had heard from a number of people that believed that this resolution was fast tracked or that the process was being short cut. He and Councilor McFarland were very much aware of the negotiations that were going on and were in an auxiliary way involved in those negotiations, letting the negotiator know what Council's position was and what might and might not be acceptable to the Council. Negotiations could not be an open book, it was not appropriate for everyone to know what was happening in detail, but all of the Council knew that negotiations were going on and that Councilor McFarland as Chair of Solid Waste and he as the Chair of Finance were a bit more involved than the rest of Council.

He and Councilor McFarland learned this information approximately 3 weeks prior, they discussed how this information could best be presented to the Council in a way that would allow the maximum public input and yet would be timely in that the sooner that something like this was accomplished, the sooner there would be savings. They did not want to come under the pressure of it being said that they were trying to fast track or railroad this resolution. The decision was made to fast track it to committee more than two weeks ago. It was heard two weeks prior in both the Finance and Solid Waste Committees. The reason for this was so that there would be a 15 day window for public input, for lobbying, for every one to have their say, for press inquiries and for Councilors to feel comfortable. He had a lot of questions. He asked some of those questions at those committee hearings and had since received some information answering most of his questions. He believed the process had been a proper process. This did not speak for a delay one way or the other but it had not been a process to shut anyone out or to prevent anyone from having appropriate input. He had a personal interest in that this was his last Council meeting. The Council in January would be a different Council. He reiterated that there had been 15 days for additional information between when committees met and the Council meeting occurred. One of the Councilors had a chance to look at the books to determine if staff had made an accurate assessment of the breakdown in transportation and disposal costs in Seattle, concluded that the staff had made a very accurate determination. He indicated that he would not be supporting the amendment to delay the vote.

Presiding Officer Kvistad closed by saying that he understood the concern of Councilor Monroe, however, his personal view having looked at those numbers was that these numbers were ones that he could support and he wanted to be able to vote in favor of this resolution. He said that there were some specific issues on this that had not been addressed to his satisfaction. He had tried not to be specific, not to be inflammatory out of sensitivity to Metro's partners and people Metro had contracted with. He expressed deep reservations based on what happened preliminary with this contract and what happened to get Council to this point two and a half years ago. He thought having the opportunity to be allowed to have the extra few days to become comfortable so that he could vote in favor of the resolution. Without the information and without him being comfortable, he could not in good conscientious do that, because he was not comfortable with simple ascertains by certain bodies that certain numbers were correct. He would like the Thurston County number however he would accept not having them in hand and would study this to his best advantage over the next few days. He did make a commitment to the Council that should they vote in favor of a delay, he would lobby none of the Council to oppose the contract nor do nothing to get in the way of a process and a final vote on January 16, 1997. He had some deep reservations, he felt that a contract dealing with \$10 to \$50 million deserved some extra time for review.

Vote on the Amendment: The vote was 4 aye/ 3 nay/ 0 abstain. The motion passed to delay the main motion vote until January 16, 1997. Councilors McLain, Washington, McCaig, and Presiding Officer Kvistad voted yes, Councilors Morissette, McFarland and Monroe voted nay.

8.3 Resolution No. 96-2439, For the Purpose of Accepting the Boundary Commission Study and Seeking Implementation Legislation.

Motion: Councilor McCaig moved the adoption of Resolution No. 96-2439.

Seconded: Councilor Morissette seconded the motion.

Discussion: Councilor McCaig asked John Houser, Councilor Analyst, to review this resolution for Council.

Mr. Houser reviewed the resolution. The resolution had two basic purposes, one was to accept the report from the Government Affairs Committee as constituting the completed study of the Council with regard to the Boundary Commission that was required under a provision of Metro's 1992 Charter. The second element of the resolution dealt with the specific areas of recommendation that had been proposed in that report and asked that those be translated into implementing legislation that would come back for Council review prior to being adopted for introduction at the 1997 Legislative Assembly.

Councilor McLain thought that this was a well done report and appreciated the work the Councilor McCaig had put into this resolution. She had only one concern, she did not agree with the process described which was the difference between a hearings officer and the review by a three member citizen commission. It was her opinion from the subcommittee work at MPAC and from the three public hearings, that the information received was very compelling. The kinds of contested cases that were spoken of were very specific, very legalistic, very much making sure that Metro was following state law, regional law, 2040, RUGGOs, etc. She did not believe because of the few number of these cases that Metro would get, that they truly needed a three person commission. She thought that in this format, there was already places for public testimony, public input. As it would be done at the county levels, there would be a full blown public process that would be available to the citizens at that time. It was her belief that the three member citizen commission should be a hearings officer.

Motion to

Amend: Councilor McLain moved that the three member citizen commission should be changed to a hearings officer.

Presiding Officer Kvistad called for a second. There was no second the Councilor McLain's motion, so the motion failed for lack of a second.

Councilor McLain asked if this was the only opportunity as a Council that they would have an opportunity to formulate this for the legislature?

Dan Cooper responded no. They would be coming back with the formal legislative package which would be part of another resolution that Mr. Higby and he would be preparing to come before Council for setting the full goals. Then, as the legislative process goes forward, the Council was making a recommendation to the legislature, the legislature may or may not choose to act upon those recommendations, and the Council may or may not later change their position as a body in response to something that happens in Salem.

Councilor McLain asked to go on record saying that she would be actively working through those processes to change the three person commission to a hearings officer.

Presiding Officer Kvistad indicated that Council would be working on that package over the next couple of week so she would have another opportunity for discussion on that.

Councilor McCaig said that this was a project that was dropped in their lap. It was something that came from the Charter Commission, MPAC reviewed it, put a report together that was by their own accounts incomplete but established a foundation and came to the Government Affairs Committee. The Committee took the responsibility pretty seriously because of the implications of the changes that would be occurring in this region in the future and how those decisions would be made. More importantly, there was this whole body of people who were citizens who had participated in the Boundary Commission and she had a fundamental belief in boards and commissions and the role they played in Oregon government. She spoke with Gerry Tippins, former editor of the Oregonian who served on the Boundary Commission, the League of Women Voters, past Boundary Commission members, and the Governor's Office about Boards and Commissions. The role of the Boundary Commission had been significantly scaled down. She noted the when MPAC voted on the issue of a three member commission versus a hearings officer, that it was a split vote three different times. She argued that in this case it was worth attempting to keep that one segment of Oregon politics that was unique, which was the role of citizens in developing policy and reviewing policy. The recommendation in this legislation would be that the Council went from the existing Commission to a three member panel, very similar to the Board of Equalization which reviewed all taxation issues for Multnomah County. The reason for this three member panel was that there was nothing of more concern to people than taxation and property. There was an advantage in having their peers involved in the process. They were not coming simply before another panel of politicians. She believed it was important to have that perceived objectivity in this case. She said there was no right or wrong answer on this issue but she would argue that there was a bigger issue in this and she felt the three member panel was worth trying.

Mr. Houser clarified that there was a blank on the second page of the resolution which needed to have a date filled in. It was the date that the representatives of MPAC presented their report to the Council. The date listed should be June 20, 1996.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

9. JPACT RECOMMENDATIONS

9.1 Acceptance of JPACT's South/North Light Rail Recommendations.

Councilor Monroe moved that the Council support the JPACT recommendations on South/North Light Rail that were forwarded to Council with the unanimous vote from JPACT and the unanimous support of the South/North Steering Group.

Presiding Officer Kvistad indicated that a second was not necessary since it was not a formal resolution, it would be an action of accent by the Council.

Councilor Monroe said what the Steering Group and JPACT were asking for was that we rethink but not abandon the South/North Light Rail given the vote on Measure 32, that consideration be taken into account that Measure 32 passed in the Metropolitan area by a 56%

yes vote. The Metropolitan area had voted in favor of light rail time after time. The Citizens Advisory Committee had recommended strongly that we continue to pursue ways to implement South/North Light Rail. The recommendation found on page 2 were as follows: 1) that we are urged to develop a range of options and design changes to significantly reduce the cost of the project, 2) that we develop a financial plan which can be implemented to provide a basis for federal matching funds and furthermore, we understand that that financial plan will need to encompass local moneys and federal moneys not state moneys because the vote on Measure 32 was a vote to deny state funding at this time, 3) that we work with the Oregon delegation to pursue ISTEA funding for phase one of the project and they will be making decision on ISTEA funding in 1997, it was very appropriate that Council take this action at this meeting, 4) that we continue to assess and discuss with the public a range of transportation options to meet future needs of this region, and 5) that we develop a very thorough public process to ensure that all citizens have a full opportunity to provide input regarding how this project moves forward and what changes are to be made in the environmental impact study." He urged the Council to vote in support of this procedure.

Commissioner Lindquist asked the Council to continue on with JPACT and the Steering Committee to continue the project and in reviewing the list of recommendations, he felt that the problems that people perceived in the South/North Light Rail program could be addressed and come back to Council with a measure that everyone could support, take forward, ask the federal government to give their share of the money and to continue on. The ISTEA process started early this next year. It was one that Congress would probably pass this summer and that would be for the next five to six years of federal funding. There was a queue that must be met to get that federal funding. So they must go forward with a project now or wait another five to six years. He suggested that they continue forward as Councilor Monroe had recommended.

He said he had been involved with Light Rail since the late seventies in the legislature, carried the bill in the House that built the line to Gresham as well as having been involved in the West line and now the South/North line. Each time that one of those lines was started there was a particular situation where they had to go through alignments with people. Those alignments were developed because there was confusion, unhappy individuals, as well as a whole myriad of problems that created opposition to the light rail at that time. When he carried the bill on the floor to build the Banfield line, every legislator along that line and all of their constituents fought against it. It was leadership from the region that put it through. When they started to go to Washington County, there were very few people at that time that were for the light rail. The Mayor of Hillsboro and Congressman Aucoin took a strong stand, it was put through and eventually people came around to support it. The same thing was going on now in parts of Clackamas County, pretty much along the alignment, they were confused and unhappy. There was a third alternative being proposed for the City of Milwaukie, this was put together just before the vote, they did not have time to go to the public with it, they believed they would have gained much more support in that area as well. He concluded with, the leadership in the region was what had kept light rail going. He urged the Council to take that continued stand.

Executive Officer Burton emphasized what was being requested at this meeting was to continue with the project given that financing would be there and in the same corridor that they spoke of before, to come back with some design efforts which would match the projected money that Metro have, engage the public in a discussion about that because it is important to help the

public understand what was being done. He had had indication from Senator Elect Gordon Smith of his continued support, this was a priority for him. He had also had the discussion with the Governor. In the JPACT meeting, Commissioner Rogers from Washington County strongly supported this project, so it was a region-wide effort. Mr. Burton thought that even though this failed on a statewide vote, it significantly passed in the region. There was also a strong commitment to create the line and to bring the next phase of that which was good transit and bus routes in the area. There was some significant progress planned for that whole system. He noted that this was part of the system, not a resolution on congestion problems. This needed to be recognized and no one was more acutely aware of that than perhaps Commissioner Lindquist himself who was trying to keep his roads going in that area. All of these were going forward and he believed it would be a mistake to not continue the momentum that we felt from the voters inside the region who supported this. He urged the Council to endorse the resolution.

Councilor McCaig admitted some concerns about the public statements included in the package, although she supported the plan. She believed it was a good idea. She was unsure how JPACT was going to go about doing this plan given several things, in 1990, the polling indicated 77% for light rail. The most recent poll indicated 56%. It had gone from 77% to 64% and then to 56%. She indicated that something was going on in the region, whether it be related to light rail, the economy, or Measure 47 or the mood of the voters. She said she was worried about the trend, wished to pay attention to the trend and believed that it influenced the need for leadership outside in the community. The region just outspent their opponents 4 to 1 and only barely won in the tri-county area. She expressed concern about these results, repeating those mistakes, and believed that one could put the best plan in the world inside Metro and it would drop like a led weight in the rest of the community. She recommended that as JPACT went forward she urged them to move further away from TriMet, Metro and JPACT and more into a different community of individuals in order to find the kind of support needed.

Commissioner Lindquist reviewed the last bullet in the report was to develop a thorough public process to ensure that citizens would have a full opportunity to provide input. He said that we were going back to the basics of public input that we really missed in the campaign. He was hurt that the campaign was a statewide campaign, it had to be, but there was no campaign in Clackamas and Washington Counties. The negative campaign was listened to by those folks, there had never been a negative campaign like that before. The polling showed that people were still supportive of light rail. They thought this line was too expensive, not understanding that it was being build with dollars that were designed to be spent in 2002 and the costs in 2002. The public did not understand that the project was way too expensive, there was uncertainty about where the route should be, all adding up to a negative vote. They must go back to the basic building blocks, to the neighborhoods and explain what this was about. They did not do a very good job the first go around. They had learned from the campaign that they must go back to the basics and rebuild the system back again. The time was limited but they were committed to going through this process.

Executive Officer Burton said, with no empirical evidence, he believed that Councilor McCaig was correct. This debate to go public must be carried by a different sector than had been done so far. When one looked at the major "no" vote on the ballot measure, there was another aspect here and that was why he mentioned the need to express this in different terms than had been done before. Light rail was a very glamorous system, it worked, it connected to the land use, but it was

only one part of the system and the roads and the rest of the connections. He felt that the voters believed that the light rail would solve all of our congestion problems. What has happened was that when growth had occurred, the region had had more congestion problems because the road and bus system had not kept up with the rest of the system. He said that the public was now saying, this did not seem to work as well as they thought it would. He argued that the absence of this system would make congestion far worse. That different message as a component of what was going to be done needed to go forward. We needed to engage our public and private partners, our citizens to help carry that message out so that this did not become another Metro/TriMet measure.

Councilor McLain said during the last JPACT meeting she was meeting with transportation individuals in Washington County. She supported this package, believed Councilor McCaig did a good job of outlining some of the challenges. Washington County indicated that the line was too expensive for them and that it did not go to the airport. It was not that they were against light rail or they did not want that light rail to happen for Clackamas County but if there had been a line to the airport they would have voted yes. The congestion issue and the torn up roads in Hillsboro are awful. So the congestion looked even worse than it does on the regular roads. They have not connected enough with the cities, like Cornelius and Forest Grove, that are not getting light rail under any proposal. How are we going to transport those individuals so that they could benefit and be part of this system. Those individuals need to be targeted as well.

Commissioner Lindquist said part of the study would be to consider the airport area even though it was not in the DEIS for this project. There was a private proposal to build that line. This could be included in what was being done together and could actually help the South/North be built. Not only would it help the citizens understand what they were doing but also help get points from the federal government. He chaired the JPACT Finance Subcommittee, putting together the financing for the region's transportation system including roads, light rail and transit. Part of the goals of JPACT were to find funding for the transit system as well as roads. It was a package that was being looked at altogether but it could not be done without this part. All the land use planning, the densities planned for Clackamas County were around light rail. If they didn't have light rail, they must go back to the drawing boards. He was unsure how this would be done. Transit itself was the other leg of the three legged stool. They must figure a way to get better funding and to get more bus service in the Portland metropolitan area.

Councilor Morissette said that he heard something through this last vote that said we wanted, with limited tax dollars, to do the maximum amount of moving people possible. He thought that one of the things that was very damaging in the campaign against the successful passage of the measure was it was going to move this percentage of people with this many tax dollars, forget the federal match in relation to what would be spent as a region overall on the total transportation system. He said there was a perception that the voters could get a better bang for their buck somewhere else, taking even the federal match out. It was his hope that as we move forward one kept this in mind. If you work with these opponents using logical ideas, they may very well become supporters.

Councilor McCaig said that one of the difficulties was that there was no single bullet that the opposition used on the measure. It was a bad taste in the voters mouth for some reason with a culmination of a variety of different things. Underlying in this was the intent to go back to the

voters. We needed the matching funds, there was no way you could tap into those funds without going back to the voters. She had two conflict feelings, one, was that it was too soon to talk about going back to the voters and it worried her that we were doing this, and second, that in the Open Spaces campaign where we did exactly what JPACT was proposing, it failed originally, people felt there was still enough of a core to it that was a good idea, it was moved out of Metro, got a blue ribbon committee together, who put a stamp of approval on it and it took on a life of its own. That model appealed to her because she believed there was more similarities with general support for light rail.

Mr. Burton commented in response to it going to the voters, that the ISTEA funding would be coming up, looking at design options going to the federal government. Metro is clearly in a position because of its history and what had been done in the past with these funding mechanisms for light rail ahead of other jurisdictions. Seattle just passed a \$3.9 billion measure. A lot of other jurisdictions that are looking at light rail options are going back to Washington saying, we would like the federal government to make a commitment and we have not gotten our local funding yet. Metro could still do this, go forward with the ISTEA strategy and probably looking at another vote again would be a year to 18 months at best. The coalition must be built first.

Presiding Officer Kvistad suggested that a light rail along Hwy. 217 where there was a lot of support would be a real plus and might make up for the terrible by-pass problem.

Motion: Councilor Monroe moved that the Council accept JPACT's recommendations on South/North Light Rail.

Seconded: Councilor Washington seconded the motion.

Councilor Monroe closed by saying that he wondered if everyone understood how remarkable the JPACT process really was and how remarkable regional government in this City was. It was absolutely unique. This kind of process did not happen any place else in the United States where you had public officials from diverse suburban communities and from a core city coming together regularly and made decisions that effected transportation projects throughout the region, made decisions that may effect only one part of the region, and that almost always agreed unanimously after discussion. Most regions of this nation end of disagreeing and counter checking each other. In this region with Metro and their Committees, we had a wonderful opportunity that we exercised in regional cooperation. It had been enjoyable for him to be a part of that and to chair JPACT for the last three years and to work with all of the members of JPACT. He thanked the Council for giving him that opportunity.

Vote: The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously of those present.

10. COUNCILOR COMMUNICATION

Councilor Morissette wished everyone a Merry Christmas.

Councilor Monroe introduced his wife, Billie, his brother, Dale, and his son, Martin.

Councilor Washington said that Multnomah County voted to support the Ridgley proposal with regards to PCPA. More information would be coming forward, he thought the City Council was to take action as well on this item.

Presiding Officer Kvistad roasted Councilor Monroe. He said that it had been a true honor and pleasure to serve with Councilor Monroe for four years. There had been ups and downs but especially over the last year they had become good friends. Councilor Monroe would be missed a great deal. It seemed fitting that the Council end with a JPACT unanimous decision and that there were some of Councilor Monroe's JPACT partners and friends at this meeting. He noted the gift that Councilor Monroe had received at JPACT. The Council commissioned a glassed Metro logo for Councilor Monroe in appreciation for his service. It read, "for years of services from your election in 1992, beginning service 1993 to 1997." Presiding Officer Kvistad thanked Councilor Monroe.

Councilor Washington commented that it had been a pleasure to serve with Councilor Monroe. He had enjoyed working with him and did not consider this to be the end. He knew that there would be things in the community that they would be working on together. Councilor Monroe had always been a person that once his vote was committed, it could be counted on.

Councilor McLain added that Councilor Monroe was a community person and had shown that in a number of ways such as the School Board and through the other opportunities he had had to serve in the legislature, etc. He would continue to be a community person and help Metro out when necessary. She thanked him for his partnership and good work.

Councilor Morissette thanked Councilor Monroe indicating that everyone would miss all of the expertise he brought to the process both from his Metro background and from his life background, particularly in the transportation area. He would be missed.

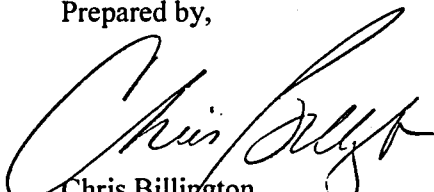
Councilor McCaig said that she was really going to miss Councilor Monroe but that he would have a great time.

Presiding Officer Kvistad announced Councilor Monroe's reception in the annex.

11. ADJOURN

With no further business to come before the Metro Council this afternoon, the meeting was adjourned by Presiding Officer Kvistad at 4:45 p.m.

Prepared by,



Chris Billington
Clerk of the Council

MINUTES OF THE METRO COUNCIL MEETING

December 12, 1996

Council Chamber

Councilors Present: Jon Kvistad (Presiding Officer), Don Morissette, Susan McLain, Ed Washington, Patricia McCaig, Ruth McFarland, Rod Monroe

Councilors Absent: None.

Presiding Officer Jon Kvistad called the meeting to order at 2:05 p.m.

1. INTRODUCTIONS

Presiding Officer Kvistad introduced Ms. Sandi Hansen, a former Metro Councilor.

2. CITIZEN COMMUNICATIONS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. ALBINA COMMUNITY BANK

Mr. Leon Smith, President and Chief Executive Officer of Albina Community Bank, a community development bank located in North and Northeast Portland, one of about six community banks in the county. He reported to the Council and Metro, who had deposits with the bank of approximately \$100,000, the results of the first year of operation. He wished to share with Metro how their money was being used and to solicit further action to place additional moneys with the bank.

He thanked the Council for their support and spoke about some of the quantitative and qualitative results. The quantitative results the bank projected approximately \$20 million in total assets as of the end of the first year of operation, the current financial report the bank at \$19.1 million with still three weeks left in the first year of operation. The bank had anticipated \$16 million in deposits, the bank was at approximately \$15.5 million. The bank anticipated \$12 million in loans, the banks was at \$7.5 million in loans but the bank did have \$5 million in closing so they believed that they would come in the middle of their business plan. The operating losses were right on plan with profitability anticipated for 1997, fairly typical for any start up banking. From a quantitative standpoint, the bank's mission was to stimulate economic development in North and Northeast Portland while ensuring the low to moderate income population had an opportunity to participate in the resurgence of economic development. He highlighted the \$12 million in loans that the bank would have made by year end, approximately 84% were in northeast Portland, half was residential and half commercial. Approximately 56% were loans made the minority home buyers. The bank's focus had been to do loans that other banks were not prepared to do, therefore, the numbers of home ownership were pushed up and by stimulating small business

development where it would not ordinarily happen, the bank created new economic resources in the community such as the re-establishment of E and M Community Market, an \$800,000 transaction that the bank brought in to participate with the bank, Key Bank and PDC. PDC had also been partner with the bank on establishing another restaurant as well as other entities and the establishment of the Portland State University Business Outreach effort to stimulate economic development by the creation of small businesses.

Community involvement included being the recipient of the Business Diversity Award from the Human Rights Commission, for recruiting and maintaining a diverse work force. The North Portland Bible College had also given the bank an award. Some of the corporation community involvement included Interstate Firehouse Culture Center, Friends of Trees, Habitat for Humanity, and the like. At this point the bank had a seventeen employee staff, 11 of whom lived in northeast Portland as well as being an anchor for the Ablina Corner Project.

He said that the bank was very proud of their accomplishments, appreciated Metro's support and asked that Metro might consider increasing that support in 1997.

5. CONSENT AGENDA

5.1 Consideration of the Minutes for the December 5, 1996 Metro Council Meeting.

Motion: Councilor Morissette moved for the adoption of the minutes of December 5, 1996 Metro Council Meeting.

Seconded: Councilor Washington seconded the motion.

Discussion: Councilor Morissette noted that his statement was not included in a copy of the minutes of the meeting (his statement are in the Permanent Record of this Council Meeting which may be found in the Council Office).

During Councilor McLain commentary under Ordinance No. 96-655 she asked to clarify the minutes which were unclear on one point. That the Urban Reserve Site 63 was voted out at last Council meeting also the area roughly that same size adjoining this site to the east and west of Helvetia Road and north of Sunset Hwy. which was part of site 62 was voted in.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The minutes were approved as amended.

6. ORDINANCES - SECOND READING

6.1 **Ordinance No. 96-658, An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule for the purpose of transferring \$35,275 from the Regional Parks and Expo Fund contingency to provide funding for the flood related expenses at Oxbow Regional Park, title reports for transferred Multnomah County properties and to purchase a laser printer for the Regional Parks and Greenspaces Department; and Declaring an Emergency.**

Motion: Councilor McFarland moved the adoption of Ordinance No. 96-658.

Seconded: Councilor Washington seconded the motion.

Discussion: Councilor McFarland briefed the Council on this ordinance to repair the damage at Oxbow Park with several other things added in that the Committee thought were good measure and good use of the funds.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 96-658.

No one came forward.

Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

6.2 **Ordinance No. 96-661**, An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule in various funds to hire a Capital Projects Assistant for MERC; and Declaring an Emergency.

Motion: Councilor Washington moved the adoption of Ordinance No. 96-661.

Seconded: Councilor Monroe seconded the motion.

Discussion: Councilor Washington indicated that this ordinance had been before the Regional Facilities Committee. This ordinance provided funds for a Capital Projects Assistants for the balance of this year. In the past this position had been temporary, but it was at the point where the facilities such as Expo and PCPA needed someone permanent to do this. This had been requested by MERC and he urged the Council's support.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 96-661.

No one came forward.

Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

6.3 **Ordinance No. 96-667**, An Ordinance Amending the FY 1996-97 Budget and Appropriations Scheduling the Spectator Facilities Fund by reducing contingency by \$273,500 and increasing the Materials and Services and Capital Outlay portions of the budget to provide for capital renewal and replacement at the Portland Center for the Performing Arts; and Declaring an Emergency.

Motion: Councilor McFarland moved the adoption of Ordinance No. 96-667.

Seconded: Councilor Monroe seconded the motion.

Discussion: Councilor McFarland said this had been through both the Finance and Regional Facilities Committees and she believed that everyone on Council had heard. This had to do

with a long list of repairs and refurbishment that need to be done at PCPA. The funds came out of contingency and did not change the budgeted amounts.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 96-667.

No one came forward.

Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7. RESOLUTIONS

7.1 **Resolution No. 96-2427**, For the Purpose of Approving Change Order No. 1 to the Public Contract with Norseman Plastics for the Manufacture and Distribution of Earth Machine Compost Bins.

Motion: **Councilor McLain** moved the adoption of Resolution No. 96-2427.

Seconded: **Councilor Washington** seconded the motion.

Discussion: **Councilor McLain** reviewed this resolution noting the staff report. This resolution gave a change order No. 1 with Norseman Plastic Contract for the earth machine compost bins. \$80,000 had been allotted for the compost bin distribution program in the Spring of 1997, this was the third year that Metro has supported this waste reduction effort. This amendment would take the Metro bin contribution distribution and took away part of the subsidy from \$7.30 to only \$4.30 per bin. The residents would pay \$25 per bin rather than \$22. The contractor shall manufacture and distribute 18,000 earth machine, 7,000 more than last year in the original contract. The contractor would conduct 6 sales on separate weekends from April through June rather than have the 4 sales on the same day. Councilor McLain felt this was a good project for waste reduction.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

Presiding Officer Kvistad announced that Resolution No. 96-2430 would be moved to the end of the agenda.

9. URBAN RESERVE WORK SESSION

9.1 **Ordinance No. 96-655A**, For the Purpose of Designating Urban Reserve Areas for the Portland Metropolitan Area Urban Growth Boundary.

Motion: **Councilor McLain** moved that Ordinance No. 96-655A be amended to include the proposed amendments and the draft ordinance of 96-655B.

Seconded: **Councilor Morissette** seconded the motion.

Discussion: **Councilor McLain** said that this amendment had nothing to do with the Urban Reserves. The purpose of the B version amendment to the Urban Reserve ordinance was for Metro to

make a final decision on the location of the Urban Reserves when the ordinance is adopted. This avoided postponing a final Metro position on the location of the Urban Reserves during the 1997 legislature and during consideration on any Urban Growth Boundary amendments proposed by property owners in 1997. Metro is taking three actions in the amended ordinance. 1) Urban Reserve area locations were designated for counties to protect as in their current ordinance, 2) Metro acknowledged Urban Growth Boundary procedures are amended to include the Urban Reserve Areas as the first priority for Urban Growth Boundary amendment, 3) the 2040 Growth Concept Map was acknowledged, RUGGO ordinance was amended to add Urban Reserve areas to RUGGO. An emergency clause was added to assure that the UGB procedures amendment would be in effect for any March 1997 applications for Urban Growth Boundary amendments. The serviceability clause was included in case LUBA and courts interpret the Urban Reserve Rule differently on Metro's designation decision.

She spoke to two items. In March of 1997 the Council would still be in the process of Urban Reserves. In this process, there was a code in place that offered an opportunity to the public to make Urban Growth Boundary amendment application, March of every year to make sure that any Urban Reserve that the Council designates was going to have top priority, this motion needed to be in place. Secondly, there was a situation as was done with the Functional Plan. If there was any party who felt that part of the Urban Reserve designation did not meet a criteria or goal then that part would be severed.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

Councilor McLain announced that during this week the Council had a citizen's group that came in and asked for a copy of the Public Record. She clarified that because they made a presentation to Washington County that was not factual, she asked to read the letter which she was sending the Linda Peters, Washington County Board Chair. She also said she wished to make sure that the public was watching as these documents were placed into the Public Record. (A copy of her letter to Linda Peters was read into the record and may be found in the Permanent Record of this meeting in the Council Office.) She also noted that the two binders from Growth Management Department and a map were received into the permanent record.

Councilor McLain indicated she had personally received from Mr. David Vanasche as well as letters on Site #49 from W & H Pacifics, a letter from Washington County from Linda Peters and Wallace and Korh PC a request for reconsideration of Site #49. She asked to clarify the minutes which were unclear on one point. That the Urban Reserve Site 63 was voted out at last Council meeting also the area roughly that same size adjoining this site to the east and west of Helvetia Road and north of Sunset Hwy., which was part of site 62, was voted in.

Councilor McCaig asked for a point of clarification. In reading the minutes Councilor McLain was summarized on Site 63 as voting differently than she just noted. She recommended an amendment to the minutes.

Councilor McLain said that the minutes had already been reviewed and that would be taking place with the clarification that she had requested to be put into the record. In the minutes there were two things that will be corrected. She asked that in the minutes that it was recorded as she had just previously read into the record that the Site that the Council voted on was West of Helvetia Road and North of the Sunset Highway which was part of Site 62 and it was voted 7/0 to be kept in.

Presiding Officer Kvistad asked for a motion and second to make sure this was included in the minutes.

Motion: **Councilor McLain** asked that two items be clarified in the minutes of December 5, 1996, one, that Site 63 was voted out by Council and that, two, site 62 west of Helvetia Road and the north of Sunset Hwy. be kept in.

Seconded: **Councilor Monroe** seconded the motion.

Discussion: None.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously, the minutes were amended.

Presiding Officer Kvistad told the Council that they had received a memo from himself regarding the Urban Reserve process. He read the last part of this indicating what would occur at the completion of today's agenda, what would happen when the Council sends the ordinance out to findings. The following would happen," as soon as the Council is in agreement and approves the motion to send the Urban Reserves to findings, the following will occur, one, I, as Presiding Officer, will direct that the record remain open for written public testimony for the period of one week ending, December 19, 1996. This testimony will be treated as part of the official record and included in materials sent to our legal staff for findings. Two, when the selected Urban Reserve areas are sent to our legal counsel, I will refer as Presiding Officer, for review, the Ordinance changes in RUGGOs to MPAC and request a recommendation on those changes regarding the Urban Reserve sites in the 2040 Growth Concept Map within 30 days. What I will do is make an amendment so MPAC has the opportunity to review this item and come back to us by the end of January rather than strictly 30 days because we will have about a week and a half to two weeks before the end of the year and I don't believe that we want them to have to use as part of their work time. Three, the Office of General Counsel will present proposed findings to the Council in February of 1997. At that time we will hold a public hearing on those proposed findings, MPAC recommendations and the Council Urban Reserve selections. Four, the Council will have a work session to examine and consider the findings, public testimony and MPAC recommendations and proceed with a final vote at that time."

Councilor McCaig asked to go on record as objecting to two points within that memo. The first she was never part of any discussion which concluded that the objective of this process was to identify 18,300 acres in Urban Reserves. She appreciated that this was the Presiding Officer's and Councilor McLain's perception and perspective, that was not hers. Secondly, the other recommendations, which she assumed the Presiding Officer would get into at the end of this process, dealing with revisiting any issue which was a close vote, was something she would like to talk about later and she would object to.

Presiding Officer Kvistad responded to Councilor McCaig. The Council was basing the 18,300 acres on the decision of the Growth Report that was adopted by the Growth Management Committee and by Council and sent out for further consideration later. He understood that Councilor McCaig had a difference of opinion at that and that was a fair difference of opinion.

Councilor McCaig followed up by saying that the recommendation that came from the Executive Officer and the staff actually put them in the ballpark of 13, 995 acres. Although that recommendation

had never been discussed there was nothing conclusive or even discussion in the Growth Management Committee that those targets would be applied to this.

Presiding Officer Kvistad responded that the Executive Officer made a recommendation, it was not a policy decision and the only policy decision that the Council had to work from was the Council votes on this item.

Councilor McLain commented that Councilor McCaig, Morisette McLain and Presiding Officer Kvistad, for part of a year, sat on a Growth Management Committee which reviewed the Urban Growth Report. The Urban Growth Report was voted on twice in the Growth Management Committee. She referred anyone who was uncertain of the votes on that item to please check the record.

Presiding Officer Kvistad indicated that the Council would begin with Site 35. Site 35 in the Sher quadrangle map, a site in the northern part of the city of Wilsonville. This site took in the area where the Wilsonville city service center was located.

Councilor Morisette reiterated that this was one of the parcel's that he would be abstaining on.

Presiding Officer Kvistad announced that there was no motion to delete Site 35, this parcel remained in the Urban Reserve Study area.

Councilor McLain went on record stating that the City of Wilsonville contacted her and had sent documentation indicating their support of this site. One of the reasons for this was that the City had some of their services such as trucks and public works on this site already and were using it for urban purposes.

Presiding Officer Kvistad announced that Site 34 would be reviewed next. This site was in the Lake quadrangle map.

Presiding Officer Kvistad announced that there was no motion to delete Site 34, this parcel became a site within the Urban Reserves.

Councilor McLain spoke to Site 34. The review of the technical information given by staff and the Executive Officer, she believed that generally speaking, this study area had excellent access to I-205 and that the tax lots vary in size from less than an acre east of River Grove to larger parcels of 30 acres or more. She indicated that as far as the service provision, that there had been indication through the comparison of the technical information done on the cost of service provision and the site did seem to have the necessary services or could provide potential services necessary for urbanization.

Presiding Officer Kvistad reviewed Site 33.

Councilor McLain suggested that both Site 33 and 34 both have low EFU and that there were good schools and reviewing traffic issues, these sites had a higher level of traffic mixes. Both sites had Burton's support in the original proposal.

Presiding Officer Kvistad asked if there were any motions to delete. There were no motions to delete Site 33, this area was accepted into the Urban Reserve.

Presiding Officer Kvistad read a statement on Site 31 and 32. "There are many reasons why these sites should be designated as Urban Reserves, these sites involved 823 acres all rated as outer neighborhood according to our 2040 design type classification, buildable acres equals 472, almost 60% of total acres. Estimated dwelling capacity is 4,717 and employment capacity is 1,933. Staff rankings are low in the areas of agricultural retention and compatibility and in fact these sites contain a high proportion of resource land. However, other variables are rated good to high particularly with regard to traffic congestion, access to schools, lack of environmental constraints. This resource land is mostly class 3 and 4 soils with some class 2. However, these lands are almost totally surrounded by urban on three sides or exception land. In addition, very little actual commercial, agricultural activities are conducted on these lands. Availability of water for agricultural purposes is also becoming more limited. The cost to serve these sites is about average when compared to other sites. However, urban development in this area is likely to be very high end making service provision actually more feasible when compared with many other parts of the region. Testimony received thus far on these sites, testimony in favor of these sites had included the following, the area is close to Portland and will be very desirable and convenient for people in that regard. The public services are available to many pieces of the current property, that the cost for providing services are not as high as local jurisdictions have alleged and that the area in fact is close to many cities and towns, has marginal soil types and is good buildable land." He asked Mr. Morrissey to hand his statement out to members of the Council.

Motion: **Councilor McCaig** moved to delete Site 32.

Seconded: No second.

Presiding Officer Kvistad announced that since there was no second on the motion, the motion failed. There was no further motion, therefore, Site 32 was accepted into the Urban Reserve.

Motion: **Councilor McCaig** moved to delete Site 31

Seconded: No second.

Presiding Officer Kvistad called twice for a second. There was no second to the motion, therefore the motion failed. There were no further motions on this site, Site 31 was accepted into the Urban Reserves.

Councilor McCaig asked a point of clarification. She asked to explain why she made the motion now that the vote was completed. Those sites were the two areas known as the Stafford basin, Site 32 and 31. Site 31 was a relatively large site, 736 acres, 616 are farmland, but not prime farmland. As a result of the Council's action at last Thursday's Council meeting, the Council reviewed 8,500 acres and voted to include 5,000 acres in the Urban Reserves. Of those 5,000 acres, 1600 acres were prime farmland. Councilor McCaig did not support including the prime farmland in Washington County and in her original proposal would have voted for Stafford because she believed that this was the appropriate place for development. She thought it was more appropriate than the prime farmland being done in Washington County. Without deleting Stafford, at the end of the process, the Council would have over 2,000 acres of prime farmland and she did not believe that was ever the intent of the 2040 process or the goals of the Regional Framework Plan. She was disappointed by the vote but wanted the Council to know that this area was the right place to develop but in exchange for other farmland, she could not support it.

Presiding Officer Kvistad called for a motion on Site 30.

Councilor Morissette pointed out that this site was part of a person property, and he realized that they were not being property line specific. H referred to Mr. Seda's property, it was important that the Council not leave him with something that he couldn't use because part of it was slated for a school.

Presiding Officer Kvistad asked again for a motion on Site 30, no motion was made, therefore, Site 30 became a parcel within the Urban Reserve.

Councilor Morissette briefed the Council on Site 30. There was a request from the City of West Linn to have a school in that area. There were also numerous other reasons, already touched on, from that area.

Presiding Officer Kvistad continued, reviewing Site 29 which was on the Canby quadrangle map.

Motion: **Councilor McLain** moved to delete resource zoned lands from Site 29.

Seconded: **Councilor Monroe** seconded the motion.

Discussion: **Councilor McLain** spoke to this site indicating that this site should be included as an urban reserve except for the resource land. There was resource land on both the left and right. This change would eliminate about 134 acres of resource zoned land and would still leave 188 acres for the future urban development. There was support from Oregon City and the services seemed to be right next to the site.

Presiding Officer Kvistad said that the area in green was considered resource land, the area in white was considered exception land.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously, Site 29 was included in the Urban Reserves with the exception of the resource zoned lands.

Presiding Officer Kvistad called for further motions on Site 29. There were none. He then continued on to Site 28, in the Oregon City quadrangle.

Motion: **Councilor McCaig** moved to delete Site 28.

Seconded: **Councilor Morissette** seconded the motion.

Discussion: **Councilor McCaig** reviewed, this site was 55 acres of which 51 acres were prime resource lands. It would be difficult to develop, it had a variety of different geographic needs, she believed Council should delete the whole site.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously, Site 28 was deleted from the Urban Reserves.

Motion: **Councilor McCaig** moved to delete Site 27.

Seconded: Councilor Monroe seconded the motion.

Discussion: Councilor McCaig said 19 acres, of which 13 acres had the same kinds of traffic areas and resource lands.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously, Site 27 was deleted from the Urban Reserves.

Motion: Councilor McLain moved to delete the areas west of Ferguson Road and South of the tributary of Beaver Creek which was immediately to the south of Beaver Creek Road in Site 26.

Seconded: Councilor Morissette seconded the motion.

Discussion: Councilor McLain said that this amendment included lands around the existing traditional Beaver Creek Center so that the expansion of any existing community could occur but did not intrude into more rural lands south and east of the site. This site, as amended, would still include larger flat sites which could be developed as employment centers if an urban designation were made.

Presiding Officer Kvistad reviewed the amendment by pointing to the map and clarified with Councilor McLain what lands would be deleted.

Councilor McLain concurred. Councilor McLain continued that the site as amended still included larger flat sites which could be developed as employment centers for an urban designation. This would help address an existing lack of jobs in the whole area providing a better opportunity to reduce vehicle miles traveled and increased the breadth of the tax base to support the needed urban services especially the schools. Oregon City, Clackamas County and the Clackamas County Business Round Table had all presented reasoning for support.

Presiding Officer Kvistad asked Councilor McLain if these entities presented testimony on deletion of these parcels.

Councilor McLain said that the testimony presented spoke of the value of area 26 for industrial uses. Her interpretation was to leave in the areas of their concern.

Councilor McCaig noted her confusion, there were 1,947 acres in the site. Councilor McLain suggested that the Council delete everything to the right.

Presiding Officer Kvistad said that the exception land to the east and to the south would be deleted.

Councilor McCaig asked why the Council was deleting a portion of the site?

Councilor McLain responded that she had gone to a Beaver Creek hearing attended by over 100 people. There was a different character between west side of the Urban Reserve and the east side. Two of the most important reasons that made the east side not as usable were the type of parcelization, also the traffic issues and the lack of flow of traffic in that area. It also was a situation where there was reasoning

that the Beavercreek center was what should be urban not the rural type of area that she referred to as the east side.

Councilor McCaig said she would probably vote against the proposal only because that was exactly what the Council was attempting to do, was to build communities or enhance existing communities understanding that there were differences among communities. When reviewing the total number of households that could be developed from the 1,947 acres, almost 10,000 households, with employment at 6,000, she believed the goal of this process was to find those areas where we could reach those kinds of numbers. She would vote to leave the entire site in.

Councilor Monroe asked staff if they would elaborate on what Councilor McLain was suggesting being deleted from this site in terms of its current land usage. He noted that this was not resource land, it was exception land. He asked what the land use was in the area and why it was not appropriate for urbanization.

John Fregonese, Director of Growth Management Services, responded about the land use on this site. Most of smaller parcels were single family homes of one to two acres or they were small farms. He noted one parcel, one of the larger ones on this site, about 20 acres with a \$57,000 home on it. He said that there was some constraints on this larger parcel due to a creek which ran through the property. This was rural exception land with the soil class being primarily class 2 soils. The soil classes in the area were fairly good.

Councilor Monroe stated that the parcelization was such that they were so small that active farming was probably not a possibility. Was that correct?

Mr. Fregonese said that commercial farming was not commonly carried out in this area. There were some horticulture underway, some nursery stock and the kinds of things that could be done on small acreage. Generally, it did not appear to be an area of large commercial horticulture.

Councilor Monroe indicated that he was going to oppose the motion. It struck him that this was the kind of land that we ought to be bringing in ultimately to the Urban Growth Boundary for continuing the urbanization that had clearly already begun and allowed protection of more farmland.

Councilor McLain closed by saying that the size of this particular urban reserve study area was 1,947 acres. The size alone was in itself problematic. What she was trying to look at was again on its own merit, what gave the most possibility for the best urbanization. She revisited Councilor McCaig's argument on the Stafford site that if there was an area that poked out extending into the farmland, that this was in itself a reason to vote it out. On that particular site, Councilor McCaig voted to keep all of the exception land out of the urban reserve. Additional reasons for deleting those particular areas of site 26 was there were wetlands and flood plains as well as some active small farming going on in those areas. She believed that they would not be able to use it for industrial. Keep in mind that there was particular interest in this site, not for housing but rather for industrial sites in Clackamas County. The type of land that was in the peninsula shaped area would not provide an industrial opportunity. The amendment which included the area to the west of that area still allowed for industrial sites or manufacturing for the people of Clackamas County and the people who lived there.

Presiding Officer Kvistad once again reviewed the area of deletion from site 26, deleting the area on the east side. Those voting in favor would be voting to delete that area, those voting no, would leave the parcel intact.

Vote: The vote was 3 aye/ 4 nay/ 0 abstain. Councilors Washington, Morissette and McLain voted aye, Councilors McFarland, McCaig, Monroe and Presiding Officer Kvistad voted nay. The motion failed, site 26 remained an urban reserve.

Councilor McFarland asked Mr. Fregonese for clarification on the \$10,000 building that Mr. Fregonese referred to on one of the parcels in this site. She suggested that this may or may not be a home.

Presiding Officer Kvistad again announced that Parcel 26 was accepted in total into the Urban Reserve.

Councilor Morissette spoke to site 25. There was low EFU, the Executive Officer had recommended it and it ranked fairly low in service provisions.

Councilor Monroe asked staff about the EFU triangle of land up in the corner of the site.

Mr. Fregonese said he believed in the Executive Officer's recommendation he did delete that area. ?

Motion: **Councilor Monroe** moved to delete the EFU land in Site 25.

Seconded: **Councilor McFarland** seconded the motion.

Discussion: **Councilor McLain** spoke to this site. There would be some things that she wished to revisit as the Council goes through at the end of this process when there was a full package. This was a perfect example of a site that was similar to one out in West Union. That small triangle could not be farmed when it was completely surrounded by urbanization. The Council had chosen to put the rest of the site into an Urban Reserve which meant that some day it could possibly be urbanized. She asked staff how large the EFU corner was?

Mr. Fregonese responded that it was a forty acre parcel with no home to the east. In the data set it was valued at \$14,000, probably a farm tax deferral. There was not building value or square footage and it was 37.8 acres.

Councilor Monroe concluded by saying that this EFU area is not an isolated corner but part of much larger contiguous EFU area.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously. Site 25 remained as part of the Urban Reserves with the EFU land being deleted from the site.

Presiding Officer Kvistad called for any further motions. There were none, therefore, Site 25 remained in the urban reserves as amended.

Councilor Morissette spoke to Site 24 which had a low EFU, has large parcels, the Executive had supported it.

Councilor Monroe asked staff to take a closer look at the EFU corner which once again was contiguous to a larger EFU area. He asked staff to review the parcel, what was its use, did it have building on it, how many acres was it?

John Fregonese said that area was \$771,000 in value, 66 acres with no building. The soil class was 2. It was in resource use.

Motion: **Councilor Monroe** moved to delete the EFU land from Site 24.

Seconded: **Councilor McFarland** seconded the motion.

Discussion: None.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously to delete the EFU land from Site 24.

Councilor McCaig asked for a point of personal privilege. She understood what the Council was doing, every time there was a couple of acres of EFU it would be taken out. She would vote to do this, however, she wished to go on record as saying that in many of these cases she believed those were appropriate places and the capacity was significantly increased by these small parcels adjacent to small communities or potential communities. She believed that this was backwards, the Council was in fact protecting farm land in places where all of the past work would indicate if the trade had to be made, those were the important places to make the trade. She would support these motions but would rather protect large areas of farm land in entire regions where there were no good reasons to develop than nickel and diming the process by trying to protect small pieces.

Presiding Officer Kvistad announced that there were no further deletions on site 24. Site 24 as amended was moved into the urban reserve..

Presiding Officer Kvistad called for motion on Site 23. There were no motions on Site 23, therefore, Site 23 remained in the Urban Reserves.

Councilor McLain said, for the record, this site had no EFU, a low slope, and the Executive Officer supported this site in his report.

Councilor Monroe asked staff about the nature of the EFU land by Abernathy Creek in Site 22, what was the status of land, the current use of the land and the soil classification.

Mr. Fregonese responded that this land was 55 acres with the land use shown as vacant. By its value he believed was farm use deferral, class 2 soils and some class 1 soils. He noted two additional parcels just to north which were similar, 25 acres and 28 acres.

Motion: **Councilor Monroe** moved to delete the EFU land from Site 22.

Seconded: **Councilor McFarland** seconded the motion.

Discussion: Councilor Monroe said that the Abernathy Creek Valley was a very pristine rural agricultural valley, this parcel was a part of that valley. It was in that use now, he saw no reason to include the EFU land for urbanization at this time.

Councilor McCaig asked staff to pull up the larger map so the Council could see what the trend was around that area.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously with the EFU lands being deleted from Site 22.

Motion: Councilor Morissette moved to delete Site 21.

Seconded: Councilor McCaig seconded the motion.

Discussion: Councilor Morissette indicated that this site had steep slopes, a total of 12 acres, 10 of the acres was in resource land. He believed this was a poor site to be accessed.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously. Site 21 was deleted from the Urban Reserve.

Councilor McLain said that site 20 was a very unusual site. She recommended visiting the site. One of the reasons Councilor McCaig talked about nickel and diming us to death on the EFU land was because in Clackamas County, because of some of the previous planning that was done in the 70s and 80s, one would find a lot of little sites that looked different right next to each other. This particular site had documentation on how it might effect Newell Creek Canyon. As a Metro agency with open space issues and with trying to acquire and protect that Newell Creek Canyon open space and environmentally sensitive areas, this existing zoning would allow some additional development and would have much more impact because of the very steep and sensitive land right around the east and west portions of the site.

Motion: Councilor McLain moved to delete site 20.

Seconded: Councilor Morissette seconded the motion.

Discussion: Councilor Monroe asked staff to review a piece of land in the site that was on either side of a road that was on a ridge top? Were there home lots on each side of the road?

Mr. Fregonese said that that was correct. There was pretty much a home on each of the properties that fronts on the street, the lots were long and skinny and went back down the slope on either side.

Councilor Monroe further clarified that the part that was being suggested for Urban Reserve did not go clear down the slope but was fairly minimal?

Mr. Fregonese responded that it was along the road a couple of hundred feet.

Councilor Monroe expressed his concern about Newell Canyon. He wondered if having the urbanized strip under the control and jurisdiction of the City might not through City zoning actually enhance the

protection level since it was already essentially urbanized rather than leaving it theoretically rural, rural-urban without any protection from any municipality. He asked for Mr. Fregonese's input on that thesis.

Mr. Fregonese said that that was a policy thesis. He said it was about 500 feet back from the road.

Councilor Monroe said he would like to see the control and protection of the city along there. He suggested the Councilor McLain might be able to convince him that deleting this area really did in fact protect Newell Canyon. If not it was the kind of area that he had been voting to consistently include.

Councilor McLain asked Councilor Monroe to review the map that showed him how close he really was to Newell Creek Canyon. Those individuals couldn't do anything more to their property because this was done before there was good land use in place in the state. If Councilor Monroe really wanted to protect Newell Canyon he would not allow any further urbanization, especially up on the ridge where all of the waste water could run down.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously eliminating Site 20 from the urban reserve.

Councilor Monroe requested a vote explanation. He was expecting Commissioner Hammerstad to still protect this area under county jurisdiction.

Councilor Morissette spoke to Site 19, no EFU land, good access to centers and the Executive had supported this site.

Presiding Officer Kvistad called for any motions on site 19. There was no motion, therefore, Site 19 remained within the Urban Reserve.

Presiding Officer Kvistad reviewed Site 18, the top most parcel on the Oregon City quadrangle map.

Councilor Morissette spoke to Site 18, about 5% EFU, large parcels, the Executive had supported it.

Presiding Officer Kvistad called for motions to delete site 18.

Councilor Monroe asked about the bit of EFU connected to some farms and why was the line not drawn to exclude those areas and how many acres were EFU.

Presiding Officer Kvistad responded that they were trying not to be lot line specific since these were study areas, they were still not lot line specific. Therefore it was probably at drainage basin or at a contour.

John Fregonese acknowledged Presiding Officer Kvistad's assessment of the site and added that there was 6.7 acres of EFU land.

Presiding Officer Kvistad saw no motion to delete Site 18, therefore, Site 18 remained within the Urban Reserve.

Councilor Morissette spoke to Site 17. There was no EFU land, good access to centers and the Executive had supported the site.

Presiding Officer Kvistad indicated Site 17 on the map and called for motions. There were no motions, Site 17 remained within the Urban Reserves.

Councilor McLain reviewed site 16. The site was very steep with no yield. There were only two acres of buildable space within the 15 acres. One of the Growth Management staff told Councilor McLain that this parcel was "steeper than a cow's face".

Councilor Morissette indicated that there was 26% slope.

Motion: Councilor McLain moved to delete Site 16 from the urban reserve.

Seconded: Councilor McCaig seconded the motion.

Discussion: Councilor McLain asked the Council to please delete this site.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously with Site 16 being deleted from the urban reserve.

Councilor McLain asked questions of staff on Site 15 and asked staff to show her the map.

Presiding Officer Kvistad showed on the map where the Urban Growth Boundary was.

John Fregonese showed where Sunnyside Road was at the bottom of the site.

Councilor McLain reviewed Site 15, noting Road 147. She felt that the left hand side of the site was problematic to her. She indicated that there had been a road issue brought before the Council in this urban reserve study area. Route 147 had been closed because of safety issues including a school bus accident. There was a need to make sure that whatever the urban reserve study area was that it was configured in such a way to allow that road to be at least revisited as far as travel was concerned because if urban reserves were done to the right of 147, without allowing enough to be there in site 15, there would be difficulty solving the traffic problem or road safety problem. In looking at it on the small map, Councilor McLain said it looked to her like there were some large parcels to the left that were still exception land and that the site should go to that next road and go straight up in a square. She drew the change on her own map and presented the map she was talking about.

Presiding Officer Kvistad asked if Councilor McLain was concerned about this area here (and pointed to the map)?

Councilor McLain responded, "that's correct."

Presiding Officer Kvistad reviewed the changes Councilor McLain had indicated.

Councilor McLain wanted to make sure that there were opportunities to fix the transportation issue because she could see putting any more urbanization in that area if the road could not be fixed.

Councilor Morissette added that there was testimony from Happy Valley, the Whites and the Roses. They encompassed part of that wide area there. He asked that Mr. Fregonese take that line straight up on this site. He thought the recommendation that Councilor McLain was trying to get to was to include that portion in Site 15.

Councilor McLain said she was looking for either a man-made barrier or some kind of ridge or a creek, perhaps, because she didn't want to just make it out there. She wanted to make it was out there (as she pointed to the map); she just wanted to make sure that was enough for 147th. She would take it out to that blue line, if she had a choice. She noted the blue line and asked to zoom out to the bottom blue line.

Presiding Officer Kvistad said that according to his map, this was the top of a butte.

Councilor McLain pointed to the map and said about right here. We needed to make sure that there was the possibility for work on that road. She wanted to amend Site 15 to include that area.

Presiding Officer Kvistad clarified with Council McLain that she was making a motion to amend Site 15 to include this land here.

Councilor McLain affirmed and said that she would not be able to vote for it as an urban reserve without that change.

Main

Motion: **Councilor McLain** moved the amend Site 15 to include a piece of land.

Seconded: **Councilor Monroe** seconded the motion.

Discussion: **Councilor Monroe** suggested to Councilor McLain to include along that ridge top road and those lots on either side that went to the west? There was a road there and there was some development on either side and it was basically a ridge top leading up toward the mountain top.

Presiding Officer Kvistad said he had a technical question to direct to legal staff. It had been his understanding and intention that the Council was dealing only with the study areas. He was not prepared to include any areas. He asked Mr. Cooper what the legal ramifications were or what were the ramifications of including areas in our urban reserve which had not yet studied.

Chief Counsel Dan Cooper said it was going to be an issue for findings and evidence in the record. He added that Metro had done the studies. The Council had that basis. The actions taken in designating the study areas specifically didn't preclude the Council from taking action to add other areas to the urban reserve. The Council was just marshaling their resources and limiting what staff time was spent on the specific areas the Council decided to study. The problem came not from this motion being moved in. It was the record were going to have to have and develop and make sure we had sufficient evidence and knew more about this and he guessed those were the issues. Mr. Cooper suggested that Mr. Fregonese may wish to comment on that.

Councilor McLain requested to speak to the issue. It was her understanding that this was not a land use decision and that our urban reserves did not have a hard or soft edge and that we were studying a glob of

area. Her concern was that she wanted to give direction to staff that if this was chosen as an urban reserve, that she was giving them a suggestion of what she thought would be a better edge to this study area. She believed that there would be a problem if you stopped right there on that road that had been closed because of the steepness of the terrain and that you needed to give them some room to navigate that urban reserve if you were going to include any more urbanization. She addressed Councilor Monroe and said if this made more sense, then fine. She would give them that direction. She indicated that this was not a hard edge. We did not study any hard edges and that was what staff would do in findings and that was exactly what she was doing. She was just suggesting that this area was a little bit more appropriate for an edge than this one because of the road condition.

Councilor Morissette clarified that the Council was voting on Site 15 with an addition of the area outlined by Councilor McLain? He asked if that was correct?

Presiding Officer Kvistad affirmed Council Morissette's clarification and said what he wanted was to be very clear about where the edge was.

Councilor Monroe said his suggestion was to include a part right here which was already broken up into small plots along a ridge top and there was a road right up the ridge. He thought he had heard Councilor McLain saying that she would agree to this change and that Councilor McLain was asking to include this rectangle (as he outlined on the map).

Councilor McLain agreed to Councilor Monroe's amendment to her amendment. It was a friendly amendment.

Motion to Amend the Main Motion: **Councilor McLain** amended her amended site 15 to include the additional small plotted lands along the ridge top.

Seconded: **Councilor Monroe** seconded the amendment.

Discussion: **Presiding Officer Kvistad** clarified the change and indicated he was uncomfortable with adding area that had not studied. He wished to make sure that when drawing a new map edge, that the Council was drawing a curved edge that was not lot-line specific within whatever this region would be.

Councilor Washington asked if the Council was actually adding something now to the urban reserve? He had heard two things from Councilors McLain and Monroe. Number one, that they were making a suggestion that if the Council adopted this addition, that area would be considered. He asked if the Council was adopting a suggestion or were we actually changing the boundaries up there?

Presiding Officer Kvistad responded that Councilor McLain's motion, as he understood it, would be to add roughly this parcel and he drew it with curved edges, as amended, by Councilor Monroe. He reiterated that the Council was not making lot-line decisions. He clarified with Councilor Monroe, was he adding that area into Parcel 15 and clarified with Councilor McLain, that Councilor Monroe's addition went with her amendment. It had been moved and seconded to amend Parcel 15 with the addition of roughly this area here, not necessarily using lot lines but using a curved edge into the urban reserve Site 15. It had been moved and seconded. Was there any discussion on that?

Councilor Monroe said that he had just a question that Councilor Washington had already asked. Approximately how many acres did that add to the urban reserve?

John Fregonese said he would estimate it on the order of 50 acres.

Presiding Officer Kvistad said, with the understanding that it was approximately 50 acres, was there further discussion about the motion?

Councilor McCaig said she would vote for a clean Site 15. She asked for clarification to return to the original site boundaries and asked if she must make another amendment to add something on Site 15. Should she move to amend this motion?

Presiding Officer Kvistad said that Site 15 currently existed in its current configuration. A 'no' vote on this would retain it in its current configuration. A 'yes' vote would add to this area.

Councilor McCaig felt that a proposal at this point in time to do something like this just contributed to the lack of credibility that this process had. She could not believe that we were talking about adding land that had not been studied and we didn't even know the total acreage nor had we had any testimony on this. She thought it was a bad idea. She would support Site 15 without doing anything to it because then it stayed in.

Councilor McLain responded to the last comments, which she did not agree with. First of all, the Council had received quite a bit of testimony in this area including a Mr. Rose and a Mr. White and testimony from Clackamas County and Happy Valley on their issues, which was in support of Site 15. She would also point out that we had also been given information that this study was not line-lot specific and that we needed to give direction to staff if we are going to vote something into the urban reserve findings process. That was exactly what we were doing right now. She would end with this comment: The Council had already done this. We had given direction to staff in other areas including the ones in Washington County on what we wanted the findings to reflect.

Presiding Officer Kvistad clarified that a 'yes' vote would be to include this land into Parcel 15. A 'no' vote would be to retain Parcel 15 as it currently existed.

Vote: The vote was 3 aye/ 4 nay. 0 abstain with Councilors Monroe, Morissette and McLain voting aye and Councilors McCaig, McFarland, Washington and Presiding Officer Kvistad voting nay. The motion failed.

Presiding Officer Kvistad announced that Parcel 15 existed in its original form and asked if there was a motion to delete Parcel 15? Again, was there a motion to delete Parcel 15?

Motion: **Councilor McLain** moved to delete the entire Parcel 15 because she believed that further urbanization in this area would create many safety issues.

Seconded: None.

Presiding Officer Kvistad announced that the motion died for the lack of a second. Was there any further motion on Parcel 15? He saw no further motions therefore, Parcel 15, as it exists was accepted into the urban reserve.

Councilor Morissette reviewed parcel 14. This was part of the Damascus area that the Council had been looking at. It was numbered in several different ways. There was no exclusive farm use (EFU) on this proposal. It had Executive Officer Mike Burton's support.

Presiding Officer Kvistad outlined parcel 14 on the map and called for any motions to delete Parcel 14? No motions were presented, therefore, Parcel No. 14 remained within the urban reserve.

Presiding Officer Kvistad said that Parcel No. 13 was in the Damascus quadrangle map.

Councilor McLain asked staff how much of that site was flood plain.

John Fregonese responded, the flood plain percentage was in the report. The stippled area was flood plain, the town of Carver. The total amount of flood plain was 3.7 acres.

Presiding Officer Kvistad considered Parcel No. 13. Are there any motions to delete Map 13?

Motion: **Councilor McCaig** moved to delete Map 13.

Seconded: **Councilor Morissette** seconded the motion.

Discussion: **Councilor McCaig** said this site was reviewed by the staff and got a particularly low rating. It was not included in the Executive Officer's proposal nor had the Council received any testimony in support from the local government involved to include that. She would asked that the Council delete it.

Councilor McLain asked to put in the record that she believed that there was testimony on this area and she didn't want that to go on the record that we did not receive testimony.

Councilor Monroe noted the town of Carver in the site, was that correct? That area was a busy intersection with restaurants and all kinds of things. He couldn't imagine why we shouldn't include it in the urban reserve. It was already urban.

Councilor McLain said she would speak against this motion to delete. It was a perfect beginning to a town center that the Council had suggested as appropriate for different portions of the region so that people weren't going so far for services and she would vote against this deletion. There was also, Mr. Presiding Officer, no exclusive farm use (EFU) land.

Presiding Officer Kvistad asked if there were any further comments on the motion to delete?

Councilor McCaig said that she received no local government testimony in support of the measure which maybe there was something but that was the specific comment she made. Secondly, in the objective criteria rating in which Councilor McLain participated, the overall rating for this particular lot was a 47.5. It didn't even meet the minimum cut off of a 50% rating in terms of review by Executive

Officer Mike Burton for inclusion, so overall, it was not very stable property. It was not the kind of property that we wanted to do a lot of building on and it didn't meet the kind of capacity needs that we were talking about even though it was not (EFU) exclusive farm use. That was the reason why.

Presiding Officer Kvistad reviewed, a 'yes' vote would be to delete Site 13, a 'no' vote would be to retain it in the urban reserve.

Vote: The vote was 3 aye/ 4 nay/ 0 abstain. The motion failed with Councilors McCaig, Morissette and Washington voting aye and Councilors McFarland, McLain, Monroe and Presiding Officer Kvistad voting nay.

Presiding Officer Kvistad announced that this item remained within the urban reserve. Any further motions on this item? Seeing no further motions, Site 13 remained within the urban reserve.

Presiding Officer Kvistad called for a motion for deletion on Area 12?

Motion: Councilor Morissette moved to delete Area 12 and added that there was 24% slopes.

Seconded: Councilor McCaig seconded the motion.

Discussion: Councilor Morissette said this slope should speak volumes. It was probably not a productive area and we would be putting a bunch of high-density housing in there.

Presiding Officer Kvistad asked how that fit within the 'cow-face criteria?'

John Fregonese said it was slightly less than the previously discussed 26% sloped site.

Councilor Monroe asked Mr. Fregonese about the current use of this land. He understood that some of it, especially to the south and west, was very rugged and steep but what about up on the top? What about the north-east corner of this land? Was it just a big hillside?

John Fregonese indicated it was fairly steep. This area actually looked like there was one home on an 86-acre parcel. It didn't have a land use on it so he couldn't tell the Council anything. He knew it was steep and forested. In looking at the ranking that was presented to the Council, it received a zero in efficiency. It was among the least efficient properties, having only 45 buildable acres out of 195 and similarly, the road network, traffic congestion, schools, efficiency factor, buildable land, environmental constraints (received a 1) so it scored very low on everything almost, other than the fact that it was a DFU obviously scoring high on that factor, but low on every other one.

Councilor Monroe asked what was the Executive Officer's recommendation?

John Fregonese responded that he did not recommend that this site be included.

Presiding Officer Kvistad: said a 'yes' vote would be to delete Site 12. A 'no' vote would be to retain it

Vote: The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilors McFarland, Morissette, McLain, Washington, Monroe and McCaig voting aye and Presiding Officer Kvistad voting nay.

Presiding Officer Kvistad announced, on a six to one vote, Site 12 was deleted from the urban reserve.

Presiding Officer Kvistad said Area 11 was also on the Damascus quadrangle map. It went south approximately to here (reviewing the map) and went up into approximately here and then down to approximately here. Was there any information on Site 11.

Councilor McLain said that Mr. Burton did support this in the basic recommendation. There was a low cost of services indicated in the reports that we had seen and it was low EFU (exclusive farm use) land; in fact, very low.

Presiding Officer Kvistad called for a motion for deletion of Site No. 11? He saw no motion to delete, therefore, Site No. 11 was retained within the urban reserve.

Presiding Officer Kvistad referred to the Damascus quadrangle map. Area No. 10 was adjacent to Site 11 and encompassed this area along here (pointing to the map). With that, he called for a motion for deletion of Parcel 10?

Councilor McFarland asked if there was a piece of EFU (exclusive farm use) land there?

Presiding Officer Kvistad said the data showed as exception land.

Councilor McFarland asked if it was truly EFU (exclusive farm use) land and how much there was of it. Was it next to more EFU (exclusive farm use) land?

John Fregonese said this was a 40-acre parcel that was exception land. That particular parcel had a 5000-square foot house on it. It must be a big family. This was a fairly large area of EFU (exclusive farm use) in Clackamas County. The executive recommended this but did recommend that the EFU be edited out.

Motion: **Councilor Monroe** moved to remove the EFU (exclusive farm use) land.

Seconded: **Councilor McFarland** seconded the motion.

Discussion: **Presiding Officer Kvistad** said that there was a motion before the Council for the elimination, in Area 10, of this portion which was EFU (exclusive farm use) land. Were there any questions or comments on this item?

Councilor Morissette asked if it wouldn't create an island here with this parcel because this was at the base of another set of buttes sloping down to this area?

John Fregonese believed this was an area that sloped down to that creek but that it was not actually - it was actually at the top of the butte. The creek was quite steep and it flattened out a bit in this area. This creek was in a sense a barrier between these two areas but he thought this also had sufficient access that

it would be probably an area of 100 acres or so of resource land. I didn't believe that this was necessarily farm land. A lot of this was forest land in this part of Clackamas County so it was not the same as farming. It could be some kind of wood lot. This area was primarily soil class III and a little bit of soil class II. One could see it as a canyon there. It appeared to be similar to some of the Stafford area but it was part of a larger, contiguous area.

Councilor McFarland asked if the Executive Officer recommended that we take that corner out?

John Fregonese answered affirmatively.

Presiding Officer Kvistad reviewed, a 'yes' vote would be to delete that from the area, a 'no' vote would be to retain it.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously, Site 12 was amended to delete the EFU lands.

Presiding Officer Kvistad said this urban reserve area No. 10 was amended. He called for a motion for the deletion of the amended area in No. 10? He saw no motion, Area 10 as amended remained within the urban reserve.

Presiding Officer Kvistad reviewed area 9 on the Damascus quadrangle map and said it was comprised entirely of exception land. Was there anyone who would like to speak to that?

Councilor McLain said No. 9 had less than 1% EFU (exclusive farm use) land. She thought there were two or three acres and the Executive Officer had supported this.

Presiding Officer Kvistad asked if there was a motion for the deletion of Area No. 9?

Councilor Morissette recommended that we look at the parcelization there. There was probably not going to be a lot of houses in an area like that. He made a lot of those comments the last time so he didn't want to be belabor it. He just wanted the Council to remember how parcelized some of these sites were for the productivity we were assuming. He thought the Council was off.

Presiding Officer Kvistad announced that there were no motions to delete, Area No. 9 was retained within the urban reserve.

Presiding Officer Kvistad said Site 8 was also in the Damascus quadrangle, it was all exception land. Was there any information on Area No. 8?

Councilor McLain indicated there was no EFU (exclusive farm use) land and the Executive Officer did support it in his basic concept and it was contiguous with the other pieces that we had left in the study area to be urban reserves.

Presiding Officer Kvistad called for a motion to delete, there was no motion to delete Site No. 8, it remained within the urban reserve.

Presiding Officer Kvistad noted Site No. 7 was also in the Damascus quadrangle map.

John Fregonese said he wanted to add, for the record, that Sites 8 and 9 were the commercial center of Damascus and contained a Safeway and a number of commercial activities.

Presiding Officer Kvistad said the Council was now at Site No. 7. It was all exception land.

Councilor Morissette spoke to it other than the highway-partitioned and the parcelized nature and the low probability of high-density housing being in the area, it was part of that Damascus area that the Council had been moving through. It had the Executive Officer's support.

Presiding Officer Kvistad called for a motion for the deletion of urban reserve area No. 7? There were no motions to delete, Area No. 7 remained within the urban reserve.

Presiding Officer Kvistad noted Area No. 6 was a fairly large parcel.

Motion: **Councilor McLain** move deletion of the EFU (exclusive farm use) land in Area No. 6.

Councilor Monroe said he had a question before he seconded. Down in the south EFU (exclusive farm use) area, did we leave the EFU (exclusive farm use) land that was in No. 11 intact or did we remove it? He believed we left it in?

John Fregonese said, that was correct, Councilor Monroe. He would like to tell Councilor Monroe about the Executive Officer recommendation on this. The Executive did not delete any of these that was Class III and IV soils, they were completely surrounded and under the urban reserve rule, he did not believe that they are under the same protection as other EFU (exclusive farm use) lands.

Councilor McLain removed her motion from the table.

Councilor Monroe continued, was that true of the northern EFU (exclusive farm use) lands there up along Foster as well?

John Fregonese responded, yes, this area was completely surrounded by exception lands and this little piece was completely surrounded by exception land as well. These were in holdings of exception land. He asked Mark Turpel if he had anything on soil classifications? There was a tiny bit of Class I right here but it was heavily surrounded by Class III with some Class II.

Presiding Officer Kvistad called for a motion to delete Area No. 6? He saw no motion to delete, Area No. 6 remained within the urban reserve.

Presiding Officer Kvistad indicated that Area No. 5 was also on the Damascus quadrangle map and asked if there was someone that would like to speak to this parcel?

Councilor Morissette reviewed, this parcel had a lot of the same circumstances as the previous ones the Council had been discussing, low EFU (exclusive farm use) lands, low slopes. The Executive Officer had recommended 'yes' on this.

Presiding Officer Kvistad asked if there was a motion to delete urban reserve No. 5? He saw no motion, urban reserve area No. 5 remained within the urban reserve.

Councilor McLain read the following information into the record. First of all, when the staff was reviewing their work and reviewing their technical ranking of all of these sites, they found that they had made an error in this site, Site 4. The site rating was in error because the site was totally surrounded by urban lands. The computer rating system erroneously miscalculated individual ratings. This site had no resources lands within it yet scored almost at the bottom of the ranking for agricultural retention and agricultural compatibility. Revised ratings would place it highly suitable for urbanization when compared with the other sites.

Presiding Officer Kvistad reviewed Site No. 4. The Urban Growth Boundary currently surrounded the site completely. Was there a motion for the deletion of Site No. 4? He saw no motion, Site No. 4 was retained within the urban reserve.

Presiding Officer Kvistad announced Site No. 3 would be on the Damascus quadrangle map. He believed it also showed up on your Sandy quadrangle map but the best view was on the Damascus quadrangle map.

Motion: **Councilor McFarland** moved to delete Site No. 3 with the exception of a little piece of land in the southwest corner.

Councilor McFarland believed Mr. Turpel had a description for that area, the reason being the roadway on the Persimmon Golf Course had already been planned and it made a little loop through there and it was very important that they have the access to that. It was diagonally shaped. She would leave that portion in. It was the southwest corner of Parcel No. 3.

Presiding Officer Kvistad reiterated that Councilor McFarland had made an amendment to delete all of Site No. 3 with the exception of the one little wedge that approximately came down to this lot line below (he pointed to the map).

Councilor McFarland said this was already a part of a designed road that went through the area and looped down through and she believed it had already actually been accepted by the planners in the area. A lot of the site was EFU (exclusive farm use) land and it was rated by poorly on utility feasibility, road network, efficiency factor, buildable land and environmental constraints. She didn't think there was any reason for the Council to keep the rest of that in since we needn't burden East Multnomah and East Clackamas Counties with too much of that. She recommended that we take it out with the exception of the land she described.

Presiding Officer Kvistad said he also showed a piece which he believed was in Site 1A. Would that be this parcel here? Would you deal with that with Site No. 1?

Councilor McFarland agreed that would be dealt with when she dealt with Site 1.

Seconded: **Councilor Monroe** seconded Councilor McFarland motion on site 3..

Discussion: Presiding Officer Kvistad announced that it had been moved and seconded that Site No. 3, with the exception of this parcel approximately of this size, showing on this exhibit, be deleted. This area here would remain in the urban reserve; this area would be deleted from the urban reserve (he reviewed the map). Was there any discussion of that motion?

Councilor McFarland suggested the Council vote.

Presiding Officer Kvistad reviewed the vote would be as follows. a 'yes' vote would be to delete all of Site No. 3 with the exception of that one area. A 'no' vote would be to retain the parcel in total.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously to delete all of Site 3 with the exception of the small piece of land in the southwest corner.

Presiding Officer Kvistad said on an unanimous vote of Metro Council, Parcel No. 3 was amended and was deleted with the exception of that area. Were there any further amendments to Parcel No. 3 as amended? Was there any further amendment to Parcel No. 3 as amended? He saw no further amendments, Parcel No. 3 as amended remained within the urban reserve.

Presiding Officer Kvistad moved on to Parcel No. 2

Councilor McFarland indicated she want to leave the majority of Parcel No. 2 in but the NW corner. She would like to move that out and she didn't know exactly how many acres that it was. Can the staff tell her how many acres?

Presiding Officer Kvistad clarified that Councilor McFarland was moving to amend out of No. 2 this area?

Motion: Councilor McFarland moved to delete the EFU (exclusive farm use) land in the northwest corner from Parcel No. 2.

Presiding Officer Kvistad reiterated that Parcel 2 would remain intact under Councilor McFarland's motion with the exception of this area (he pointed to the map) so she was moving to delete this portion of Parcel No. 2. Was that correct?

Councilor McFarland responded, exactly, and asked the staff how many acres was included.

Seconded: Councilor McLain seconded the motion.

Discussion: John Fregonese said it appeared to be in the order of 45 acres.

Councilor McFarland said it was largely EFU (exclusive farm use) land.

Presiding Officer Kvistad announced that the amendment on the floor that had been moved and seconded (reviewing it on the map) was all of Parcel No. 2. The amendment was to delete this portion of parcel No. 2. Was there any discussion about this motion?

Councilor McFarland responded, no, Mr. Presiding Officer.

Presiding Officer Kvistad said the motion before the Council was to delete this portion of Area No. 2. A 'yes' vote would be to delete this portion; a 'no' vote would retain No. 2 in total.

Vote: The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilors Washington, Monroe, McFarland, Morissette, McLain and Presiding Officer Kvistad voting aye and Councilor McCaig voting nay.

Councilor McCaig said she had been confused and she would lose this if she did it in improper order.

Motion: **Councilor McCaig** moved to delete all of Site No. 2.

She then asked if she had lost the opportunity to do that?

Presiding Officer Kvistad responded the Councilor McCaig had the motion. She did have the opportunity for a motion to delete the entirety of the remaining Parcel No. 2. He had a motion from Councilor McCaig. He called for a second on Councilor McCaig's motion for deletion? There was no second to her motion, therefore the motion failed due to a lack of a second.

Councilor McCaig asked just for purposes of discussion, was the Council now almost to 3000 acres of prime farm land. The Council was almost at 18,000 to 19,000 acres total. These two pieces of property which were out in east Multnomah County were very long-term investments. They didn't have the infrastructure. Mayor McRobert would tell us that it was not a top priority for them to see this added in. There was no reason for us to break the bank by continually adding in property that didn't have a real constituency or serve a real need. In these two pieces of property, there were another 350 acres of prime farm land. Her argument was that we would always have the opportunity to go back and add these things in and we didn't have to do it all now. It was not part of a community; it was on the other side of a hill; it didn't meet the basic requirements of the 2040 process. It didn't create a new community with an identity and it didn't enhance an existing community. She would have voted, had we had an opportunity to delete both of those.

Presiding Officer Kvistad reviewed, before the Council there was a motion to delete. There was no second to that motion. Was there any further motions to amend on Parcel No. 2? Were there any further motions to amend or delete or Parcel No. 2.

Motion: **Councilor Monroe** moved to delete Site No. 2.

Seconded: **Councilor McCaig** seconded the motion.

Councilor Monroe said he dittoed what Councilor McCaig said.

Councilor McFarland said she would strongly speak against that. She had talked extensively with the people who lived out there and the governments that were involved and this was a compromise that we arrived at.

Presiding Officer Kvistad asked are there any further comments on the motion to delete? "Seeing none, Councilor Monroe, do you have a close?"

Councilor Monroe responded, no.

Presiding Officer Kvistad said there was a motion on the floor to delete the entirety of Site No. 2. A 'yes' vote would delete the entirety of Parcel No. 2; a 'no' vote would retain Parcel No. 2 as amended.

Vote: The vote was 2 aye/ 5 nay/ 0 abstain. The motion failed with Councilors Monroe and McCaig voting aye and Councilors McFarland, McLain, Morissette, Washington and Presiding Officer Kvistad voting nay.

Presiding Officer Kvistad announced that the motion to delete the entirety of Parcel No. 2 had failed and called for further motions on this parcel? There were no further motions on this parcel, the motion to delete having failed, Parcel No. 2 was retained within the urban reserve.

Presiding Officer Kvistad moved on to Parcel No. 1.

Motion: **Councilor McFarland** moved to leave the portion of the site west of Highway 26 in and it was marked 'in and leave the portion on the east side of that highway out. That was land that was poor for development.

Seconded: **Councilor Monroe** seconded the motion.

Presiding Officer Kvistad said there was a motion to delete this portion of the parcel - from this line out and to retain this portion of the parcel. There was a motion and second to delete this portion of No. 1 and retain this portion of Area No. 1.

Councilor McFarland said, again we had worked quite a bit with the people in the area and talked about the feasibility of services to that area. She said she may be speaking out of turn but she believed part of the portion that she wanted to be out would require that we pump sewage up hill and she thought it definitely had to be out.

Councilor McCaig asked a question of staff: Would they please do the larger map that showed where Sites 1 and 2 were in relation to all the other sites that the Council had talked about and what surrounded it?

John Fregonese said sites 1 and 2 were south of Gresham. The town center of Gresham was in this vicinity (referring to the map).

Councilor McCaig, responded, to the motion, again, as the Council had gone around the region, we had talked about the advantages and disadvantages of edge growth. Given other circumstances, there may be a case for adding this property but it had 219 acres of prime farm land. It was on the other side of Gresham - it was on the down hill side. It did not have an identity of its own and one was not enhancing an existing community. The need for additional services and infrastructure were a long-term investment. Again, she would urge the Council to consider that, as the Council looked at the regional picture that this

was not a necessary site for inclusion and it was a very large site. She was opposing Councilor McFarland's motion.

Presiding Officer Kvistad reminded Councilor McCaig that she had an opportunity for a motion to delete the entirety of what was not amended at the end of the motion.

Councilor Monroe said he believed the motion was to delete the portion east of Highway 26. He wished to speak in favor of that motion for a number of reasons, some of which were in agreement with what Councilor McCaig just said and also that it was, if included, tending toward growing Gresham and Sandy together and that would be bad. We wanted to leave a significant rural buffer between Sandy and Gresham and if you moved on down Highway 26, especially on the east side, you were moving dangerously close to growing Gresham and Sandy together. He supported the motion to delete that portion.

Councilor McCaig said she would support that motion because it did move in the right direction. She would also like to point out that had we been doing this in a chronological order and moving 1 through 2, you might notice that we wouldn't have had that gap and we would have looked at Site 2 a little differently. We would have, in fact, seen an entire part of that region protected. She thought it came to 2000+ acres. She supported the motion.

Presiding Officer Kvistad reviewed, the motion on the table was the deletion of this portion of urban reserve Area No. 1, retaining this portion of reserve in No. 1.

Presiding Officer Kvistad said, it had been moved and seconded and there had been a close. A 'yes' vote would be the deletion of this portion of the parcel. A 'no' vote would be to retain the parcel intact and in whole.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously, amending Site 1

Councilor McCaig asked a question of staff, under what was remaining in the urban reserve area, would they show the Council the farm land?

Presiding Officer Kvistad reviewed, it would be this portion of land here and this finger of land here.

Councilor McCaig concluded that the Council left the majority of the 219 acres of farm land in the site for urban reserves?

John Fregonese responded that that was correct.

Motion: **Councilor McCaig** moved to delete the remaining Site 1.

Presiding Officer Kvistad said there was a motion to delete what remained of Site 1. It had been moved by Councilor McCaig. He called for a second to the motion to delete what remained of Site 1. There was no second, the motion died for lack of a second. He asked, were there any further amendments on this?

Councilor Monroe followed up by saying that Councilor McCaig didn't convince him on this one because they lost on Site 2. If you deleted that portion of Site No. 1, it would really make it illogical. Site 2 would have been down there by itself with a big gap and so that was why - He thought if you had one in, you had to have the other one in as well.

Presiding Officer Kvistad called for any other corrections or deletions to this parcel? The parcel that remained was from this line here - this was what remained of urban reserve Area No. 1. Was there a motion to delete? There were no further motions to delete. Area No. 1 as amended was agreed to and remained within the urban reserve area. That completed the 72 parcels that the Council had before them. The process, at this point, would be to take approximately 15 minutes for staff to be able to work through and give the Council the total number of acres that we had before the Council. He announced a 15 minute recess.

Presiding Officer Kvistad said that the total number of acres, the goal was 18,300, recognizing that the Council had some people who didn't agree with that - the total number of acres selected by Metro Council to this point was 17,965 acres. Of that, there was 3,040 acres of EFU (exclusive farm use) land or resource land. Of that, there was approximately 1500 acres of that this that was not surrounded. Of the 3040 acres, lands that were surrounded were not counted as EFU (exclusive farm use). Therefore, there was approximately 1500 acres of total resource land out of a total of 17,965 acres. He would refer back to the memo. We had a series of parcels that were discussed earlier. There were some close votes on those. The Council would begin with Parcel No. 72. He would accept motions for reconsideration. To reconsider a parcel, the Councilor would need four votes. According to the process, the Council would ask for reconsideration and have reconsideration only on votes that were either 3-3-1, 4-2-1, 4-3 or another combination which did not show a consensus on a parcel. The Council would go back around the edge one more time with the parcels that were available. He would take questions on process at this point and then the Council would move to consideration.

Councilor McCaig had a question and a statement. She wanted it very clear that she did support the Urban Growth Report but she also supported the Functional Plan which indicated we would need only about 4,000 acres. The Functional Plan, the Urban Growth Report and the urban reserves were three unique entities and information from all of those could be compiled to help the Council make decisions about any one of them. The sites were not distinctly tied together. There was nowhere where the Council had said collectively as a council, that our target was 18,000 acres. Councilor McLain may feel that should be the number, Presiding Officer Kvistad may feel that should be the number and they had every right to do that but she wanted to make it clear that Council had not taken that position nor do she support it. Secondly, it was unusual in a process like this that you revisited on those areas which were controversial. In more cases, in a legislative body, the person who was on the prevailing side, if for some reason compelling evidence had been submitted over the last week or last two weeks and they wanted to change their minds, usually had the opportunity because of additional information and they were on the compelling side, the prevailing side would move for reconsideration. By allowing anyone who was in a close vote, who was on the losing side, to continually be able to move an issue didn't necessarily resolve the discussion. What one did, just because there was controversy, didn't mean one had identified key public policy issues that one wanted to revisit. There was no reason for the Council, under those circumstances, not to revisit anything that was 5-2, for example; or 6-1 for example, if there was not a motion to reconsider, from somebody who was a 'yes' vote, she didn't believe the Council should spent time on reviewing those issues which were not controversial.

Presiding Officer Kvistad asked if Councilor McCaig would like to make that in the form of a motion, and ask for Council consent.

Councilor McCaig responded, no, because she knew the outcome.

Presiding Officer Kvistad said he was not sure Councilor McCaig would know the outcome but he would give her the opportunity to make that in the form of a motion.

Councilor McCaig said she would like to go on record again as saying she thought this was a poor way to conduct the public's business.

Presiding Officer Kvistad said, that being said and that being noted, the Council would move to the process debate. The Council would take parcels between 67 and 72.

Councilor McLain wanted to make sure before she started with Site 72 because of the comments made by Councilor McCaig, that it was very clear that as she indicated, there was a great deal of agreements between Councilor McCaig and herself on the issue. She was using the Functional Plan, the Urban Growth Report work that had been done and also the urban reserve study acres analysis to make her decisions tonight. She did personally believe that because she really thought that the Functional Plan was going to work, that we would never, ever get into some of the urban reserves we might consider. If, at the very worst case scenario, that we had looked at the Urban Growth Report, we knew that the worst number possible that we might need would be 18,000 acres. Not the best number, which she thought we were going to get to. She would like to talk right now about Site 72.

Motion: **Councilor McLain** moved to delete Site 72.

Seconded: **Councilor McFarland** seconded the motion.

Presiding Officer Kvistad announced that it had been moved and seconded to delete Site 72.

Councilor Monroe said that he thought it took four votes for reconsideration. He didn't hear four votes.

Presiding Officer Kvistad said he believed that was correct. Councilor McLain would need four votes for reconsideration on the parcel.

Councilor McLain said it was called a majority and all you had to do is vote on the issue after she had spoken to it.

Presiding Officer Kvistad reiterated, there was a motion to reconsider. There was a second on the motion to reconsider.

Councilor McLain pointed out on Site 72 that it was up in the Skyline area. The Council deleted Site 71, 70 and 69. There was a little tip of an island that the Council left up there. She pointed out to the Council again that it was in a natural resource zone by the City of Portland. She pointed out that by the latest staff report that there was absolutely no buildable acres up there. It also backed right into Forest Park. At this time, she would ask the Council to reconsider Site 72 and she would like to see it deleted from this map.

Councilor Monroe said this was entirely within the boundaries of the City of Portland, was it not Mr. Fregonese?

John Fregonese responded yes, it was.

Councilor Monroe continued, therefore, it was by its very nature being in the City of Portland, urban, and therefore ought to be included in the urban reserve?

Councilor McCaig said she didn't believe the Council really wanted to take the debate and discussion prior to the actual vote for reconsideration which was what the Council was doing. She wanted, for the record, to remind people that the vote last time was 3-3-1. Councilor McLain moved last time to delete it, was supported by Councilor Washington, Councilor McLain, Presiding Officer Kvistad, with Councilor Morissette abstaining. Councilor McFarland, Councilor Monroe, and Councilor McCaig voted to keep it in.

Presiding Officer Kvistad said those voting for reconsideration would vote 'yes' and those opposed would vote 'no.'

Vote: The vote was 4 aye/ 2 nay/ 1 abstain. The motion passed for reconsideration. Councilors McFarland, McLain, Washington and Presiding Officer Kvistad voted aye, Councilors Monroe and McCaig voted nay and Councilor Morissette abstained.

Presiding Officer Kvistad said on a 4-2 vote, this site would be reconsidered.

Motion: Councilor McLain moved that Site 72 be deleted.

Seconded: Councilor McFarland seconded the motion to delete.

Discussion: Councilor McLain said having heard what Councilor Monroe had to say a couple of time that just because it was inside the boundary for the City of Portland that made it urban. She would like to have Councilor Monroe come out and see this site with her. It was not urban. It was forest. It backed right up to a forest. It was steep. There were no places to build homes. This was in their natural resource area. It was not a buildable site and would be an extra acreage in the urban reserves that could never be used.

Presiding Officer Kvistad announced that the motion before the Council was to delete Site No. 72.

Vote: The vote was 4 aye/ 2 nay/ 1 abstain. The motion passed with Councilors McLain, Washington, McFarland and Presiding Officer Kvistad voting aye, Councilors Monroe and McCaig voting nay and Councilor Morissette abstaining from the vote.

Presiding Officer Kvistad stated that Site 72 was deleted.

Councilor McCaig indicated she had some other sites for reconsideration but what made it difficult for the public and for her in this process, was I didn't know why the Councilors who changed their vote,

changed their vote. She didn't know what had happened and they are not required to give an explanation or to argue their case in following a process like this. All of a sudden, the Council had a shift from one week to the next without anyone having the benefit of why an individual or how. She suggested it might be valuable to her to know that because maybe she would want to change her mind, too. That was the difficulty with this process.

Presiding Officer Kvistad understood that. He again suggested Councilor McCaig had the option to make a motion to do that in order to run the process that way. He had given her the opportunity to make a motion to put before the Council whether or not to require an explanation.

Councilor McCaig acknowledged that she understood.

Presiding Officer Kvistad added that what he wanted to do was make sure that we don't have to go through this every time we had a vote. If Councilor McCaig would like to make the motion that someone on the prevailing side move it and get a second, we could vote on that. He just didn't want to get through every single parcel and have the same thing happen, if that would be all right.

Councilor McCaig appreciated that suggestion but said that she wouldn't do that. This was the first time we did it and it provided the example for people to understand that we had had a vote change from an individual Councilor. We had heard the same argument from the Councilor who made the motion last week. She had not received any new information and for the rest of the process, she wouldn't bring that up but that was the downside to conducting business this way. No one knew why people were changing their votes.

Councilor Monroe had a process question. It was his understanding that the process was that if a person wanted to reconsider one of those close votes, that the Council would see if there were three other members that agreed with them in order to have reconsideration and then we would have a debate and so on; not have the debate before we see whether or not there were four votes.

Presiding Officer Kvistad said that would be done in the future, Councilor Monroe. That was the first vote and that was his mistake for not catching it. We would entertain a motion for reconsideration. Was there any Councilor that would like to move a reconsideration between Sites 72 and 60?

Councilor McCaig responded yes.

Councilor Monroe believed on the amendment of Site 62 there was also a 3-4 vote. It was a critical amendment.

Presiding Officer Kvistad took that under advisement.

Councilor McCaig said in the hand-out that the Council received, she would like to note that on Site No. 62 which was modified, the original motion was to modify. She came in with an amendment to delete. The amendment to delete failed 3-4. Then there was the modified vote which passed 7-0.

Presiding Officer Kvistad added Site 62 to the list.

Councilor McCaig stated that was 237 acres. We were still working backwards. She would like to address two issues, first, to make sure that all the councilors had in front of them the letter from the Oregon Land Conservation and Development Director.

Presiding Officer Kvistad stated that he was entertaining motions for reconsideration on parcels.

Councilor McCaig said the letter was specific to these parcels. The Council had preliminary identified significant tracts of agricultural land for designation.

Presiding Officer Kvistad felt that was extraneous testimony which we were not dealing with at this point. If you have a motion on a parcel, he was accepting motions for reconsideration on parcels.

Motion: **Councilor McCaig** moved reconsider Site 65.

Seconded: **Councilor Monroe** seconded the motion for reconsideration.

Presiding Officer Kvistad said there was a motion and a second to reconsider Parcel 65. To Councilor McCaig's motion, it had been seconded and would require four votes. Those in favor of reconsidering this item would vote 'yes' and those opposed would vote no.

Vote: The vote was 2 aye/ 5 nay/ 0 abstain. The motion failed, there would be no reconsideration of Parcel 65. Councilors McCaig and McLain voted aye, Councilors Monroe, Washington, McFarland, Morissette and Presiding Officer Kvistad voted nay.

Motion: **Councilor McCaig** moved for reconsideration of Site 62.

Seconded: **Councilor Monroe** seconded the motion.

Presiding Officer Kvistad said the Council would take a vote on the motion to reconsider.

Vote: The vote was 4 aye/ 3 nay/ 0 abstain. The motion passed with Councilors Monroe, McCaig, McFarland, and Washington voting aye and Councilors Morissette, McLain and Presiding Officer Kvistad voting nay.

Presiding Officer Kvistad said on a 4-3 vote, the motion to reconsider was adopted. Councilor McCaig, do you have a motion?

Motion: **Councilor McCaig** moved to delete Site 62.

Seconded: **Councilor Monroe** seconded the motion.

Discussion: **Councilor McCaig** stated that Site 62 as modified, continued to have 237 acres of prime farm land. In the letter that was delivered to Presiding Officer Kvistad, dated December 11, 1996, from the Department of Land Conservation and Development director, he listed a series of sites that he raised as having preliminary concerns, many of which the Council was not going to be able to

talk about, but Site 62 was included in that list. She would be interested, rather than seeing the specific sites, seeing the whole north end, that whole range again. As the Council looked at Sites 72 through 35, that whole swath, there was about 1160 acres of prime farm land that we had added. Across the top of Washington County, how many acres of farm land had we added? She thought it was about 600 acres, if you put your map on what we had added across the top of Washington County. Her case had been, on all of the sites, that as the Council looked at what we wanted to protect out towards North Plains and Helvetia, that what we wanted to do was protect the prime farm land and an entire way of life for this region. What we didn't put into the boundary was as important as what we put into the boundary. There were two major blocks of prime farm land, Sites 65 and 62 and she would ask, at a minimum, that the Council delete Site 62 from the urban reserve area.

Councilor McLain added that when the Council originally talked about this, one of the things that was important for the Council to note was that, as Councilor McCaig was asking to look at what we had put in, one also needed to look at what we took out. We took out all of the EFU (exclusive farm use) land that were close to this site, to the north of the Sunset Highway. We also took out all but 200 acres of Site 62. Those 200 acres represented only 29% of the original 692 acres and in response to the letter that Councilor McCaig started to talk about from Richard Benner, he also had a paragraph that said that he just simply wanted us to know that we needed to make sure that we had to have findings that would indicate that this had to be a top priority in our acknowledgment plan. We understood that EFU (exclusive farm use) land had a different criteria and a set of guidelines that we had to be able to have findings on. It was the opinion of this Councilor that if the little hand that was out there - the little red beam - would go to the corner of Shute Road and Evergreen that we had such a piece. That piece of 200 acres had an industrial neighbor, large industrial neighbors to the south, to the east and it completely surrounded the full course. Secondly, there was a congestion problem at that Evergreen and Shute Road corner because of the amount of industrial users that we had there and with this site, it helped make the efficiency of the industrial land and the industrial sanctuary in the Hillsboro area be more efficient. We talked about the special land needs provision of the urban reserve rule and she thought that, again, Mr. Benner brought that up in his letter. Its inclusion would implement state planning of Goal 9 by addressing the state and regional shortage of large sites for campus industrial enterprises. There was only one such site remaining and that was the Seaport property.

Presiding Officer Kvistad reviewed that the only site in 62 that was currently in (he pointed to the map) was this area. This area here had been deleted.

Councilor McLain responded that that tip across the street also was deleted way over there on that side. She would like to continue on by stating that there was adequate adjacent public infrastructure and if you looked at the criteria three through seven, it indicated that we had to take into consideration which of these pieces that we were trying to look at could be served and at what cost they could be served at. Sewers, water, utilities, and roads were available because of the industrial development and use with the neighbors right across. It was not just that. In talking to Washington County Farm Bureau and also other farmers, there had been individual farmers that had indicated if you are going to take any land in Washington County, it needed to be below the Sunset Highway. It needed to be below Council Creek if at all possible. If you could see the wetlands and so forth up there, you would see that we were trying to stick to that by taking that 200 acres in the corner. There was no perfect world. This was reasonable. It was defensible. We passed it last time and she would suggest that we continue to support this. Hillsboro supported it. She thought it was the best compromise that we were going to get between the agricultural community and the urban community.

Councilor McFarland changed her vote on the last one and the request was why did she change her vote. She changed her vote on this one. Perhaps everybody else had heard what was said a number of times but she had been inundated with what everybody had said and she did listen but part of the reason she changed my vote on the last one was because of what we had done with the land around it as we went forward and she thought going back to look at it was a reasonable thing to do. What she did with this one was vote to reconsider this because she wanted to hear again the discussion and to think again of what we had done around the region. Her vote to reconsider was not necessarily a vote to change her vote on the upcoming question but she did believe that Councilor McCaig deserved the opportunity to argue her point of view and that was part of why she did that. She didn't know that anybody out there wanted her to explain to them every time she voted. She had always felt like maybe they didn't but, on the other hand, she did believe she had compelling reasons when she changed her vote.

Councilor Monroe said that Councilor McFarland, Councilor McCaig, and himself voted to delete all of Site 62. He was interested in asking staff a question about the portion of Site 62 that was not EFU (exclusive farm use) land. What was the nature of that land? Was it urbanized already? If so, perhaps it ought to be in the urban reserves.

John Fregonese responded that there appeared to be buildings on most of this land. It appeared that it was an old town plat. The parcels were approximately one to two acres in size.

Councilor Monroe asked if the maker of the motion if she would accept a friendly amendment - instead of deleting all of Site 62 to delete all EFU (exclusive farm use) land within Site 62 which would leave only that portion that we were currently looking at.

Councilor McCaig responded that her difficulty with that was that she had argued against adding even exception lands and the reason for that was she was fearful about what we did the next time we came back to this region. This was all exception land here currently so you could see that the next time we came back, five years from now, the motion was going to be to move up here and why not just finish this part off and she argued that was the kind of thing for which we did not want to set a trend. She had consistently argued not to even add the exception lands. If there was any chance that she could get this thing to pass by leaving that, she would be happy to accept the friendly amendment.

Presiding Officer Kvistad reviewed the motion which was to delete all of Site 62 with the exception of that area. Was there further discussion?

Councilor McFarland had a question for staff. Were we required to have a certain amount of EFU (exclusive farm use) land in our planning land? Were we recommended to have?

John Fregonese responded no, Councilor McFarland. Including EFU (exclusive farm use) land was an exception that had to be justified.

Councilor McFarland asked, any EFU (exclusive farm use) that we include had to be justified.

John Fregonese, any other than that which was surrounded and was not prime or unique. Of the areas that were in the urban reserve, probably 2000 acres had to have special findings. This would be in that area that would need a special justification.

Presiding Officer Kvistad announced that the motion before the Council was the deletion of all of Site 62 with the exception of the exception land portion of Site 62. Was there any further discussion on this?

Councilor McCaig added only to reiterate that it was 237 acres of prime farm land. It would need a justification because it did not fit any of those criteria and it was in a place that if we decide to establish a trend or a path, that next time, we were going to encroach upon that area which, by all accounts, was Type I soils. She thought it would be good to delete it.

Presiding Officer Kvistad finished by saying the motion before the Council was the deletion of all of Site 62 with the exception of the parcel that was adjacent to the Sunset Highway. A 'yes' vote would delete it and a 'no' vote would leave it as it had been amended and currently within the urban reserve.

Vote: The vote was 2 aye/ 5 nay/ 0 abstain. The motion failed with Councilors Monroe and McCaig voting aye and Councilors McFarland, Morissette, McLain, Washington and Presiding Officer Kvistad voting nay.

Presiding Officer Kvistad announced on a 5/2 vote, the motion failed. He asked if there were any other motions between Sites 60 and 72? There were none, he asked for motions between Sites 50 and 59. Were there any motions between Sites 50 and 59?

Motion: **Councilor McLain** moved to reconsider Site 56, it had 44 acres and it was to the south of Forest Grove.

Seconded: **Councilor Monroe** seconded the motion.

Presiding Officer Kvistad reviewed that it had been moved and seconded to reconsider. Those voting for reconsideration would vote yes. Those who were opposed to reconsideration would vote no.

Vote: The vote was 5 aye/ 2 nay/ 0 abstain, the motion for reconsideration of Site 56 passed with Councilors McLain, Washington, McFarland, Monroe, Morissette and Presiding Officer Kvistad voting aye and Councilors Monroe and McCaig voting nay.

Presiding Officer Kvistad said on a 5/2 vote, the motion to reconsider passed.

Motion: **Councilor McLain** moved to include in the urban reserves Site No. 56.

Seconded: **Councilor Morissette** seconded the motion.

Councilor McLain reviewed Site 56 which included 44 acres and sat at the bottom of an industrial park. It sat to the north of a wetland. It was completely locked from use in active farming at this time. She wanted to bring the testimony up to date. She had available two notebooks that included Growth Management staff and the legal staff of this Agency which had indicated that they believed that there were findings available for this site to be seen as a special circumstance and a need for the community for some of the criteria including economic development that we had agreed to. This site, when it came up in 1990, went to the State before the LCDC and it was turned down. At this time, we believed that the

findings would be even stronger and would find a different result. Councilor McLain reviewed a letter in the record indicating their strong support of site 56. The documentation gave the following legal definition. The site was located south of the Tualatin Valley highway bypass between Maple and Elm Street, south of Forest Grove in Washington County. This was the amendment she was asking for. It was identical to the 35 acres that Councilors McCaig and Morissette voted for the City of Cornelius. They asked the City of Forest Grove for 644 acres, all Councilor McLain was asking was for 44 acres which would be designated as industrial. From a farm girl perspective, this area was not a prime piece of farmland and the Washington County Farm Bureau and all four farmers that had written major letters had not indicated that this was a piece they would miss.

Councilor McCaig asked to review the big map and said that this was another example of edge growth in Forest Grove. This was just a 44 acre plot in the middle of the northern boundary of Forest Grove, in the middle of a flood plain. The vote was 4 to 3 to not include it, to leave it out of the urban reserve areas. In 1987, the City of Forest Grove, who had wanted this piece of property, came and offered an amendment to the boundary. The Metro staff did find findings, it was challenged, taken to LUBBA and the decision was overturned. There was no support at the State level for including this area or any compelling need to do that. It was exactly an example of the kind of edge growth that did not fit in to any big pattern. If asked were the two big territories were where there was prime farmland it continued to be up here and down here (as she pointed to the Washington County and Clackamas County areas). It was her hope that the Council would vote no on the amendment which would continue to keep the piece of property out of the urban reserves.

Presiding Officer Kvistad added that this particular parcel was surrounded to the south, east and west by wetlands, there could be no further growth there. This parcel was an orphan parcel. Considering what was being done and also considering the request by the City of Forest Grove, there was no way for any further expansion of this parcel to any other direction. To put this parcel in made it clear and consistent and gave them an edge but there could be no further growth on that side.

Councilor McLain said that the City of Forest Grove was the only jurisdiction in the entire region that the Council had not allowed for an opportunity in 50 years to expand any of their industrial base or be able to have jobs for the people in their city. She could see no other vote but a yes vote for inclusion.

Presiding Officer Kvistad reviewed the motion, a yes vote would be to include this in the urban reserve, a no vote would be to continue its exclusion from the Urban reserve.

Vote: The vote was 4 aye/ 3 nay/ 0 abstain. Councilors McFarland, McLain, Morissette and Presiding Officer Kvistad voted aye, Councilors Washington, Monroe, McCaig vote nay. The motion passed and Site 56 was included in the urban reserve.

Presiding Officer Kvistad called for any motions for reconsideration on Site 26, 15 and 13. Site 26 was a 4 to 3 vote on the amendment to exclude the land in Beavercreek, Site 15 was to include additional urban area that had not been studied.

Motion: **Councilor McLain** moved to reconsider Site 26.

Seconded: **Councilor Morissette** seconded the motion to reconsider.

Vote: The vote was 1 aye/ 6 nay/ 0 abstain. The motion failed with Councilor McLain voting aye and Councilors Monroe, McCaig, Morissette, McFarland, Washington and Presiding Officer Kvistad voting nay.

Councilor McLain explained that the reason for reconsideration was because this was the amendment that she asked for the lower east/south corner of Beavercreek to be excluded for the urban reserve. She believed it was going to be difficult to meet some of the factors. The main factor was the water and flooding issues there.

Presiding Officer Kvistad called for a motion to reconsider on sites 15 and 13. There were no motions to reconsider. He announced that that completed the sites that were within the criteria for reconsideration.

Presiding Officer Kvistad asked for a point of personal privilege. The Council had received a great deal of testimony on site 49. Site 49 did not meet his reconsideration criteria, therefore, he asked for a vote of the Council to allow him to reconsider. This site was technically outside of the boundaries. He asked for a consensus of the Council rather than a formal vote.

Councilor McFarland asked what the vote was on this site?

Presiding Officer Kvistad said that the vote on this site was 6/0/1 for an amended 49 inclusion with Councilor Morissette abstaining. Councilors Monroe, McCaig, McFarland, Washington said no, Councilor Morissette abstained, Councilor McLain and Presiding Officer Kvistad voted yes. He announced that he would not move for reconsideration and it did not fit within the criteria.

Motion: **Councilor McLain** moved this body of amendments and the Ordinance in front of Council to staff with the direction to find the findings necessary to carry them forward for the urban reserve designation by the State laws that the Council is required to do so.

Seconded: **Councilor Washington** seconded the motion.

Discussion: **Councilor Morissette** said that he did not wish to be redundant but he thought that the Council had estimated that the highly partition lands within our urban reserves are far more productive than ultimately they will be. He asked how he made sure that this was reevaluated to make sure the Metro had properly analyzed the right kinds of densities numbers be achieved. Would he make an amendment that through the findings that are done that there was a re-analysis the effectiveness of infill on highly partitioned property.

Presiding Officer Kvistad said he believed that the time that would be best for further discussion on that item would be following the findings. The findings were a series of legal decisions and legal comments. At that time when the findings came back from the Legal staff, these discussion could occur.

Councilor Morissette asked Mr. Fregonese to watch that particular request.

Councilor McCaig thanked everyone for their patience but she really believed throughout this last six month process that every step along the way there was an opportunity to make it better. She had not particularly supported this process. She hadn't thought the process was the best it could be and she had

made those criticisms known continually but she had also tried to work within it. She believed that the product that had been completed was going to be balanced and it was not. In her view it turned back the work of this agency that had earned Metro a national reputation over the last five years. We did not manage growth in what was just chosen to do, we chose to let it all out. We did exactly what the staff work, goals, objectives, the Functional Plan and the 2040 process were designed to prevent the Council from doing. There were 18,000 acres in urban reserves that even members of the Council said we might not need. It wouldn't be likely that those acres would be taken out of urban reserves. The only way they may be taken out was to add them to the Urban Growth Boundary. Never in her wildest imagination were there going to be 3000 acres of prime farmland. She was stunned by that. She never believed that Stafford, St. Mary's, all of Washington County and then the small parcels in Damascus, Oregon City and Beavercreek. She thought that the Council had set a direction by the Council's actions that was fundamentally wrong. It would damage the livability of this region. She would be voting against this plan.

Councilor McLain said because of Councilor McCaig's comments she felt an obligation to talk about the work in another light, through a different interpretation. She came on this Council six years ago to work on the vision for good land use and transportation in this region. She still felt very heartened that the Council was headed in the right direction and that there would be an excellent product when the process was finished. One, all that had been done today was to limit the amount of acreage that staff would again review for findings. The Council would also be going to invite the public and local jurisdictions and ourselves back in 45 days to review the work of the Council and the work of the staff on the findings. There could be some adjustments in that piece of work. In addition to that the Executive had asked MPAC to review in 30 days the findings and this plan in the month of January. The Council was not done but simply continuing the process. She did not believe that Metro would ever use any of the urban reserves that are finally designated and voted on. She does believe that the Functional Plan in this region will be used, used well and a better job will be done in the next 20 years than the last 20 years on land use inside the Urban Growth Boundary. There would be a public hearing coming up in over 45 days, Council had only 18,000 acres that Council had requested staff to find findings on and if Council was going under status quo, there would be 60,000 acres used over a 50 year period. 18,000 as a possible use compared to 60,000 by doing business as it was being done today. It was extremely important for the Council to remember that the citizens and local jurisdictions needed to be ready to talk to Metro about design and density inside the Urban Growth Boundary so that Metro did not have to use the Urban Reserves that this agency by law were required to do.

Presiding Officer Kvistad thanked the entire staff and department for all of the hard work on this, without the staff it would have been very difficult to get to any decision what so ever. The last four years of work had been outstanding. He greatly appreciated their work. Many had criticized the process that he tried to define for this, he tried to define a process that would allow the Council to go through the parcels and take out the areas that were most sensitive. He realized that many people didn't like that process and he had taken a great deal of heat. He understood that but he still believed that some good work had been done. He did not apologize for it, but for those who disagreed, he did the best that he could on this, and he believed that he did a good job. He spoke to where the Council was, when the Council started this process in 1993, the Council was looking at a series blob maps with 60,000 to 100,000 acres of urban reserve lands. The Council was looking at a United States that had done nothing even near what Metro had attempted to do. The Council was now having discussions about a maximum of 18,000 acres of urban reserves. These were reserves, this was not Urban Growth Boundary expansion, these were lands on to which we might grow if we didn't do 2040 well. For those who didn't believe that there was

enough land cut, it was up to them to be involved with Metro, with the local jurisdictions to make sure that the local jurisdictions help with the kind of density that would not require a growth in the Urban Growth Boundary and Metro would need help to do that. He also asked to put this in context, in talking to staff, not only was Metro between 60,000 to 100,000 that would have been needed, the city of Baltimore just added about 220,000 acres that they were looking at for urban expansion, outside of the City of San Francisco, in the valley, they were looking at over 600,000 acres of urban expansion. We were looking at one of the fastest growing cities in the country and we were talking, in a 50 year period, less than 20,000 total acres. That was something to be very proud of, he was very proud of the work that had been done. He was proud of all of the members of the Council despite the difference on this issue and he was proud to serve with the Council.

Vote: The vote was 6 aye/ 1 nay/ 0 abstain with Councilors McLain, McFarland, Morissette, Monroe, Washington and Presiding Officer Kvistad voting aye and Councilor McCaig voting nay. The motion passed. The urban reserves were adopted and sent to staff for findings.

8. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e). DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE REAL PROPERTY TRANSACTIONS.

8.1 Resolution No. 96-2430, For the Purpose of Authorizing the Executive Officer to Purchase Property in the Columbia River Shoreline Target Area.

Presiding Officer Kvistad opened an Executive Session pursuant to ORS 192.660(1)(e) to discuss Resolution No. 96-2430.

Present: Nancy Chase, Alison Kean Campbell, members of the press.

Motion: **Councilor Monroe** moved the adoption of Resolution No. 96-2430.

Seconded: **Councilor Washington** seconded the motion.

Discussion: None.

Vote: The vote was 5 aye/ 0 nay/ 0 abstain. The motion passed unanimously of those voting. Councilors McCaig and Morissette were no longer in the Council Chamber.

10. COUNCILOR COMMUNICATION

Presiding Officer Kvistad announced that there was a list of committee choices. He asked Councilors to fill them out and get them back to him during the course of this week.

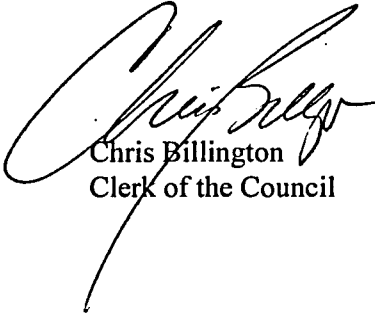
Councilor Washington asked about the final Council meeting for this year.

Presiding Officer Kvistad announced that the final meeting of this year would be on December 19, 1996. The Council would reconvene on January 7, 1997 which was a Tuesday for a vote on Council reorganization and a reception for those being sworn in. On January 9, 1997, the first Council meeting of 1997. The Council would receive at that time a calendar with the Council meetings and times and days of the committee meetings would be decided once the committee assignments were made.

11. ADJOURN

With no further business to come before the Metro Council this afternoon, the meeting was adjourned by Presiding Officer Kvistad at 5:59 p.m.

Prepared by,



Chris Billington
Clerk of the Council

Agenda Item Number 4.0

REGIONAL PARKS AND GREENSPACES ADVISORY COMMITTEE REPORT

Metro Council Meeting
Thursday, January 9, 1997
Council Chamber

Agenda Item Number 5.0

SEMI-ANNUAL REPORT ON CONTRACTS

**Metro Council Meeting
Thursday January 9, 1997
Council Chamber**



METRO

TO: Metro Council

FROM: Mike Burton, Executive Officer *M Burton*

DATE: December 3, 1996

RE: Semi-Annual Report on Contracts

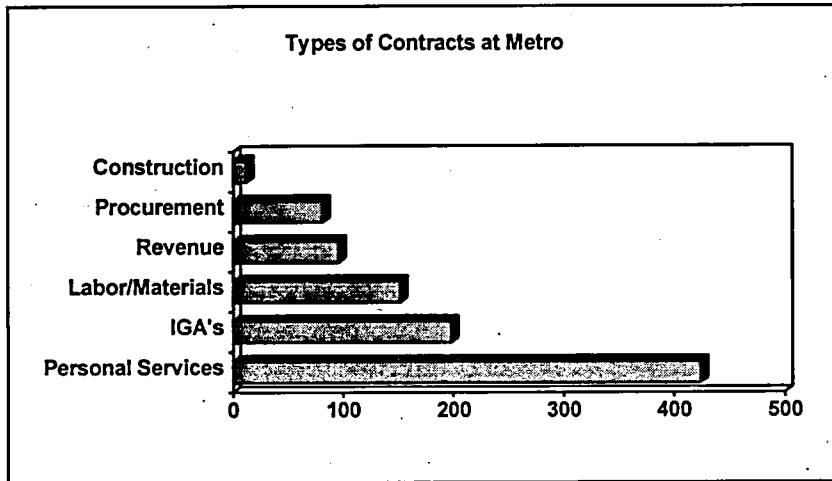
CONTRACTS

As of the end of FY 1995-96, Metro had 1024 contracts, a 30 percent increase from six months ago, with commitments of over \$1 billion dollars. The following chart shows the number of contracts by department.

Department	No. of Open Contracts	Dollar Amount
Council Office	0	0
Office of the Auditor	2	\$253,000
Office of the Executive Officer	5	\$152,699
General Counsel	2	\$110,000
Public & Government Relations	1	\$14,000
MERC	84	\$28,759,326
Growth Management	48	\$2,497,587
Regional Parks & Greenspaces	266	\$29,966,864
Administrative Services	84	\$5,656,658
Regional Environmental Management	268	\$931,787,866
Transportation	87	\$41,361,410
Washington Park Zoo	176	\$2,884,751
Total	1024	\$1,043,444,161.00

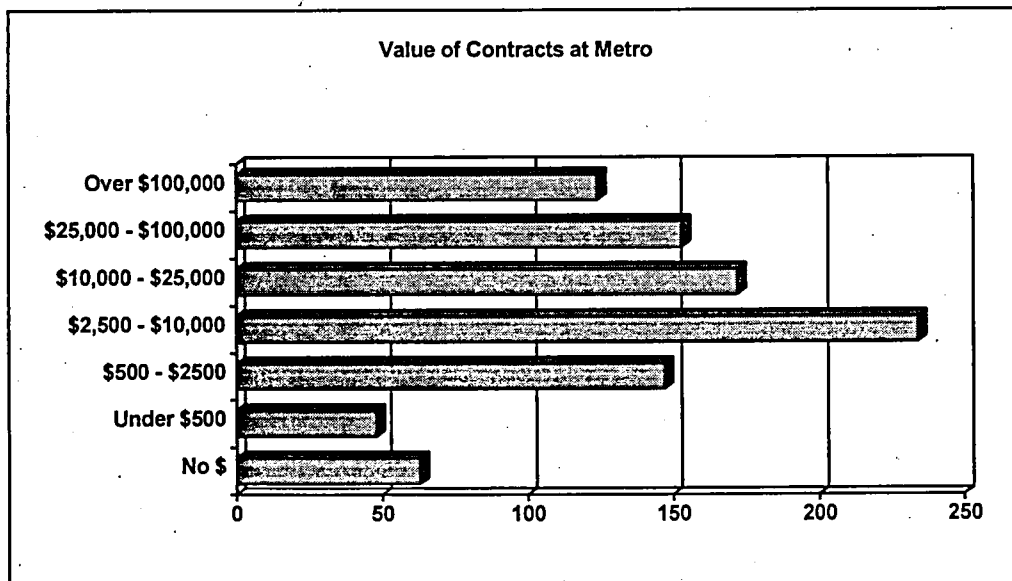
Types of Contracts

The following graph shows the types of contracts at Metro. Most of Metro's contracts are personal service contracts.



Value of Contracts

The following graph shows the value of contracts at Metro. Half of all contracts are under \$10,000. The number of contracts between \$10,000 and \$25,000 have increased significantly due to Open Spaces contracts.



Improvements in the Contract Process

In the past year, Risk and Contract Management has taken a number of steps to improve the contracting process at Metro. Some improvements are listed below:

1. Implemented a 24-hour hotline for the public, vendors and contractors regarding Metro's upcoming contracts.
2. Sponsored two large minority and women owned business events — one in the Metro Regional Center and one at the Zoo.
3. Sponsorship of Minority Enterprise Week.
4. Active role in regional consortium to develop regional disparity study recommendations.
5. Introducing purchasing cards which should make purchasing more efficient.
6. "At a Glance" monthly contracts report to Council.
7. Contracting Code Revision.
8. Short Form Personal Services Contracts.
9. Standard RFPs/RFBs and Contracts.
10. Contract Reference Guide.
11. Quarterly MBE and WBE reports.

DISPARITY STUDY

In 1994, the Council authorized expenditures for a Regional Disparity Study in association with other regional partners. The study provided approximately 100 recommendations.

Listed below are the recommendations which have been incorporated formally by code, procedures or by practice.

- Publicize informal procurement opportunities.
- Rotate the contractors who are solicited for informal procurement.
- Report results of informal solicitations to Council.
- Periodically review the lists of firms contacted for informal solicitations.
- Establish a Liaison Officer.

- Staff orientation for contracting.
- Design small contracts when feasible.
- Require contractor attendance at pre-bid conferences.
- Train project managers.
- Standards applicable to all phases of contracting.
- Create periodic reports of utilization, performed on quarterly basis.
- Regularize the release of contract information.
- Publish a contracts register.
- Utilize the State of Oregon's VIP (vendor information program) system.
- Alternatives to low bid requirements, do proposals when possible - CM/GCS.
- Require primes to contact M/WBE's not in attendance at pre-bid.
- Developed a telephone hotline.
- Use alternatives to low bid when feasible, i.e. CM/GC, Design/Build. *Requires Council approval of each project.*

Listed below are the recommendations we **plan** on implementing as resources allow:

- Establish standard method to record solicitation of ethnicity and gender. *Requires change in procedures and computer tracking.*
- Track bidding patterns by computer. *Requires development of computer software to track ethnicity and gender of bidders.*
- Good Faith should apply to architectural and engineering. *Require code modification.*
- Streamline invoice processing. *Requires procedures/training of project manager and Accounting staff.*
- Develop a computer friendly reporting system via disk or e-mail for contractors. *Requires software development for reporting of subs and workforce.*
- Increase notice of pre-bid. *Requires procedure change.*

- Economically feasible units (sub-contractor opportunities) should be selected with more care. *Requires training of project managers.*
- Central information center. *Requires staff resources to develop all possible resources or limited funding to another government for coordinated approach.*
- Improve training for project managers. *Requires training curriculum for all project managers.*
- Facilitate the use of Metro contracts for collateral on loans. *Establish procedures with banking institutions and modify standard bids.*

Other changes under evaluation would require code changes and Council approval. These changes, if any, would be brought to the Council in February for a July 1, 1997, implementation. As discussed with Councilors, these changes are as follows:

- Establish a limited emerging small business (ESB) program. *Requires Council approval and Code change.*
- On a pilot project basis, waive competitive bidding/proposals for all purchases/contracts under \$10,000 and over \$2,500 if an M/WBE/ESB is used. Department would have the option to competitively bid. *Affects approximately 500 purchases a year. Note: This was not a direct recommendation of disparity study. Requires Council approval and Code change.*
- Create an M/WBE/ESB sheltered market for **construction** contracts under \$25,000. M/WBE/ESB would be given the first opportunity to bid on construction projects. *Affects approximately 5 contracts per year. Requires Council approval and Code change.*
- Increase requirement for good faith efforts for construction contracts over \$200,000. Extend Good Faith requirements to architectural and engineering firms. *Affects 2-3 contracts a year. Requires Council approval and Code change.*
- Add a compliance officer by contract to assure good faith efforts and project utilization are enforced. *Compliance cost about \$10,000 annually. Requires Council approval and budget approval.*
- Require all contractors who do business with Metro to have Equal Employment Opportunity program for their own employees. Failure to do so would disqualify the vendor from doing business with Metro. *Compliance cost about \$10,000 annually. Requires Council approval and budget approval.*
- Require prime contractors on large Metro construction projects to hire minority and women apprentices. (If union contractors, they would hire through union hall.)

Compliance cost about \$10,000 annually. Requires Council approval and budget approval.

Conclusion

With the number and amount of contracts increasing, special thanks must be given to Kathy Newton, who keeps accurate contracts and keeps them flowing; and to Berthe Carroll, who improves Metro's visibility in the vendor community.

Improvements in the contracting continue. Further efforts will continue to enhance contracting with minority, women and small businesses.

Agenda Item Number 7.1

Ordinance No. 96-670, An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule in the Zoo Capital Fund by Transferring \$103,206 from Contingency to Materials and Services to Pay for September Elections Expenses; and Declaring an Emergency.

First Reading

**Metro Council Meeting
Thursday January 9, 1997
Council Chamber**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1996-97)	ORDINANCE NO. 96-670
BUDGET AND APPROPRIATIONS)	
SCHEDULE IN THE ZOO CAPITAL FUND BY)	
TRANSFERRING \$103,206 FROM)	Introduced by Mike Burton
CONTINGENCY TO MATERIALS AND)	Executive Officer
SERVICES TO PAY FOR SEPTEMBER)	
ELECTIONS EXPENSES; AND DECLARING)	
AN EMERGENCY.)	

WHEREAS, The September 17, 1996 election included a bond measure for the Metro Washington Park Zoo Oregon Project; and

WHEREAS, Metro must pay the counties Metro's share of the elections expenses; and

WHEREAS, The adopted budget for this item was less than the invoices from the counties, and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS;

1. That the FY 1996-97 Budget and Schedule of Appropriations are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purposes transferring \$103,206 from Zoo Capital Fund Contingency to Materials and Services to pay elections expenses.

2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this ____ day of _____, 1996.

Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

RSR:\budget\fy96-97\budord\96-670\ORD.DOC
December 13, 1996

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 96-670 AMENDING THE FY 1996-97 BUDGET AND APPROPRIATIONS SCHEDULE IN THE ZOO CAPITAL FUND BY TRANSFERRING \$103,206 FROM CONTINGENCY TO MATERIALS AND SERVICES TO PAY FOR SEPTEMBER ELECTIONS EXPENSES; AND DECLARING AN EMERGENCY.

Date: December 13, 1996

Presented by: Jennifer Sims

PROPOSED ACTION:

The proposed transfer of funds from the Zoo Capital Fund Contingency to Materials and Services will allow payment of invoices from Washington, Clackamas and Multnomah counties for Metro's share of the September 17, 1996, special election.

FACTUAL BACKGROUND AND ANALYSIS

The September 17, 1996, election included a measure to allow a \$28.8 million bond for the Metro Washington Park Zoo Oregon Project. Elections costs are estimated at the time of budget adoption. Actual costs depend upon both the cost of the election in the three counties, and the number of governmental participants with measures sharing the costs. The estimated cost of the election at the time of budget adoption was \$125,000. The actual invoiced cost is \$228,206. This ordinance moves \$103,206 from the Zoo Capital Fund Contingency to Materials and Services to allow payment to the counties for election expenses.

The expenditures will be as follows:

Clackamas County	\$ 35,808.02
Multnomah County	132,286.24
Washington County	<u>60,111.46</u>
Total	\$228,205.72

Executive Officer's Recommendation:

The Executive Officer recommends adoption of Ordinance No. 96-670.

**Exhibit A
Ordinance 96-670
Zoo Capital Fund**

FISCAL YEAR 1996-97		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
	Total Personal Services	0.00	0			0.00	0
	<u>Materials & Services</u>						
528200	Election Costs		125,000		103,206		228,206
	Total Materials & Services		125,000		103,206		228,206
	Total Capital Projects		2,400,000				2,400,000
	Total Interfund Transfers		40,000				40,000
	<u>Contingency and Unappropriated Balance</u>						
599999	Contingency		5,000,000		(103,206)		4,896,794
599990	Unappropriated Balance		24,735,498				24,735,498
	Total Contingency and Unappropriated Balance		29,735,498		(103,206)		29,632,292
	TOTAL REQUIREMENTS	0.00	32,300,498		0	0.00	32,300,498

Exhibit B
Ordinance No. 96-670
FY 1996-97 SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
ZOO CAPITAL FUND			
Materials & Services	\$125,000	\$103,206	\$228,206
Capital Outlay	2,400,000		2,400,000
Interfund Transfers	40,000		40,000
Contingency	5,000,000	(103,206)	4,896,794
Unappropriated Balance	24,735,498		24,735,498
Total Fund Requirements	\$32,300,498	\$0	\$32,300,498

Agenda Item Number 8.1

Resolution No. 96-2424, For the Purpose of Authorizing the Executive Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Amended Open Spaces Implementation Work Plan.

**Metro Council Meeting
Thursday January 9, 1997
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE PROPERTY WITH ACCEPTED ACQUISITION GUIDELINES AS OUTLINED IN THE AMENDED OPEN SPACES IMPLEMENTATION WORK PLAN.) RESOLUTION NO. 96-2424) Introduced by Mike Burton) Executive Officer))

WHEREAS, in July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, acquisition of natural areas from willing sellers is a primary strategy for preservation of natural areas; and

WHEREAS, areas to be acquired by these procedures are designated as Greenspaces of regional significance in the Open Space, Parks and Streams Bond Measure; and

WHEREAS, at the election held on May 16, 1995, the electors of Metro approved Ballot Measure 26-26 which authorizes Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements pursuant to Metro's Open Spaces Program; and

WHEREAS, a pre-approved set of criteria or conditions are necessary and under which the Executive Officer and his/her designees are authorized to negotiate and complete land acquisition transactions related to the implementation of Measure 26-26; and

WHEREAS, on November 2, 1995, the Metro Council adopted the Acquisition Parameters and Due Diligence guidelines of the Open Space Implementation Work Plan; and

WHEREAS, January through July 1996, Metro Council adopted refinement plans and tax-lot specific maps for 21 regional target areas; and

WHEREAS, after implementing the adopted Acquisition Parameters and Due Diligence guidelines for one year, the Metro Council and Executive Officer have identified ways to improve those guidelines, now therefore

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to acquire real property and property interests subject to the requirements of the Acquisition Parameters and Due Diligence guidelines of the amended Open Spaces Implementation Work Plan, identified in Exhibit A and hereby incorporated by reference.

ADOPTED by Metro Council this _____ day of _____, 1996.

Approved as to Form:

Jon Kvistad, Presiding Officer

Daniel B. Cooper, General Counsel

Staff Report

CONSIDERATION OF RESOLUTION NO. 96-2424 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE PROPERTY WITH ACCEPTED ACQUISITION GUIDELINES AS OUTLINED IN THE AMENDED OPEN SPACES IMPLEMENTATION WORK PLAN.

Date: November 22, 1996

Presented by:

Charles Ciecko
Jim Desmond

PROPOSED ACTION

Resolution No. 96-2424 requests that the Metro Council approve the Acquisition Parameters and Due Diligence sections of the revised Open Spaces Implementation Work Plan.

BACKGROUND AND ANALYSIS

The Metropolitan Greenspaces Master Plan identified a desired system of natural areas interconnected with greenways and trails. As part of implementing that plan, on May 16, 1995, the electors of Metro approved Ballot Measure 26-26 which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements pursuant to Metro's Open Spaces Program. Developed in November of 1995, the Open Space Implementation Work Plan ("Work Plan") outlined how the program was to operate and acquire land. On November 2, 1995, the Metro Council adopted the *Acquisition Parameters* and *Due Diligence* sections of that plan. The six-month Refinement process in 1996 resulted in Metro Council adopting 21 refinement plans and tax-lot specific maps for acquisition of land in the regional target areas identified in the bond measure.

Over the last year, the Open Spaces Program staff have worked to acquire lands in accordance with the Work Plan. In the course of acquiring over 1000 acres, the Council and the Executive Officer identified ways in which the Work Plan could be improved to facilitate more timely, competitive, and cost-effective acquisitions. These changes are reflected in the *Acquisition Parameters* and *Due Diligence* sections (Attachment A, red-lined version) of the amended Open Spaces Implementation Work Plan. Experience of the program to date indicates that adoption of the amended Work Plan will better enable the Open Spaces Program to meet its acquisition goals in a competitive real estate market.

Executive Officer's Recommendation

The Executive Officer recommends passage of Resolution No. 96-2424.

Exhibit A
Open Spaces Implementation Work Plan

ACQUISITION PARAMETERS

Definition:

“*Acquisition Parameters*” are a pre-approved set of criteria or conditions under which the Executive Officer and his/her designees are authorized to negotiate and complete land acquisition transactions related to the implementation of Measure 26-26.

Rationale:

The creation of pre-approved *acquisition parameters* will permit the agency to deal with willing sellers in a timely and business-like manner and allow the Council to focus on policy level issues.

Acquisition Parameters:

The Metro Council authorizes the Executive Officer and his/her designees to negotiate and close real estate transactions related to Measure 26-26 provided the following criteria/conditions are met:

- The landowner is a “willing seller.”
- The property has been identified on the target area “confidential refinement map” as adopted by the council.
- It is the intent of Metro to pay no more than fair market value for property, it being acknowledged, however, that the Metro area real estate market is dynamic and the process of identifying fair market value is not exact. It is Metro’s intent that the acquisition process provide as much flexibility as possible to achieve the goals of the Open Spaces Bond Measure and to reflect the actual market conditions affecting properties targeted for open spaces acquisition.
- The property owner has agreed to sell at a price which is within the approved standards set forth herein. Note: Metro will actively solicit donations and bargain sales.
- An appraisal shall be prepared prepared by an independent certified appraiser which shall state a conclusion of the fair market value of the property or, if appropriate, a range of value. The appraiser may consider the investment value, use value, total gross retail value, or other method of valuation for the property, where appropriate, based on the specifics of the particular property. The independent appraiser may be instructed to make any assumptions or valuations that best reflect the specific market

Exhibit A
Open Spaces Implementation Work Plan

conditions affecting the property and the value of the property to Metro in particular (e.g., assemblage value).

- Except as set forth below, the independent appraisal shall be a “complete valuation” appraisal. Complete valuation independent appraisals shall be reviewed by the Metro staff appraiser for compliance with USPAP and general appraisal standards. Such review may include a determination of an acceptable range of value for the property, if the Open Spaces Division Manager believes that such determination is appropriate and if the review appraiser has sufficient data to form this conclusion from the evidence available. If the staff appraiser determines that the appraisal does not meet USPAP or other general appraisal standards, at the Open Spaces Division Manager’s discretion, taking into account the property’s value and the complexity of the issues, the Open Spaces Division Manager may direct the staff appraiser to (a) work with the appraiser to correct the deficiencies, or (b) order a second appraisal to be reviewed in the manner set forth herein, or (c) make the final determination of the range of value for the property.
- The format of the appraisals shall be determined by the Open Spaces Division Manager based on the complexity and type of appraisal required, and may be either summary or fully self-contained, and either narrative or non-narrative, with an emphasis on summary appraisals.
- Complete valuation appraisals shall not be necessary if either:
 - a) the agreed purchase price or the current assessed value by the appropriate taxing jurisdiction is \$100,000 or less; or
 - b) the property is substantially similar to nearby properties in the same target area which have been appraised for Metro within the immediately preceding twelve month period; or
 - c) valuation of the property is deemed to be “non-complex” by Metro’s review appraiser; or
 - d) the property is determined by the Refinement Plan and by the Open Spaces Division Manager as being a top priority acquisition where time is of the essence to acquire the property; or
 - e) Metro is acquiring the property with a local government partner, and the local government provides the appraisal for the property.

Exhibit A
Open Spaces Implementation Work Plan

In any of these cases, the property's value shall be established through one of the following methods, at the discretion of the Open Spaces Division Manager:

- a) an independent appraiser's written opinion of value;
- b) summary report completed by the staff appraiser with an opinion of current value; or
- c) restricted or residential-type appraisal (this method shall be used only for properties falling under paragraph a) above).

The review of such appraisals shall be an administrative review or a desk review only, confirming that the methodology used in the independent appraisal is appropriate.

- The purchase price is within the established budget for the specific target area.
- "Due Diligence" efforts have been completed and no unusual circumstances have been found to exist. (See following section on *Due Diligence*.)
- The Open Spaces Division Manager or his/her designees shall notify the Council promptly following the closing of any real estate transaction.
- The Executive Officer or his/her designees shall prepare and present to the Council quarterly updates summarizing acquisition activity in each of the target areas.

Exceptions:

- If the lowest purchase price that can be negotiated for a property is no greater than 10% above the value as established during the appraisal process outlined above, then the Executive Officer may authorize acquisition of the property, taking into account the following "public interest" factors:
 - the importance of the site based on the adopted Refinement Plans;
 - the impact to the overall goals and progress of the Refinement Plan that will result if the property is not purchased
 - the purchase price and impact on the budget for that target area, taking into consideration the potential for outside financial partners
 - the likelihood that the market value of the property will rise quickly within the subsequent 12 - 24 month period, rendering the purchase price a reasonable one within a relatively short time frame
- If the lowest purchase price that can be negotiated for a property is greater than 10% above the value as established during the appraisal process outlined above, or in the event that unusual circumstances are found to exist during the *due diligence* process,

Exhibit A
Open Spaces Implementation Work Plan

the transaction shall not be authorized without the specific approval of the Metro Council. Prior to presenting the transaction to the Executive Officer, the Open Spaces Division Manager shall refer the transaction to the Open Spaces Acquisition Committee, consisting of the following members: Open Spaces Division Manager, Regional Parks and Greenspaces Director, Open Spaces Senior Real Estate Negotiator, legal counsel, a member of the Executive Officer's staff, and, if available, a citizen member of the Regional Parks and Greenspaces Department Advisory Committee. A quorum shall consist of one member of the Open Spaces staff, one member of legal counsel staff, and one member of the Executive Office staff. The Open Spaces Acquisition Committee shall fully review and consider the "public interest" factors set forth above in determining whether to recommend purchase of the property.

The Acquisition Committee's confidential recommendation shall be forwarded to the Executive Officer. The Executive Officer shall review the recommendation and determine whether he/she supports or opposes the recommendation. The Executive Officer shall convey his/her recommendation via resolution to the Council for review in executive session at its next regularly scheduled meeting. The Council will accept or reject the Executive Officer's recommendation via resolution.

Exhibit A
Open Spaces Implementation Work Plan

DUE DILIGENCE

Definition:

“*Due diligence*” is the systematic inspection of the legal title and physical condition of real property before that property is purchased. *Due diligence* should be conducted far enough in advance of closing that resolvable problems can be adequately addressed and that any deal-breaking issues are discovered before too much effort is wasted on a futile transaction.

Rationale:

Due diligence assures protection of public investment in open space.

Components:

The primary areas of *due diligence* are described below. A more detailed list of items examined may be found in the Appendix under “Option Exercise and Closing Checklist.”

- **Appraisal:** An appraisal of the property must be completed to determine the property’s value and provide other useful information about the property, such as allowable uses, existing structures, and potential management issues. The appraisal shall be in the format described in the previous section regarding *Acquisition Parameters* and shall be reviewed in the manner set forth therein.
- **Examination of Title:**
 1. Metro must satisfy itself that the property is the seller’s to sell, that it understands what rights will be conveyed, that all parties necessary for the conveyance are involved, and that any rights that are not a part of the transaction will not defeat the purpose of the acquisition.
 2. *Due diligence* requires the review and inspection of the title report and related documents, including the deed to the current owner, recorded easements and other encumbrances, severed interests, water rights, access, taxes, liens, etc.
 3. Other documents which need to be inspected include unrecorded leases with existing tenants or farmers, management agreements, records pertaining to personal property, surveys, and agreements the seller may have entered into that may not be of record.

Exhibit A
Open Spaces Implementation Work Plan

- Inspection of the Property:

1. Location of Boundaries - *Due diligence* requires the review of any existing survey of the property. Absent a survey, Metro should identify the known or assumed property boundaries, unless such boundary identification would require a new survey and a survey is deemed unnecessary or uneconomical by the Open Spaces Division Manager. Additionally Metro must identify that both legal and physical access by the public to the property exist and are usable, unless the Open Spaces Division Manager determines that access restrictions are acceptable for that property.

2. Physical Inspection - Metro or its contractors and agents must physically inspect the property for environmental assessment purposes and to identify possible hazards, unrecorded easements and trespassers, and to make a preliminary evaluation of the condition of any structures and improvements (roads, fences, utilities), which shall be further evaluated during the stabilization period [see section regarding *Stabilization, supra*]. Environmental assessment procedures to be followed are included in the Appendix, entitled "Greenspaces Site Assessment Procedures."

- Unusual Circumstances: The following issues, when discovered during the due diligence period, shall be considered "unusual circumstances" requiring specific approval by the Metro Council prior to acquisition, as set forth in the section regarding *Acquisition Parameters*:

- (a) hazardous waste concerns;

- (b) special indemnifications Metro is being asked to provide or believes it should require;

- (c) unusual deed or title restrictions or encumbrances which may affect Metro's ability to use the property as open space;

- (d) the time frame imposed by a Seller is too short to accomplish all due diligence requirements;

- (e) any other unusual circumstances which may arise not covered by the workplan which materially affect the decision whether or not to purchase a property identified on the target area confidential refinement map as determined by legal counsel and the Department Director.

Exhibit A
Open Spaces Implementation Work Plan

Greenspace Site Assessment Procedures

An environmental assessment of each potential acquisition site will be performed. The level of environmental assessment appropriate for each property will be determined on a case by case basis, using the guidelines set forth below.

For each property, an initial environmental assessment ("Initial Assessment") will be performed by Metro REM personnel. If the work load exceeds personnel availability, Initial Assessments may be conducted by qualified contractors. The purpose of the Initial Assessment will be to assess the property's potential environmental risk and determine whether a further level of environmental inquiry is necessary. The Initial Assessment shall include a site visit, an interview with the property owner, review of the title report, review of the Environmental Records Review Report for the target area in which the property is located, and observation of adjacent land uses.

If it is determined in the Initial Assessment that further environmental inquiry is not appropriate for the property, the Metro personnel performing the Initial Assessment shall write an environmental assessment report for the property, discussing his/her investigation and conclusions. If the Initial Assessment concludes that a full ASTM Phase I Environmental Assessment ("Phase I") or higher level assessment is appropriate for the property, such assessment will be conducted by qualified independent contractors.

Except as set forth below, a full ASTM Phase I Environmental Assessment will generally be the standard level of environmental assessment required for property acquisitions where the property has been commercially developed or used commercially in the past. A Phase I shall be conducted by a licensed and insured consulting engineer, certified to be consistent with ASTM standards.

The following categories of properties may not require a Phase I, if confirmed by the Metro REM staff conducting the Initial Assessment:

- a) Single family residential or "ranchette" type parcels. These parcels are lands solely used for residential and related pastoral activities. Residences showing evidence of any commercial activity, such as an industrial type home based business, or farms where hazardous chemicals or materials have been used, or where surrounding properties increase the level of concern, would not qualify.
- b) Undeveloped lands. These parcels are lands that have no history of beneficial or economic use, such as wetlands or grasslands.

Exhibit A
Open Spaces Implementation Work Plan

- c) Undeveloped forest land. These parcels are lands that have been used solely for timber production, without a forest related dwelling.

Attachment A
Open Spaces Implementation Work Plan

ACQUISITION PARAMETERS

Definition:

“*Acquisition Parameters*” are a pre-approved set of criteria or conditions under which the Executive Officer and his/her designees are authorized to negotiate and complete land acquisition transactions related to the implementation of Measure 26-26.

Rationale:

The creation of pre-approved *acquisition parameters* will permit the agency to deal with willing sellers in a timely and business-like manner and allow the Council to focus on policy level issues.

Acquisition Parameters:

The Metro Council authorizes the Executive Officer and his/her designees to negotiate and close real estate transactions related to Measure 26-26 provided the following criteria/conditions are met:

- The landowner is a “willing seller.”
- The property has been identified on the target area “confidential refinement map” as adopted by the council.
- It is the intent of Metro to pay no more than fair market value for property, it being acknowledged, however, that the Metro area real estate market is dynamic and the process of identifying fair market value is not exact. It is Metro’s intent that the acquisition process provide as much flexibility as possible to achieve the goals of the Open Spaces Bond Measure and to reflect the actual market conditions affecting properties targeted for open spaces acquisition.
- ~~The property owner has agreed to sell at a price which is not above fair market value.~~ The property owner has agreed to sell at a price which is within the approved standards set forth herein. Note: Metro will actively solicit donations and bargain sales.
- ~~A full narrative appraisal has been prepared by an independent certified appraiser, reviewed by Metro’s staff appraiser, and the Metro staff appraiser shall make a final determination of the fair market value of the property. Where the Metro staff appraiser determines the fair market value is higher than the amount established by the independent appraiser, the staff appraiser shall prepare a detailed report setting forth the basis for such finding. This report will be addressed to the Executive Officer~~

Attachment A
Open Spaces Implementation Work Plan

who shall make the final determination whether to approve the acquisition. An appraisal shall be prepared by an independent certified appraiser which shall state a conclusion of fair market value of the property or, if appropriate, a range of value. The appraiser may consider the investment value, use value, total gross retail value, or other method of valuation for the property, where appropriate, based on the specifics of the particular property. The independent appraiser may also be instructed to make any assumptions or valuations that best reflect the specific market conditions affecting the property and the value of the property to Metro in particular (e.g., assemblage value).

- Except as set forth below, the independent appraisal shall be a "complete valuation" appraisal. Complete valuation independent appraisals shall be reviewed by the Metro staff appraiser for compliance with USPAP and general appraisal standards. Such review may include a determination of an acceptable range of value for the property, if the Open Spaces Division Manager believes that such determination is appropriate and if the review appraiser has sufficient data to form this conclusion from the evidence available. If the staff appraiser determines that the appraisal does not meet USPAP or other general appraisal standards, at the Open Spaces Division Manager's discretion, taking into account the property's value and the complexity of the issues, the Open Spaces Division Manager may direct the staff appraiser to (a) work with the appraiser to correct the deficiencies, or (b) order a second appraisal to be reviewed in the manner set forth herein, or (c) make the final determination of the range of value for the property.
- The format of the appraisals shall be determined by the Open Spaces Division Manager based on the complexity and type of appraisal required, and may be either summary or fully self-contained, and either narrative or non-narrative, with an emphasis on summary appraisals.
- Complete valuation appraisals shall not be necessary if either:
 - a) the agreed purchase price or the current assessed value by the appropriate taxing jurisdiction is \$100,000 or less; or
 - b) the property is substantially similar to nearby properties in the same target area which have been appraised for Metro within the immediately preceding twelve month period; or
 - c) valuation of the property is deemed to be "non-complex" by Metro's review appraiser; or
 - d) the property is determined by the Refinement Plan and by the Open Spaces Division Manager as being a top priority acquisition where time is of the essence to acquire the property;

Attachment A
Open Spaces Implementation Work Plan

- e) Metro is acquiring the property with a local government partner, and the local government provides the appraisal for the property.

In any of these cases, the property's value shall be established through one of the following methods, at the discretion of the Open Spaces Division Manager:

- a) an independent appraiser's written opinion of value;
- b) a summary report completed by the staff appraiser with an opinion of current value; or
- c) restricted or residential-type appraisal (this method shall be used only for properties falling under paragraph a) above).

The review of such appraisals shall be an administrative review or a desk review only, confirming that the methodology used in the independent appraisal is appropriate.

- The purchase price is within the established budget for the specific target area.
- “*Due Diligence*” efforts have been completed and no unusual circumstances have been found to exist. (See following section on *Due Diligence*.)
- The Open Spaces Division Manager Executive Officer or his/her designees shall notify the Council promptly following the execution of any purchase agreement closing of any real estate transaction.
- The Executive Officer or his/her designees shall prepare and present to the Council quarterly updates summarizing acquisition activity in each of the target areas.

Exceptions:

- If the lowest purchase price that can be negotiated for a property is no greater than 10% above the value as established during the appraisal process outlined above, then the Executive Officer may authorize acquisition of the property, taking into account the following “public interest” factors:
 - the importance of the site based on the adopted Refinement Plans;
 - the impact to the overall goals and progress of the Refinement Plan that will result if the property is not purchased
 - the purchase price and impact on the budget for that target area, taking into consideration the potential for outside financial partners

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- the likelihood that the market value of the property will rise quickly within the subsequent 12 - 24 month period, rendering the purchase price a reasonable one within a relatively short time frame

- If the lowest purchase price that can be negotiated for a property is greater than 10% above the value as established during the appraisal process outlined above, or in the event that unusual circumstances are found to exist during the *due diligence* process, the transaction shall not be authorized without the specific approval of the Metro Council. Prior to presenting the transaction to the Executive Officer, the Open Spaces Division Manager shall refer the transaction to the Open Spaces Acquisition Committee, consisting of the following members: Open Spaces Division Manager, Regional Parks and Greenspaces Director, Open Spaces Senior Real Estate Negotiator, legal counsel, a member of the Executive Officer's staff, and, if available, a citizen member of the Regional Parks and Greenspaces Department Advisory Committee. A quorum shall consist of one member of the Open Spaces staff, one member of legal counsel staff, and one member of the Executive Office staff. The Open Spaces Acquisition Committee shall fully review and consider the "public interest" factors set forth above in determining whether to recommend purchase of the property.

The Acquisition Committee's confidential recommendation shall be forwarded to the Executive Officer. The Executive Officer shall review the recommendation and determine whether he/she supports or opposes the recommendation. The Executive Officer shall convey his/her recommendation via resolution to the Council for review in executive session at its next regularly scheduled meeting. The Council will accept or reject the Executive Officer's recommendation via resolution.

- ~~• In the event that unusual circumstances are found to exist during the *due diligence* process, or if the cost of the property as determined by Metro's staff appraiser, is more than 5% above the fair market value as determined by an independent certified appraiser, the transaction, prior to being presented to the Executive Officer, shall be referred to an "Acquisition Committee" which shall review the transaction and develop a "confidential" recommendation.~~

~~The acquisition committee shall be composed as follows: legal counsel, staff appraiser, Parks Advisory Committee member, Open Space program manager, Regional Parks and Greenspaces Department (RPAG) director, and a member of the Executive Officer's staff.~~

~~The acquisition committee's confidential recommendation shall be forwarded to the Executive Officer. The Executive Officer shall review the recommendation and determine whether he/she supports or opposes the recommendation. The Executive Officer shall convey this determination to the Council for review in executive session at its next regularly scheduled meeting. The Council will accept or reject the Executive Officer's recommendation. This information shall remain confidential.~~

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~~This exception policy will remain in effect until July 1, 1996, at which time it will be returned to the Council for reevaluation.~~

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DUE DILIGENCE

Definition:

“*Due diligence*” is the systematic inspection of the legal title and physical condition of real property before that property is purchased. *Due diligence* should be conducted far enough in advance of closing that resolvable problems can be adequately addressed and that any deal-breaking issues are discovered before too much effort is wasted on a futile transaction.

Rationale:

Due diligence assures protection of public investment in open space.

Components:

The primary areas of *due diligence* are described below. A more detailed list of items examined may be found in the Appendix under “Option Exercise and Closing Checklist.”

- **Appraisal:** An appraisal of the property must be completed to determine the fair market property’s value and provide other useful information about the property, such as allowable uses, existing structures, and potential management issues. The appraisal shall be in the format described in the previous section regarding Acquisition Parameters and shall be reviewed in the manner set forth therein.

- **Examination of Title:**

1. Metro must satisfy itself that the property is the seller’s to sell, that it understands what rights will be conveyed, that all parties necessary for the conveyance are involved, and that any rights that are not a part of the transaction will not defeat the purpose of the acquisition.

2. *Due diligence* requires the review and inspection of the title report and related documents, including the deed to the current owner, recorded easements and other encumbrances, severed interests, water rights, access, taxes, liens, etc.

3. Other documents which need to be inspected include unrecorded leases with existing tenants or farmers, management agreements, records pertaining to personal property, surveys, and agreements the seller may have entered into that may not be of record.

- **Inspection of the Property:**

1. Location of Boundaries - *Due diligence* requires the review of any existing survey of the property. Absent a survey, Metro should identify the known or

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assumed property boundaries, unless such boundary identification would require a new survey and a survey is deemed unnecessary or uneconomical by the Open Spaces Division Manager. Additionally Metro must identify that both legal and physical access by the public to the property exist and are usable, unless the Open Spaces Division Manager determines that access restrictions are acceptable for that property.

2. Physical Inspection - Metro or its contractors and agents must physically inspect the property for environmental assessment purposes and to identify possible hazards, unrecorded easements and trespassers, and to make a preliminary evaluation of evaluate the condition of any structures and improvements (roads, fences, utilities), which shall be further evaluated during the stabilization period [see section regarding *Stabilization, supra*]. Environmental assessment procedures to be followed are included in the Appendix, entitled "Greenspaces Site Assessment Procedures," are included in the Appendix.

- Unusual Circumstances: The following issues, when discovered during the due diligence period, shall be considered "unusual circumstances" requiring specific approval by the Metro Council prior to acquisition, as set forth in the section regarding *Acquisition Parameters*:

(a) hazardous waste concerns;

(b) special indemnifications Metro is being asked to provide or believes it should require;

(c) unusual deed or title restrictions or encumbrances which may affect Metro's ability to use the property as open space;

(d) the time frame imposed by a Seller is too short to accomplish all due diligence requirements;

(e) any other unusual circumstances which may arise not covered by the workplan which materially affect the decision whether or not to purchase a property identified on the target area confidential refinement map as determined by legal counsel

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Greenspace Site Assessment Procedures

An environmental assessment of each potential acquisition site will be performed. The level of environmental assessment appropriate for each property will be determined on a case by case basis, using the guidelines set forth below.

For each property, an initial environmental assessment ("Initial Assessment") termed a Phase I, will be performed by Metro REM personnel. If the work load exceeds personnel availability, Initial Assessments Phase I assessments may be conducted by qualified contractors. The purpose of the Initial Assessment will be to assess the property's potential environmental risk and determine whether a further level of environmental inquiry is necessary. The Initial Assessment shall include a site visit, an interview with the property owner, review of the title report, review of the Environmental Records Review Report for the target area in which the property is located, and observation of adjacent land uses.

If it is determined in the Initial Assessment that further environmental inquiry is not appropriate for the property, the Metro personnel performing the Initial Assessment shall write an environmental assessment report for the property, discussing his/her investigation and conclusions. If the Initial Assessment concludes that a full ASTM Phase I Environmental Assessment ("Phase I") or higher level assessment is appropriate for the property, such assessment will be conducted by qualified independent contractors. Based on results from the Phase I assessment, any recommended higher level of investigation will be conducted by qualified contractors.

A Phase I report will be generated from information gathered from a review of records and a site visit. The report will include the following:

Except as set forth below, a full ASTM Phase I Environmental Assessment will generally be the standard level of environmental assessment required for property acquisitions where the property has been commercially developed or used commercially in the past. A Phase I shall be conducted by a licensed and insured consulting engineer, certified to be consistent with ASTM standards.

The following categories of properties may not require a Phase I, if confirmed by the Metro REM staff conducting the Initial Assessment:

- a) Single family residential or "ranchette" type parcels. These parcels are lands solely used for residential and related pastoral activities. Residences showing evidence of any commercial activity, such as an industrial type home based business, or farms where hazardous chemicals or materials have been used, or where surrounding properties increase the level of concern, would not qualify.

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b) Undeveloped lands. These parcels are lands that have no history of beneficial or economic use, such as wetlands or grasslands.

c) Undeveloped forest land. These parcels are lands that have been used solely for timber production, without a forest related dwelling.

Agenda Item Number 8.2

Resolution No. 97-2445, For the Purpose of Approving a Service Plan to provide assistance, including rate relief, to regional citizens and local governments in the Metro region for disposal of storm and flood-related debris.

**Metro Council Meeting
Thursday January 9, 1997
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING)	RESOLUTION NO. 97-2445
A SERVICE PLAN TO PROVIDE)	
ASSISTANCE, INCLUDING RATE)	Introduced By Executive Officer
RELIEF, TO REGIONAL CITIZENS)	Mike Burton
AND LOCAL GOVERNMENTS IN THE)	
METRO REGION FOR DISPOSAL OF)	
STORM AND FLOOD-RELATED DEBRIS)	

WHEREAS, Weather-related events that occurred in the Metro region during December 1996 and January 1997 resulted in extensive damage to property within Clackamas, Multnomah, and Washington Counties; and

WHEREAS, These events have created large amounts of wood and flood-damaged debris for citizens and local governments to dispose; and

WHEREAS, Metro desires to provide assistance, including rate relief, to regional citizens and local governments to minimize hardships created by these emergencies; and

WHEREAS, The Metro Executive Officer has prepared, in consultation with the Council and local government officials, a plan for accepting flood-related debris at Metro Central and Metro South Transfer Stations beginning January 4, 1997, and continuing through January 26, 1997, at a reduced rate of \$5.00 for car or pick-up load and \$10.00 for a pick-up load with a trailer; and

WHEREAS, The Metro Executive Officer has prepared, in consultation with the Council and local government officials, a plan for accepting storm-related woody yard debris at Metro Central and Metro South Transfer Stations at no charge on the weekends of January 4 and 5, 1997, and January 11 and 12, 1997, and paying up to \$35.00 per ton toward disposal at local yard debris processing facilities for storm-related woody yard debris collected by local governments at satellite collection sites; and

WHEREAS, The plan provides that local government self-haul of government flood debris will be accepted by Metro transfer station personnel and debited to the jurisdiction's special flood debris account for a reimbursement to Metro by local governments of twenty-five percent of the cost of disposal, with Metro being responsible for seventy-five percent of disposal; and

WHEREAS, The plan provides that local governments may create numbered vouchers for use by hauling companies for drop box loads of flood debris from residents, and that the vouchers will be accepted by Metro transfer station personnel and debited to jurisdiction's special flood debris account for a reimbursement to Metro by local governments of twenty-five percent of the cost of disposal, with Metro being responsible for seventy-five percent of disposal; and

WHEREAS, Sufficient money is available in the Contingency Account of the Solid Waste Revenue Fund to cover expected expenses up to \$200,000; and

WHEREAS, The Resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for their approval; now, therefore,

BE IT RESOLVED THAT,

The Metro Council approves the plan attached as Exhibit A developed by the Executive Officer pursuant to Metro Code Section 5.02.060 relating to disposal charges.

ADOPTED by the Metro Council this _____ day of _____, 1997.

Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 97-2445 FOR THE PURPOSE OF APPROVING A SERVICE PLAN TO PROVIDE ASSISTANCE, INCLUDING RATE RELIEF, TO REGIONAL CITIZENS AND LOCAL GOVERNMENTS IN THE METRO REGION FOR DISPOSAL OF STORM AND FLOOD-RELATED DEBRIS

Date: January 3, 1997

Presented by: Bruce Warner

Recent weather events that occurred in the Metro region during December 1996 and January 1997 have resulted in extensive damage to property within Clackamas, Multnomah and Washington counties, creating large amounts of wood and flood damage debris for citizens and local governments to dispose. Several local governments have created special drop-off sites for disposal that provide convenience to residents. Metro recognizes the hardships caused by these emergencies and desires to offer assistance to the region's citizens in conjunction with its local government partners. Accordingly, a Service Plan has been developed for collection and disposal of weather-related debris that provides for the following:

1. Self-haul ice storm debris from primary residences will be accepted at no charge at Metro Central and Metro South Transfer Stations for the two weekends of January 4 and 5 and January 11 and 12, 1997.
2. Affected local governments are locating drop-off sites in areas with significant storm damage. They will staff these sites and arrange for hauling and/or on site chipping of debris. Metro will pay up to \$35 per ton for disposal of this material at local yard debris processing facilities.
3. Self-haul flood debris will be accepted daily at Metro Central and Metro South Transfer Stations beginning January 4 and continuing through January 26, 1997, at a special rate of \$5 for car and truck loads and \$10 for truck and trailer loads. Flood debris tickets will be provided for each resident to complete, providing information about the load and verification that the load is flood-related.
4. Local government self-haul of government flood debris will be accepted by Metro transfer station personnel and debited to the jurisdictions special flood debris account for a reimbursement to Metro by local governments of twenty-five percent of the cost of disposal, with Metro being responsible for seventy-five percent of disposal.
5. Local governments may create numbered vouchers for use by hauling companies for drop box loads of flood debris from residents, and the vouchers will be accepted by Metro transfer station personnel and debited to the jurisdiction's special flood debris account for a reimbursement to Metro by local governments of twenty-five percent of the cost of disposal, with Metro being responsible for seventy-five percent of disposal.

6. Local governments may tailor services to the needs of their individual areas. Metro will work with these governments and offer the same level of financial assistance as indicated in numbers 2, 4, and 5 above.
7. Metro will coordinate the distribution of information with local government solid waste personnel and their public information officers.

Metro's expenses associated with disposal of last February's flood debris totaled just under \$200,000. Our expectations are that expenses associated with these weather events will not exceed this amount. Sufficient money is available in the Contingency Account of the Solid Waste Revenue Fund.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 97-2445.

Exhibit A

**SERVICE PLAN FOR STORM AND FLOOD-RELATED DEBRIS
For January 4, 1997 through January 26, 1997**

A. COLLECTION AND DISPOSAL SITES

1. Metro Transfer Stations

Metro South Station in Oregon City and Metro Central Station in NW Portland will be open to take storm debris at no charge from residential self-haul customers on January 4 and 5, 1997 and on January 11 and 12, 1997.

The two Metro transfer stations will also be accepting flood-related debris from residential self-haul customers for a reduced rate from January 4, 1997 through January 26, 1997. Flood debris tickets will be provided to each resident to complete providing information about the load, verification that it is flood-related, and that the load is from their primary residence.

From January 4, 1997 through January 26, 1997, the two Metro transfer stations will accept local government self-haul of government flood debris and debit the cost of disposal to the jurisdiction's special flood debris account.

Also from January 4, 1997 through January 26, 1997, the two Metro transfer stations will accept local government-issued vouchers for use by hauling companies for drop box loads of flood debris from residents. The cost of disposal will be debited to the jurisdiction's special flood debris account.

Waste Accepted

Storm debris includes tree limbs and branches. Excluded waste includes general mixed household garbage, hazardous waste, Christmas trees, leaves, grass or other general yard debris not generated by the ice and wind storms.

Flood-related debris includes carpeting, sheetrock, lumber, mixed household garbage, household hazardous waste and other types of waste generated by the flood. Excluded waste includes all waste not generated by the flood event.

Charges at Metro Transfer Stations

Storm debris from self-haul residential customers will be accepted at no charge, only for January 4, 5, 11, and 12, 1997.

Flood debris from self-haul residential customers will be accepted at the rate of \$5.00 for each car and truck load, and \$10.00 for each truck and trailer load.

Local governments will be responsible for 25% of the charges on their special flood debris accounts. The remaining 75% will be paid by Metro.

2. Satellite Drop Sites (Ice and wind storm debris)

Affected local governments have located sites in areas with significant storm damage. They will staff these sites and arrange for hauling and/or on-site chipping of the debris.

Waste Accepted

Storm debris includes tree limbs and branches. Excluded waste includes general mixed household garbage, hazardous waste, Christmas trees, leaves, grass or other general yard debris not generated by the ice and wind storms.

Charges at Satellite Drop Sites

Local governments are providing this service at no charge to their residents. If requested, Metro will pay to local governments up to \$35.00 per ton for disposal of this material at a local yard debris processing facility.

3. Additional Clean-up Options (Ice and wind storm debris)

Local governments may tailor services to the needs of their individual areas. Examples include:

- Direct residents to set out some storm debris in their normal yard debris service.
- Ask that residents call their haulers for drop box service.
- Set up special curbside collection events for storm debris.

B. PUBLIC INFORMATION AND COORDINATION

Metro will coordinate the distribution of information with local government solid waste personnel and their public information officers.

Metro Recycling Information will serve as the regional clearinghouse number for the region's residents to call to find out about storm debris clean-up options.

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NAITO AMENDMENT

To Exhibit A, Resolution 96-2424

On page 3, amend Exhibit A to read as follows:

“In any of these cases, the property’s value shall be established through one of the following methods, at the discretion of the Open Spaces Division Manager:

- a) an independent appraiser’s written opinion of value; or
- ~~b) summary report completed by the staff appraiser with an opinion of current value; or~~
- eb) restricted or residential-type appraisal (this method shall be used only for properties falling under paragraph a) above).

The review of such appraisals shall be an administrative review or a desk review only, confirming that the methodology used in the independent appraisal is appropriate.

If:

- a) the agreed purchase price or the current assessed value by the appropriate taxing jurisdiction is \$100,000 or less; or
- b) the property is substantially similar to nearby properties in the same target area which have been appraised for Metro within the immediately preceding twelve month period; or
- c) Metro is acquiring the property with a local government partner, and the local government provides the appraisal for the property;

then the property’s value may be established by a summary report completed by the staff appraiser with an opinion of current value.

- The purchase price is within the established budget for the specific target area.
- “*Due Diligence*” efforts have been completed and no unusual circumstances have been found to exist. (See following section on *Due Diligence*.)
- The Open Spaces Division Manager or his/her designees shall notify the Council promptly following the closing of any real estate transaction.
- The Executive Officer or his/her designees shall prepare and present to the Council quarterly updates summarizing acquisition activity in each of the target areas.

Exceptions:

- If the lowest purchase price that can be negotiated for a property is no greater than 10% above the value or \$50,000, whichever is less, as established during the appraisal process outlined above, then the Executive Officer may authorize acquisition of the property, taking into account the following “public interest” factors:
 - the importance of the site based on the adopted Refinement Plans;
 - the impact to the overall goals and progress of the Refinement Plan that will result if the property is not purchased
 - the purchase price and impact on the budget for that target area, taking into consideration the potential for outside financial partners
 - the likelihood that the market value of the property will rise quickly within the subsequent 12 - 24 month period, rendering the purchase price a reasonable one within a relatively short time frame

If the lowest purchase price that can be negotiated for a property is greater than 10% above the value as established during the appraisal process outlined above, or in the event that unusual circumstances are found to exist during the *due diligence* process,”

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