

MINUTES OF THE METRO COUNCIL WORK SESSION MEETING

Tuesday, March 6, 2007
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Kathryn Harrington, Carl Hosticka, Robert Liberty

Councilors Absent: Rod Park (excused), Rex Burkholder (excused), Brian Newman (excused)

Council President Bragdon convened the Metro Council Work Session Meeting at 2:03 p.m.

1. **DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, MARCH 8, 2007/ADMINISTRATIVE/CHIEF OPERATING OFFICER COMMUNICATIONS**

Council President Bragdon reviewed the March 8, 2007 Metro Council agenda. Ordinance No.07-1143 was reassigned to Councilor Harrington.

2. **DISCUSSION ON RESERVES (PERS RESERVE AND RECOVERY RATE STABILIZATION RESERVE)**

Bill Stringer, Chief Financial Officer, introduced the possibility of using these reserves as an ongoing source of funds. Kathy Rutkowski, Budget Coordinator, distributed a handout on Public Employee Retirement System (PERS) reserves (a copy is included in the meeting record). Legislative changes to PERS have reduced Metro's overall contributions. The current reserve was about \$9.4 million. She talked about solid waste funds and the bond covenants. Until 2009, the \$1.5 million in solid waste funds would have to be set aside. At the Metropolitan Exposition Recreation Commission (MERC), they had been reallocating other funds to their PERS reserve. Ms. Rutkowski mentioned the actuarial report. There were three highlights—payroll, rates, and unfunded liability. There were three classes of PERS; the shift would eventually go from Tier 1 and Tier 2 to the Oregon Public Service Retirement Plan (OPSRP). The changes were primarily due to changes in the actuarial methods, robust earnings, and the PERS agency's release of reserves to buy down liabilities. The estimated composite rate for next year would be 6%, not 7.76% as originally estimated.

Councilor Liberty asked about outstanding legal issues. Ms. Rutkowski said there were quite a few; most of the significant ones had been settled. She then talked about Metro's bonded unfunded liability. We had an \$18.7 million surplus, quite a turnaround from a \$24 million deficient a few years ago. Of course, there was no guarantee that the future would see the same increases. She talked about the complexity of the rates due to various changes at state and local levels. Finally, where did we go from here? Did we still need the reserve? Ms. Rutkowski thought we should, but she recommended keeping 50%. The other half should be considered one-time money for a one-time use. One option would be to put some into the renewal and replacement fund. Metro had a gaping hole in the area of new capital. We didn't have anything set aside for new capital in the future anywhere in the agency. MERC was trying to create its own renewal and replacement reserves, which could benefit from Council action in that direction. The solid waste funds could be set aside; whatever money would be freed up would have the same bond covenant restrictions, up until 2009.

Michael Jordan, Chief Operating Officer (COO), spoke to the issue of new capital. A lot of the projects could be viewed as either renewal and replacement or expansion of a new capital base. He would like to see more definition around those concepts. The Council had given a mandate for sustainability. He felt progress during his tenure had been fairly modest. We could take one facility per year and bring it to a Leadership in Energy and Environmental Design (LEED) certification. We could look seriously at having all of our energy sources be renewable; this would cost a premium and would be an ongoing expenditure. The Information Technology Steering Committee (ITSC) had recommended a TRIM software upgrade that could significantly reduce paper usage. These monies were in the general fund and could be spent in just about any fashion. He concurred with Ms. Rutkowski's recommendation about the one-time use.

Councilor Hosticka asked how it would be incorporated into the budget process. Mr. Jordan said it would be part of the regular budget process. The money was either in contingency or ending fund balances, and it has just been held there and has kept accumulating. Specific reallocations would need to be considered as budget amendments.

Councilor Harrington asked how long it had taken for the reserve to shift from a \$24 million liability to an \$18 million surplus. Ms. Rutkowski said the bonds were funded in 2005. Actuarial studies would be done every two years. Mr. Jordan said, given the political situation and the recent past, he wouldn't expect the same level of volatility as the past few years. He felt it would flatten out a bit. Ms. Rutkowski noted that, as the salary base moved out of Tier 1, some of that volatility would be reduced.

Councilor Harrington stated her understanding of the three options as take the recommendation, do nothing, or come up with something different. Why had this specific recommendation been made, and why at this time? Ms. Rutkowski said the vast majority of 2003 legislative actions had been definitively resolved, so she felt we no longer had to be so cautious. The 50% reduction suggestion was very flexible. Mr. Jordan said the largest gap he saw was in new capital.

Ms. Rutkowski said the biggest bang for the buck would be to make an additional contribution to PERS to buy down future rates. PERS was able to generate more interest earnings than Metro, due to our restrictions, but they also had greater risk. Also, once we gave it to PERS, there was no getting it back. We didn't want our rate to get so low that we were in a negative rate situation.

Karen Feher, Capital Improvement Program (CIP) Coordinator, reviewed the handout on the recovery rate stabilization reserve (a copy is included in the meeting record). This was a pot of money collected on solid waste tonnage—an excise tax—that went into the general fund. Mr. Stringer said it didn't really have much to do with stabilization. It had been used once to stabilize in 2001 but not since then. Ms. Feher said there was no risk of going over the limit at this time. She mentioned some underfunded or unfunded options that were related to solid waste and sustainability, such as the TRIM software upgrade and Nature in Neighborhoods. Mr. Jordan said this money was different from PERS; although it would fluctuate a bit from year to year, it was available on an ongoing basis. It would be about \$700,000 per year. For example, the two-year grant portion of Nature in Neighborhoods came out of this fund, but its operations were funded out of ending fund balances; he felt it would be prudent to cover an ongoing revenue source.

3. URBAN AND RURAL RESERVES LEGISLATION

Councilor Hosticka said the bill had been drafted. There were a number of open questions. One of the major ones was, how much did we want in the bill? How much agreement did we want

between the parties? The liaison meeting had discussed some of the open questions, which were being brought to Council; at some point they may be possible amendments to the bill.

Dick Benner, Senior Metro Attorney, listed the ingredients. The bill was not yet printed; it was being referred to as LC 3289. He distributed the briefing points (a copy is included in the meeting record). The people working on it viewed it as a placeholder. Nobody was satisfied with all the elements; there was an expectation that there would be amendments that would improve the bill.

The bill would authorize rural reserves; the findings and purpose statement said long-range planning was a good thing because it provided certainty to landowners and service providers. The bill would authorize agreements between Metro and other jurisdictions to designate urban reserves pursuant to the rest of the bill, as well as for rural reserves. The bill would establish links between urban reserves and rural reserves; local governments could not designate rural reserves as urban reserves for a certain period of time, and urban reserves would not become effective until rural reserves were designated. The bill would give direction to the Land Conservation and Development Commission (LCDC) on rulemaking; they would amend their rules to be consistent with the bill.

The legislation did not describe great communities or have a long list of criteria. It simply referred to "sustainable and complete communities," with the expectation that these would be defined by LCDC's rulemaking, the deadline for which would be January 31, 2008. The bill talked about Metro and local governments; it did not authorize this kind of activity elsewhere in the state. There would be a minimum planning period for urban reserves. The lowest priority (i.e., the last land to be selected) for UGB expansion would be rural reserves.

Mr. Benner preferred that the bill language make it clearer that when LCDC revised its rules to comply with the act, it would have to revise those priorities to reflect the amended priorities for UGB expansion in the bill. The planning management team was to meet on March 7. Mr. Benner reviewed the issues he saw with the bill.

Regarding the urban reserve planning period, the existing rule was 10-30 years beyond UGB. The bill language required a 20-year urban reserve. The suggested language said "at least" 20 years. If the statute was silent, it would be up to LCDC. Councilor Hosticka's issue was not the time period but the significance of the time period. Was it a limitation or a mandate? "Only" 20 years, or "at least" 20 years? He would hate to see a process where we had to do a full-blown analysis before urban reserves. Councilor Liberty felt we would be providing more certainty on the urban reserves than on the rural reserves. He wondered what designation would be given to the land that was not designated either urban or rural. His experience with trusting to rulemaking had not always been positive; he would prefer to be more specific in the original bill. Mr. Benner offered some options to address the issues. Robin McArthur, Planning Director, asked if Councilor Liberty was saying that everything outside the urban growth boundary (UGB) would be in a special designation? Councilor Liberty wanted to make sure we didn't create more uncertainty. Councilor Hosticka asked if the bill would require Metro to take urban reserves first, during a UGB expansion. Mr. Benner said the highest priority would be to take designated urban reserves. Those would have to be pretty well exhausted before other areas could be looked at. They talked about the role of rulemaking and LCDC. Ms. McArthur said they were trying to find a balance between what was in the language and what was left to rulemaking. In general, Council preferred the "at least" language.

Mr. Benner raised another issue, that of the “20 years past the 20 years.” For urban reserves, that would be a total of 40 years. How should the link between urban and rural reserves work? Councilor Hosticka suggested that it could be a rural reserve until someone said it wasn’t. The timeframe if used should be a minimum not a maximum. Mr. Benner agreed. Statue would provide greater security. Councilor Hosticka had some questions about defining the agreement and the parties to the agreement, and what it would take to change an agreement. Mr. Benner said that city approval would be politically if not legally required. Councilor Hosticka wondered if the state would be a party; especially, would they be a party to the undoing of any agreements? Councilor Liberty thought the whole point was to get state buy-in. We could already make agreements with counties. Mr. Benner said the priorities would be new. He gave a hypothetical situation where the state’s involvement would be helpful. Councilor Liberty said there were 260,000 acres in the UGB; if we designated rural reserves at a distance from our UGB, they wouldn’t be used anyway. It was only when it looked like it would pinch that there would be more certainty. Mr. Benner didn’t think we needed every detail worked out; that would be done by agreement. We just wanted the law to authorize us without limiting our flexibility.

Mr. Benner then asked Council if he was correct in understanding that they wanted the authority to make agreements with Columbia, Yamhill, and Marion counties. Council confirmed that this was so.

On the link between urban and rural reserves, Mr. Benner observed that most of the land that would be identified as rural reserves would be outside both the UGB and the Metro jurisdictional boundary. He asked Council if they wanted the bill to say that Metro had authority to enter into agreements with the counties to protect rural reserves? The amount and location of land would be negotiated in the agreement, but urban reserves would not be designated unless and until rural reserves were. Council approved this philosophy.

Mr. Benner’s last issue concerned Measure 37. Some people were worried that a rural reserve designation could be used by property owners as an argument that their fair market value had been reduced. The counter-argument to that would be that the designation did not involve any new restrictions, therefore Measure 37 would not apply. Mr. Benner’s personal opinion was that we would be more secure if the bill contained language explicitly stating that the designation of rural reserves would not give rise to a Measure 37 claim. Council President Bragdon wasn’t sure how a court would rule on that. Mr. Jordan could envision a rural reserve with rural residential zoning in it. Council President Bragdon said it would not place an additional restriction. Mr. Benner said he thought we would win, but couldn’t say for sure. He would work for the Measure 37 provision.

Councilor Liberty said he would like the bill to include a strong positive statement about the definition of the value of rural reserves. They were not just the opposite of urban areas; they provided food, fiber, and quality of life. He reiterated his lack of faith in vague legislative language that left the details to be worked out later. He would prefer to focus on the performance-based UGB expansion.

Mr. Jordan thought it was important to focus on the balance of urban and rural. The existing situation was leading toward urbanization of the entire valley. He observed that cities would have political power, if not legislative authority. Mr. Benner thought that, in designating rural reserves, counties would be thinking about their non-Metro cities.

Councilor Harrington asked if the briefing points reflected agreement from the ag/urban committee. Mr. Benner stated that the bill as it had been returned was somewhat different. The original committee had not agreed on every single item.

Councilor Hosticka ruminated on the crossover between the management team and the elected officials. Were we satisfied that managers were thoroughly representing their electeds? Mr. Jordan assumed they were.

Councilor Liberty feared we might lose more under the bill than we would gain. He wanted outcomes of most compact growth and more overall certainty. Councilor Hosticka wondered if it was Metro's role to protect farmland; certainly, it was to do compact urban planning, as sustainable as possible, under state law.

4. BREAK

5. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(d), FOR THE PURPOSE OF DELIBERATING WITH PERSONS DESIGNATED TO CONDUCT LABOR NEGOTIATIONS

Time Began: 3:42

Time Ended: 3:53

Members Present: Kevin Dull, Michael Jordan, Katy Barnett, Ruth Scott, Dave Bower

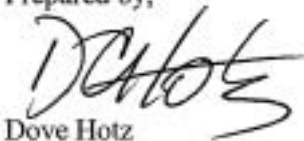
6. COUNCIL BRIEFINGS/COMMUNICATIONS

Councilor Liberty reported on his Green from the Ground Up training.

Mr. Jordan reported on the interviews for the Metropolitan Exposition Recreation Commission (MERC) General Manager position. All five finalists were local and well-qualified. The last interview was scheduled for March 13.

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 3:57 p.m.

Prepared by,



Dove Hotz

Council Operations Assistant

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF
MARCH 6, 2007**

Item	Topic	Doc. Date	Document Description	Doc. Number
1	Agenda	3/8/07	Agenda: Metro Council regular meeting, March 8, 2007	030607c-01
2	Budget reserves	3/6/07	To: Metro Council From: Kathy Rutkowski Re: PERS Reserve	030607c-02
2	Budget reserves	undated	To: Metro Council From: Karen Feher Re: Projected Balance in General Fund Recovery Rate Stabilization Reserve	030607c-03
3	Land reserves	2/23/07	To: Metro Council From: Dick Benner Re: Urban and Rural Reserves—LC 3289, Briefing Points	030607c-04