

MINUTES OF THE METRO COUNCIL MEETING

Thursday, July 19, 2007
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Kathryn Harrington, Rex Burkholder, Brian Newman, Carl Hosticka

Councilors Absent: Robert Liberty (excused), Rod Park (excused)

Council President Bragdon convened the Regular Council Meeting at 2:01 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

There were none.

3. RECOGNITION OF THE UNITED STATES FISH AND WILDLIFE AGENTS AND US ATTORNEYS WHO SUPPORTED THE ENDANGERED SPECIES JUSTICE FUND

Council President Bragdon introduced Tony Vecchio, Oregon Zoo Director. Mr. Vecchio introduced U.S. Fish and Wildlife (USFW) Service Law Enforcement Agents Phil Land, Jim Stinebaugh, and Dirk Hoy, Special Agent in Charge of Law Enforcement for the Pacific Region of the USFW Paul Chang, Assistant U.S. Attorneys Dwight Holton and Amy Potter and U.S. Attorney Karin Immergut. He said he was excited about being here today. He was saddened that there were crimes against wildlife. He was thrilled to acknowledge those who have been involved in dealing with wildlife crimes in Oregon. He talked about the connections to the Oregon Zoo. The US Attorney's Office recognized the need to keep the money in the region. They came to the Oregon Zoo and established the Endangered Species Justice Fund. A total of \$85,000 had come back to the Zoo to help with endangered species both locally and internationally. He wished to recognize those partners. He and Council President Bragdon provided each with awards for their work. Ms. Immergut added her remarks about enforcement of the crimes against wildlife. This fund was a way to return something to the region. She acknowledged the partnership with the Oregon Zoo. Mr. Holton talked about the results of those funds and the need for conservation. They were pleased to have Metro involved. Mr. Land said there were about 200 special agents investigating wildlife trafficking around the United States. He thanked the Council and Mr. Vecchio for their efforts. Mr. Stinebaugh reiterated Mr. Land's remarks about their partnership. Councilor Newman offered his deep gratitude for their work and the choice of the Oregon Zoo to be a center for wildlife conservation programs.

4. CONSENT AGENDA

4.1 Consideration of minutes of the July 12, 2007 Regular Council Meeting.

Motion:

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| Councilor Burkholder moved to adopt the meeting minutes of the July 12, 2007 Regular Metro Council. |
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Vote:

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| Councilors Burkholder, Harrington, Newman, and Council President Bragdon voted in support of the motion. The vote was 4 aye/ 1 abstained, the motion passed with Councilor Hosticka abstaining from the vote. |
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5. ORDINANCES – SECOND READING

5.1 Removed from the agenda.

5.2 **Ordinance No. 07-1157**, For the Purpose of Dissolving the Greenspaces Policy Advisory Committee (GPAC) and Repealing Metro Code Section 2.19.160.

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| Motion: | Councilor Newman moved to adopt Ordinance No. 07-1157. |
| Seconded: | Councilor Hosticka seconded the motion |

Council President Bragdon introduced the legislation and noted that they would be utilizing focused limited duration task forces to deal with natural resources areas and parks.

Council President Bragdon opened a public hearing on Ordinance No. 07-1157.

Mike Houck, Urban Greenspaces Institute and a former GPAC member, PO Box 6903 Portland OR 97228 said he agreed with the concept of utilizing task forces instead of GPAC because of limited resources. He shared his concerns about the natural resource focus needing an ongoing voice. He didn't question Council's commitment to natural area resources and parks. He felt there needed to be a standing committee that provided input. He supported the direction that Council President was taking.

Council President Bragdon closed the public hearing. He thanked Mr. Houck for his service. He noted a task force that had been created for oversight on the natural areas bond measure and one that was still forming having to do with the Nature in Neighborhoods Capital Grant program. Councilor Burkholder supported this direction and explained how organizing this type of task force was effective and efficient. He talked about limited resources in the region.

Councilor Harrington would support the measure. She also saw this as an important step to demonstrated efficiency in government. They were leveraging the resources that the public had put forward.

Vote:

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| Councilors Hosticka, Burkholder, Harrington, Newman, and Council President Bragdon voted in support of the motion. The vote was 5 aye, the motion passed. |
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6. RESOLUTIONS

6.1 **Resolution No. 07-3829**, For the Purpose of Amending the 2006-09 Metropolitan Transportation Improvement Program (MTIP) to Add the Cornell Road and Science Park Drive/143rd Intersection Project and the Hall Boulevard and Highway 99W Intersection Project.

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| Motion: | Councilor Burkholder moved to adopt Resolution No. 07-3829. |
| Seconded: | Councilor Hosticka seconded the motion |

Councilor Burkholder introduced the resolution and explained that this was a procedure for projects that received new funding. Any project that was of this magnitude must be included in the Regional Transportation Plan (RTP). These projects also had to go through an air quality conformity process. Councilor Hosticka asked where the funding was coming from. Councilor Burkholder responded to his question. Councilor Hosticka commented that various units of government were unable to fund the projects, so cities were having to help fund these projects.

Vote:

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| Councilors Hosticka, Burkholder, Newman, Harrington, and Council President Bragdon voted in support of the motion. The vote was 5 aye, the motion passed. |
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7. CONTRACT REVIEW BOARD

7.1 Deliberation on Appeal by RPS-BER Ltd. of Chief Operating Officer's Rejection of Appeal Regarding Contract RFP No. 07-1219-PKS for Property Acquisition Services.

Council President Bragdon highlighted the process for this appeal (a copy of which is included in the record).

Theodore Wenk, representing Mr. Ray Stiles said he rejected the decision of the Chief Operating Officer (COO). He felt not all of the information had been provided to his client. There was some question on the original scoring. It appeared Mr. Stiles' proposal had been rescored. He was asking the Metro Council to consider the policy. He spoke to Disadvantage Enterprises and that under state contracting law, Mr. Stiles was not eligible but under federal contracting law he was eligible for consideration. He also asked that he be rescored and re-evaluated for this contract.

Darin Matthews, Procurement Officer, said he oversaw the process for this contract proposal process. They received numerous proposals. There were 12 proposals, which were fairly evaluated. Mr. Stiles' proposal did not rise to the level of granting the contract. The result was appealed, he reviewed the appeal and felt the process was fair and followed the Metro Code as well as state contract law. Minority and Women-Owned Business Enterprise (M/WBE) guidelines were utilized. He felt this procurement was done appropriately and the denial should stand.

Mr. Wenk closed by saying that they fully supported Metro's work with disabilities. They felt there was a hole in the process. Mr. Stiles said they had already been working on a particular site. He said Joel Morton, Senior Attorney, came to him asking him to complete the Request For Proposal (RFP). He indicated that Metro was happy with the work they had done. He explained further the history of what had gone on.

Councilor Newman asked Mr. Wenk to explain the hole in our Code having to do with Disadvantaged Enterprises and the issue with scoring. Mr. Wenk explained the difference between federal qualifications for contracts versus state contracts. Councilor Newman said our program was one of outreach. He wanted to know where the hole in the Code existed. Mr. Wenk suggested Metro needed to add the disadvantage enterprise to their Code. Councilor Hosticka asked about the number of providers for each category. Mr. Matthews responded to his question. Councilor Hosticka clarified, was there a certain number that were selected? Mr. Matthews said there were a total of twelve firms who applied and nine were selected. Mr. Stiles said as a minority business enterprise he was not selected. They were not designated as a M/WBE. Councilor Newman asked for clarification about his proposal. Mr. Stiles explained the process for how he developed his contract. There were time limitations for submittal of the contract.

Councilor Newman said based on his own acknowledgement Mr. Stiles wasn't able to get a quality proposal on time. How did the Disadvantage Enterprise Small Business relate to the proposal? Mr. Stiles responded to his question. Councilor Burkholder said, as he understood the scoring, it did not include the M/WBE factor. Mr. Matthews said that was not a scorable item.

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| Motion: | Councilor Burkholder moved to uphold the Chief Operating Officer's decision. |
| Seconded: | Councilor Newman seconded the motion |

Councilor Burkholder said he supported the COO's recommendation. They needed to judge the quality of the work on what was submitted. They had a process that was followed. They did not use M/WBE as part of the scoring. This might be a conversation for future contracts. He felt the appeal did not have standing in his opinion. Councilor Hosticka asked Mr. Fjordbeck to explain what happened if they upheld the appeal. Mr. Fjordbeck said if they upheld the appeal of the appellant he would be added to the list as a consultant. Councilor Hosticka said if they added him to the list, would they automatically get a project? Mr. Fjordbeck said even if they were on the list they could not be guaranteed work. Mr. Matthews said that was correct. Councilor Hosticka asked if there was a possibility for reopening the process for another application to be considered. Mr. Fjordbeck said the application process was closed and noted that the application deadline had been extended to allow the applicant to submit his proposal.

Vote:

Councilors Burkholder, Newman, Harrington, and Council President Bragdon voted in support of the motion. The vote was 4 aye/ 1 nay, the motion passed with Councilor Hosticka voting no.

7.2 Resolution No. 07-3828, For the Purpose of Approving Change Order No. 9 to the Waste Disposal Services Contract.

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| Motion: | Councilor Harrington moved to adopt Resolution No. 07-3828. |
| Seconded: | Councilor Burkholder seconded the motion |

Councilor Harrington said this resolution authorized the COO to execute change order 9 to the waste disposal services contract between Metro and Waste Management. She provided additional details of the change order (a summary of these remarks is included in the staff report).

Council President Bragdon said the contract between Waste Management and Metro was very important. The contract required a lot of care and attention. He reminded that we were here to represent the ratepayer. He felt this was accomplished through the mediation. He said the company acknowledged the agreement. He thanked the staff for their work on this change order. Councilor Hosticka said he wanted to be clear as to when various contracts were expiring and did this have any effect on the timeline? Mike Hogle, Solid Waste and Recycling Director, responded that it would be up to the Council to determine when the RFP for the contract would be rebid. He explained options for the timeline. Councilor Harrington said the change order provided value to our region. She thanked all of those who had worked on this issue.

Vote:

Councilors Hosticka, Burkholder, Newman, Harrington, and Council President Bragdon voted in support of the motion. The vote was 5 aye, the motion passed.

8. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, was not at the meeting.

9. COUNCILOR COMMUNICATION

Councilor Hosticka alerted the Council, as a member of the I-5/99W Connector Task Force he would be meeting in August to try to shorten the list of projects. He had scheduled a work session on August 7th to discuss this with the Council.

Councilor Harrington said she was curious about Metro's hiring practices for a preference program given the extent of returning veterans.

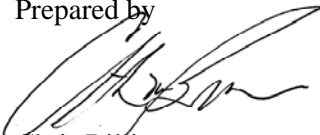
Councilor Burkholder announced the Jazz Festival at Cathedral Park this weekend. This event had been going on for 27 years in North Portland. The Bi-State Committee met this morning. He reviewed the items they discussed which included the Columbia River Crossing. They would be coming back to discuss options with the Council prior to their meeting in November. Second, Portland State University and Washington State University were asked to do some interviews in the community about the issue of the border between the two states and how it affected people's lives. They would be sharing the report with the Council. The north side of the river had been looking long range and what that might mean for transportation. Issues included do we build more bridges and what might that mean?

Council President Bragdon said there would not be a formal regular meeting next Thursday but would be holding a work session on budget issues.

10. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 3:13 p.m.

Prepared by



Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF
JULY 19, 2007**

| Item | Topic | Doc. Date | Document Description | Doc. Number |
|-------------|----------------------|------------------|---|--------------------|
| 4.1 | Minutes | 7/12/07 | Metro Council Meeting Minutes of 7/12/07 | 071907c-01 |
| 7.2 | Amended Exhibit A | 7/19/07 | To: Metro Council From: Marv Fjordbeck Re: Amended Exhibit A to Resolution No. 07-3828 | 071907c-02 |
| 7.1 | Memo and attachments | 7/17/07 | To: Metro Council From: Marv Fjordbeck, Senior Attorney Re: Appeal process and supporting documents | 071907c-03 |