

MINUTES OF THE METRO COUNCIL MEETING

Thursday, August 2, 2007
Metro Council Chamber

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

Councilors Absent: Rod Park (excused)

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

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

Roberta Schwarz, 2206 Tanler Drive, West Linn, OR 97068, said a petition supported the White Oaks Savannah parcel with 415 signatures on it. She spoke to the partnership for the White Oaks Savannah. She noted that they had applied to the state lottery for financial support. They also had commitments from the City of West Linn and the federal government. She urged that Metro become the fourth partner. She talked about the science of the area and felt this area met the criteria.

3. CONSENT AGENDA

3.1 Consideration of minutes of the July 19, 2007 Regular Council Meeting.

Motion:

Councilor Harrington moved to adopt the meeting minutes of the July 19, 2007 Regular Metro Council.

Vote:

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

4.1 **Ordinance No. 07-1159**, For the Purpose of Authorizing the Chief Operating Officer to Execute a Franchise Amendment to Extend the Term of the Forest Grove Transfer Station Franchise to December 31, 2008.

Council President Bragdon assigned Ordinance No. 07-1159 to Council.

5. ORDINANCES – SECOND READING

5.1 **Ordinance No. 07-1147A**, Amending Metro Code Chapters 5.01, 5.02, 5.05, and 7.01 to Ensure that All of the Region's Non-Putrescible Waste Undergoes Material Recovery Prior to Disposal, to Eliminate the Regional System Fee and Excise Tax Credit Program, and to Make Related Changes.

Council President Bragdon said this ordinance was already on the table as well as Councilor Newman's amendments. He noted that consideration of Councilor Newman's amendments had been postponed until today.

Councilor Newman noted that his amendments were on the table. He yielded the floor to Councilor Harrington to speak to the ordinance.

Councilor Harrington said as Metro has been working with our regional partners and solid waste industry stakeholders on a program for increasing recovery of dry material in the region in order to reach the 64% recovery goal, we were faced with issues regarding two landfills in Washington County.

She noted that this was our third public hearing on an ordinance for this Enhanced Dry Waste Recovery Program, also known as EDWRP. We were down to the final clauses, including dealing with complications with two landfills in Washington County. The need for recovery, EDWRP, was bigger than these complications.

Since March, Mike Hoglund, Director of the Metro Solid Waste & Recycling department, had been working with both landfill operators, investing time in a workgroup dealing with the Lakeside Landfill, which included representatives from the Lakeside, the State Department of Environmental Quality (DEQ), and Washington County.

The workgroup concluded their discussions last Friday July 27th.

During much of the workgroup process there was agreement on the target closure date of July 1, 2012, but most recently commitment to this goal waned. Lakeside wanted the ability to continue to operate (even without Metro tonnage) in order to execute to the full closure tonnage capacity (500,000 tons) in order to meet their current business plan. Lakeside was unwilling to consider a closure with fewer tons. So, no date certain closure.

Should we have any questions on that, Mr. Hoglund was available here as was Metro Senior Attorney Marv Fjordbeck.

The A version of the ordinance included a surcharge/fee concept as a potential solution for dealing with the Lakeside challenge, should that be the wish of the Council. The amendment on the table would remove the surcharge/fee concept ensuring a clean and clear policy across the region of requiring all mixed dry waste in the region to be processed for recovery thereby reducing the volume of material destined for landfills.

Councilor Newman then talked about the amendments on the floor. These four amendments were straightforward. They took out the surcharge from the ordinance. He explained why the surcharge had been taken out. They had heard from the community that they did not want any perceived favoritism to any facility. Even the operators of Lakeside Landfill did not support the surcharge. He explained the intent of the amendments. He also noted Councilors Hosticka and Liberty were instrumental in bringing forward the amendments.

Councilor Hosticka said Councilor Newman did a good job of drafting the amendments. He was leery of special considerations. He also had trouble with the concept of going outside their

responsibilities of stewardship by having a facility pay Metro money. He urged adoption of the amendments.

Councilor Harrington said she would be supporting the amendments. She commended Mr. Hoglund for his work with Lakeside, Washington County and the State DEQ to come to some working agreement on what EDWRP meant in the context of the desired Lakeside closure. She also appreciated the patience of her colleagues, as the process for policy development and legislative process has dragged on for a few months. It was very clear to her that the Metro Council has been open-minded and disciplined to seek input from the public, from the Solid Waste Advisory Committee and from the Metro Policy Advisory Committee, and had worked in collaboration with our local partners, particularly Washington County and the State DEQ to construct policies and programs that will meet the 64% recovery need of our region and get us there given the varied conditions and needs of our region.

Councilor Liberty said he seconded Councilor Newman's amendments because he agreed with the intent of the amendments. He thanked Councilor Harrington for her efforts.

Vote to amend:

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

Council President Bragdon opened a public hearing on Ordinance No. 07-1147B.

Steven Burke, Bull Mountain 16287 Lenier Lane Tigard, OR 97224 said he was elected to the non-existing Bull Mountain Council. He said there was a demonstrated history of non-conformance by Lakeside Reclamation Landfill. The landfill was a serious problem both because of asbestos and ground water. He did not support Lakeside Landfill as part of the Metro approved facilities. He was concerned that while Metro was sending dry waste to this landfill other haulers were sending toxic materials.

Ray Phelps, Allied Waste Services 10295 SW Ridder Rd Wilsonville OR 97035 provided his testimony for the record. Council President Bragdon asked about the dates that Mr. Phelps talked about in his testimony and were those dates integrated into the amendment. Mr. Fjordbeck, Senior Attorney, said the date recommendation had been integrated into the ordinance.

Dave White, ORRA/TRI-County 1739 NW 156th Ave Beaverton OR 97006, 5.01.135 said his concern was that Metro was the third agency doing the same thing that two other agencies were doing, inspection. He was concerned about redundancy and a waste of the public's funds. He urged removing this portion of the ordinance. He asked if they were successful in meeting the goal of Enhanced Dry Waste Recovery Program (EDWRP), what was the percentage they should be meeting? Council President Bragdon asked about duplicate inspections. Mr. Hoglund, Solid Waste and Recycling Director, responded that this came out of the material recovery standards. He noted Allied Waste had requested that this be moved to the dry waste facility ordinance. They were not trying to duplicate but if they saw something that needed to be taken care of, they would notify the appropriate agency.

Paul Phillips, Lakeside Landfill, Beaverton OR 97007 thanked Councilors Harrington and Park for their efforts. He also noted Mr. Hoglund's efforts. He explained the Memorandum of Understanding (MOU). A copy of his testimony is included in the record.

Doug Drennen, Lakeside Landfill, said he supported EDWRP. He urged Metro to continue working with Lakeside Landfill. He talked about his work at Metro in closing St. Johns Landfill. He requested Metro work with them closely to get the amount of tonnage so that the Landfill could close. Councilor Newman said now that they amended the ordinance to remove the surcharge he asked why they were still working on an MOU. What was the purpose of the MOU? Mr. Hoglund said until the vote was just taken they had continued to work on the MOU. All of the designated facilities had to update their Designated Facility Agreement (DFA). They would continue to work with Lakeside Landfill. Lakeside Reclamation would have to come back next year to explain how they would meet Metro's requirements. He noted they had to renew their DFA next year. Mr. Drennan added that Mr. Grabborn had already engaged in getting a better handle on how much dry waste went through their facility.

Art Kamp, 14520 SW Pleasant Valley Rd. Beaverton, OR 97007 provided his testimony for the record.

David Van Riper, 14800 SW Pleasant Valley Rd Beaverton OR 97007 said he supported the ordinance as amended. He asked that no future privileges be provided to Lakeside Landfill.

Claire Towry, Northwest Environmental Defense Center, 2503 SE 17th Ave Portland OR 97202 expressed their support for the amendments. They wanted to encourage the highest standards. She supported the timeline change. She talked about what would happen if an exemption were allowed. She spoke to closure and post closure funds and that these were not adequate for closing the landfill. She felt third party oversight was needed for this landfill. Lakeside's application for a new DEQ permit renewal would create too many delays that existed before the amendments. She supported requiring the highest standards.

Councilor Harrington asked the DEQ representative about permits. Audrey O'Brien, DEQ, said Lakeside had two DEQ permits. One permit was for the landfill, which expired January 30, 2008. The permit that DEQ authorized allowed the landfill to operate and to close. The other permit that Lakeside had was a compost permit. Councilor Hosticka asked about financial assurances. Ms. O'Brien said Lakeside did have financial assurances for closure. DEQ had asked for an update on the financial assurances. Councilor Liberty asked about notices of non-compliance to Lakeside. Ms. O'Brien said they had issued five notices of non-compliance to Lakeside. Councilor Liberty asked if there had been any violation. Ms. O'Brien said corrections had been made so they did not go to formal enforcement action.

Richard Ponzi, 22230 Jaquith, Newberg OR 9732 thanked all of the Council for being patient with the neighbors. He spoke to the closure of the Landfill. He provided a history of the closures that had been promised over the years. They had seen the growth of the landfill. There had never been a land use decision on this non-conforming landfill. There was a contamination problem and the landfill had continued to expand. He endorsed the amendments.

Mike Dewey, Waste Management, said there had been some reflection on special treatment. From their standpoint they did not see special treatment. He appreciated distinguishing them from the special treatment. He talked about the increased enforcement and Mr. Phelps' comments. He felt Metro should address some of Mr. Phelps' issues. He was confused by the MOU. He wasn't sure why there was a need for an MOU. If this was something that was going forward, they would like to know what was in the MOU. Councilor Harrington talked about the working group and the draft MOU. They were trying to achieve a closure goal for Lakeside in the MOU. The work group had finished their work. Councilor Liberty asked clarifying questions. Mr. Dewey

responded to his concerns. Councilor Liberty asked about the 25% materials incoming and the 15% going out. Mr. Dewey said they believed, based upon where staff was going, it would be 15% out going.

Maria Ponzi Fogelstrom, 14665 SW Winery Lane Beaverton, OR 97007 echoed her father's comments and thanks. She opposed any special treatment for Lakeside. She represented Ponzi Winery. She talked about the wine industry and state tourism (a copy of her testimony was included in the record).

Rob Burchfield, 20050 SW Aten Rd. Beaverton, OR 97007 said he supported the amendments and the regulations. He appreciated the diligence on this issue. He talked about the DEQ notice of non-compliance. He spoke to what comes next with regard to Lakeside Reclamation. He noted a letter that was sent to Mike Hoglund on July 26th (a copy of which is included in the meeting record) and highlighted several of his comments in the letter concerning compliance.

Council President Bragdon closed the public hearing and announced that this ordinance would be at the Council for final consideration on August 16, 2007.

Councilor Liberty said he wanted to hear from staff about Mr. Phelps' comments. Mr. Hoglund said 2.6 million tons of waste was generated in the region every year. They hoped for 1.25 million tons with this program. He said currently 25% recovery was expected from the waste facilities. He said the new standard expected 15% residual going out the door. He noted that the 15% was a safety net. He then talked about timing. He reminded that this was a new standard. They wanted it to take effect January 1, 2009. They were asked to delay by Waste Management so they could build their facility. He explained the extension to July 1, 2009. They were taking a hands-off approach but wanted to have a phase-in period.

Councilor Harrington asked about the 25% and 15% language. The 25% language stayed in the Code and the 15% was being added. She talked about compliance and what the message was to the industry. Mr. Hoglund responded to her question.

Councilor Burkholder clarified that he would be voting in favor of the ordinance as amended. This was a proper way to reduce materials that would be landfill. This was a smart thing to do. This mandatory recycling was a good idea. Metro had every right to expect all of our providers to perform a high quality of service in exchange for the business that Metro sent their way. He felt the ordinance itself was the right step in terms of recycling.

Councilor Liberty concurred with Councilor Burkholder's comments. He would be supporting this ordinance. He talked about Lakeside and raised the issue about whether they should consider their DFA now instead of later.

Councilor Nemwan said he would also support the ordinance as amended. He thanked Councilor Harrington for her work. She had been very thorough and had kept Council informed along the way. He also thanked staff for all of their hard work. He talked about the MOU and said he wouldn't support any exception to the standards that were in this ordinance. He wanted all facilities to achieve those standards. He echoed Councilor Liberty's comments about considering Lakeside's DFA now. He felt it was time to ensure standards had been met.

Councilor Harrington said she was supporting the B version of this ordinance. Councilor Hosticka said he appreciated all of the work that had gone into this ordinance. He would be supporting the ordinance as amended.

Council President Bragdon said due to the amendments that were passed today, the final vote would be on August 16. He said they would hold a public hearing. He noted that there would be no MOU developed behind the scenes. They had also asked staff to review Lakeside's DFA. He thanked Councilor Harrington and staff for their hard work.

6. CHIEF OPERATING OFFICER (COO) COMMUNICATION

Michael Jordan, COO, said they were continuing their negotiations with their labor unit. He was requesting an executive session on August 16. He talked about the timeline.

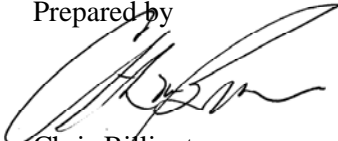
7. COUNCILOR COMMUNICATION

There were none.

8. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 3:24 p.m.

Prepared by



Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF AUGUST 2, 2007

Item	Topic	Doc. Date	Document Description	Doc. Number
5.1	Amendment	070307	To: Metro Council From: Councilors Hosticka and Newman Re: Proposed amendment to Ordinance No. 07-1147A	080207c-01
5.1	Flyer	8/2/07	To: Metro Council From: Larry Harvey, PacWest Re: Flyer titled, "False Allegations Outright Information on Lakeside Reclamation Landfill"	080207c-02
5.1	Letter	7/25/07	To: Councilor Hosticka From: Jim Fisher, President Roofing and Construction Company Re: Supporting Lakeside Reclamation Landfill	080207c-03
5.1	Letter	7/18/07	To: Councilor Newman and Metro Council From: Brent Kerr, Kerr Contractors Re: Supporting Lakeside Reclamation Landfill	080207c-04
5.1	Letter	7/12/07	To: Councilor Newman From: Scott Bernhardt, President Bones Construction Inc Re: Supporting Lakeside Reclamation Landfill	080207c-05
5.1	Letter	7/13/07	To: Councilor Newman From: John Knez Jr., Knez Building Materials Re: Supporting Lakeside Reclamation Landfill	080207c-06
5.1	Letter	7/17/07	To: Councilor Burkholder From: Mark McGregor, Clean it up Mark! Re: Supporting Lakeside Reclamation Landfill	080207c-07
5.1	Letter	7/23/07	To: Council President Bragdon From: Jack Hoeck, VP Environmental Services Rexus Forest By-products Re: Supporting Lakeside Reclamation Landfill	080207c-08
5.1	Letter	7/23/07	To: Councilor Burkholder and Metro Council From: Andrew Voss, Voss Materials Re: Supporting Lakeside Reclamation Landfill	080207c-09

5.1	Letter and attachments	7/26/07	To: Mike Hoglund, Solid Waste & Recycling Director From: Rob Burchfield and John Frederick Re: Lakeside Reclamation request for specific information, 2007 Washington County's Franchise Agreement, Letter to Tom Brian, Washington County Commission Chair from Art Kamp and John Frederick, Letter from Mark Brown to Art Kamp and John Frederick and Letter to Washington County Board of Commissioners from Art Kamp, Rob Burchfield, John Frederick and others	080207c-10
5.1	Testimony	8/2/07	To: Metro Council From: Ray Phelps, Allied Waste Management Re: Testimony on Ordinance No. 07-1147A	080207c-11
5.1	Testimony	8/2/07	To: Metro Council From: Maria Ponzi Fogelstrom Re: Ordinance No. 07-1147A	080207c-12
5.1	Testimony	8/2/07	To: Metro Council From: Paul Phillips, PacWest Communications representing Lakeside Landfill Re: Ordinance No. 07-1147A	080207c-13
5.1	Testimony	8/2/07	To: Metro Council From: Art Kamp Re: Ordinance No. 07-1147A	080207c-14