

MINUTES OF THE METRO COUNCIL MEETING

June 25, 1998

Council Chamber

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

Councilors Absent:

Presiding Officer Kvistad convened the Regular Council Meeting at 2:03 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

Henry Kane, 12077 SW Camden Lane Beaverton, OR 97008 provided a letter to the council concerning Ordinance No. 98-745. He noted the problem with wetlands. He suggested that the Council consider the environmental issues concerning the Citistics garbage franchise. He thanked Councilor McFarland for informing him about saving wetlands.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. AUDITOR COMMUNICATIONS

None.

5. MPAC COMMUNICATION

Councilor McLain said there had been a number of issues discussed at the meeting the night before, specifically the Urban Growth Boundary timeline and some issues about the code. She said they had requested a Coordinating Committee meeting in July and August because of some important issues coming up on the topic.

Councilor Washington presented an award to the Presiding Officer Kvistad for the agency work on the methane gas pipeline from the St. John's landfill to Ashgrove Cement Co. where they used the gas to fuel their boilers. He said Metro would make about \$100,000 a year selling the methane.

6. CONSENT AGENDA

6.1 Consideration meeting minutes of the June 18, 1998 Regular Council Meeting.

Motion: **Councilor McCaig** moved to adopt the meeting minutes of June 18, 1998 Regular Council Meeting.

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

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

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 98-724A**, For the Purpose of Adopting the Annual Budget for Fiscal Year 1998-99, Making Appropriations, Creating Funds, Levying Ad Valorem Taxes, Authorizing Interfund Loans and Declaring an Emergency.

Motion: **Councilor McCaig** moved to adopt Ordinance No. 98-724A.

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

Motion to Accept the Technical

Amendments: **Councilor McCaig** moved to accept the technical amendments to Ordinance No. 98-724A.

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

Councilor McCaig reviewed the ordinance. She felt that the Council needed to continue to watch the evolving financial relationship between the government and MERC. She said it had huge implications for the agency. She mentioned the zoo funding and the need to pay attention to the development of their project and the attendance She said long term funding needs were significant and what they stood for as an agency were at stake unless a commitment to funding some of the services were found. She noted the technical amendments at the last Finance Committee meeting.

Vote to accept the technical

amendments: The vote was 6 yes/0 nay/0 abstain. The motion to accept the technical amendments passed unanimously.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-724A. No one came forward. Presiding Officer Kvistad closed the public hearing.

Discussion: **Councilor Morissette** said he had a problem with the budget , specifically that the excise tax was too high on the solid waste department. He thought the Council budget was too high. He said he was disappointed that there wasn't enough discussion about where to make cuts.

Vote on the

Main Motion: The vote was 5 aye/ 1 nay/ 0 abstain. The motion passed with Councilor Morissette voting no.

Councilor McCaig thanked the staff for the job they did putting the budget together.

7.4 **Ordinance No. 98-744**, For the Purpose of Adding to Designated Urban Reserve Areas for the Portland Metropolitan Area Urban Growth Boundary; Amending RUGGO Ordinance No. 95-625A; and Declaring an Emergency.

Motion: **Councilor Morissette** moved to adopt Ordinance No. 98-744.

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

Motion to

Substitute: **Councilor Morissette** moved to substitute Ordinance No. 98-744 with Ordinance No. 98-744A which added 2 provisions that had been included in the staff report but inadvertently omitted from the Ordinance.

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

Vote: The vote was 5 aye/ 1 nay/ 0 abstain. The motion passed with Councilor McFarland voting no.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-744A.

Robin Bonn, 11254 SW Belknap Ct., Wilsonville, OR, 97070, board member of Oregonians for Responsible Prison Siting asked for approval of the expansion of UR 42. She said it was primarily industrial and remote from residential and school zones and more complimentary to a large industrial land use like a prison.

Gene Reddemann, 29515 SW Teton Way, Wilsonville, OR 97070 urged support of Ordinance No. 98-744A. They felt it was a suitable use of the area and would facilitate putting a distance from neighboring schools..

Annette Willis, 10811 SW Hunt Ct Wilsonville OR 97070 urged the Council to follow the recommendation of Metro staff and approve the expansion of UR-42.

Gene McLean 22270 SW Taylors Dr. Tualatin, Oregon 97062 read his testimony into the record (a copy of which may be found in the permanent record of this meeting). He spoke against UR-42 for the prison site for many reasons. He felt Metro was allowing the City of Wilsonville to use them to fulfill their own agenda at the expense of Tualatin and surrounding areas. He did not feel Metro had a neutral attitude and had been pushing the Day Road site. He said the alternate site was not industrial but 80% of it was AF-5.

Mayor Lou Ogden, City of Tualatin, supported trying to find a different site than the Dammasch site. He said Metro's role was not to decide where to put a prison. He said they were to decide land use and land reserve only. He said the question was, did we need more Urban Reserves. He said the people of the region needed Metro to keep to its process and the decisions that they had made. He said the process was to determine if it followed the urban reserve process not to determine where to put a prison.

Mayor Charlotte Lehan, City of Wilsonville, PO Box 1282 Wilsonville OR 97070 supported the Metro staff's position and the unanimous vote from the Growth Management Committee to bring in UR 42 to accommodate a prison. She said there was no question any more that the prison would be sited in Wilsonville. She said the UR-42 would not be appropriate to residential development. She said their intent was not to impede Tualatin in any way for their future plans. She said the UR-42 was a logical exception land because it had poor Class 4 soils and no EFU designations.

David Gorman, 434 NW Sixth Ave Suite 303 Portland OR 97209, OR said he was a water resource engineer in Oregon. In early 1998 he was asked to conduct a hydrological analysis of the basin which contained the UR-42. He pointed out the errors and omission referred primarily to the Title 3 issues. His analysis showed the flooding in this area could occur at least twice a year. He suggested that this area should be proposed as a water quality resource area. He asked that Metro take those errors into consideration before recommending the site for inclusion

Ellen Hardwood, 9065 SW Stono Dr. Tualatin, OR 97067 opposed the expansion of UR 42. She felt the motivation behind the change was clearly to allow the prison to be sited there. She quoted Metro's statement that they had no authority in prison siting matters from the same letter that informed citizens that Metro was considering amending an urban reserve to accommodate this special use if the Day Road site was chosen. She said that would contradict Metro's stated authority on the matter. She said the amendment was not to the benefit of the community near the area in question because it would significantly impact property values and communities. She felt a solution could be found to satisfy all parties.

Cathy Rice, 29384 SW Yosemite St., Wilsonville, OR 97070 read her testimony supporting the expansion plan into the record (a copy of which may be found in the permanent record of this meeting).

Thea Vandehey, 11063 Matsen Dr. Wilsonville, OR said that she supported the expansion of UR-42.

Shani Palmquist, 1101 SW Matzen Dr., Wilsonville OR 97070 supported the ordinance to expand UR 42.

Eva Ferara, 29573 SW Camelot St. Wilsonville OR 97070 urged support to expansion of UR-42.

Klaus Gibson, partner in Hain Development, 7310 SW Hermosa Way Tigard OR 97223 strongly supported the expansion of UR 42. He felt it would facilitate industrial expansion in the immediate area.

Cornelia Gibson, 10904 SW Parkwood Wilsonville OR 97070 supported the expansion of UR-42. She felt it would allow the best land use plan for the area.

Ryan Willis, 108711 SW Hunt Ct Wilsonville OR 97070, a student in the Wilsonville school district. He spoke in support of the expansion of UR 42. He said if it was not approved the prison would be too close to his school. He urged the Council to keep the students in mind when they made their decision.

David Lake, 10884 SW Roland, Wilsonville OR 97070 ORPS Board Member, said there was a jobs to housing imbalance in Wilsonville and construction of the prison at the Dammasch site would leave no way to correct the imbalance, therefore expansion of UR 42 was needed at this time. He urged expansion of UR 42 to meet the objectives.

Melanie Pennington, 10365 SW Day Rd Sherwood OR 97140 President of Citizen for Accountability Prison Siting. She noted the propensity of the site to flood and played a video of the area during flooding. She spoke against the expansion of UR-42 because of the drainage issue.

Presiding Officer Kvistad asked Ms. Pennington if the videotape had been submitted to the Department of Corrections and the Governor. She said that it had and added that this was not just during the February 1996 flood, it also had pictures from January 1997 flood.

Stephan Lashbrook, City Planning Director, City of Wilsonville, submitted a copy of the comprehensive plan and land use map. He said a prison was an industrial land use and it was their position that UR-42 would gradually convert to more industrial uses. He referred to the 2040 plan which followed. He said UR-42 had good access to I-5. He noted traffic studies which said the prison would have minimal PM peak hour traffic. He said there was a significant flood problem but the city of Wilsonville working with DOC was the best opportunity that area had to solve those problems. He submitted a letter from West Tek Engineers supporting the site.

Terance Withers, 33900 NE Wilsonville Rd, Newberg, OR 97132 President for ORPS, read his testimony supporting the UR-42 into the record (a copy of which may be found in the permanent record of this meeting).

Joanne Mills, VP of ORPS, 10980 Matsen Dr. Wilsonville, OR 97070 said she had the report from the Dept. of Corrections which concluded that the prison site could be constructed there and operated in a safe and secure manner. She urged Council to support the expansion of UR-42.

John Junkin representing CAPS, 888 SW 5th #300 Portland OR asked for clarification on Ordinance No. 98-744A. He noted that the Ordinance No. 98-744A at this meeting was not the same Ordinance No. 98-744A that had been at the Growth Management Committee. He asked which they were using today.

Mr. Dan Cooper, said the June 12 Ordinance No. 98-744A that was in the packet was the one from the Growth Management meeting. He said the one here was the one that Councilor Morissette moved. He said the corrected version cleaned up the 2 amendments he referred to. That was the one that was adopted, not the one from the Growth Management Committee. He said the changes were non-material.

Mr. Junkin disagreed that they were non-material. He said they had recommended a condition that created a permanent boundary to the city limits of Wilsonville which was not in the Ordinance today. He felt that was a very material change. He felt some problems had occurred because the issue had been fast tracked. He asked that the findings from March 6 1997 adopting the UR findings and conclusions be admitted into this record because they were totally inconsistent with what was asked for today. He suggested this ordinance be rejected or no action taken as Metro did not need to be the cart pushing the horse and the state should make a decision.

Councilor McCaig said there were three members of the Growth Management Committee, Councilors Morissette, Naito and McCaig, and schools had not been the primary reason for their decision.

Dan Willis, 10811 SW Hunt Ct Wilsonville OR 97070, supported the expansion of UR 42 and read his testimony into the record (a copy of which may be found in the permanent record of this meeting).

Darren Pennington, 10365 SW Day Rd Sherwood OR 97140 expressed four points noting the Wilsonville Open Houses of May 14, 16 and 17 in which the conceptual plan was displayed. One open house did not provide for public testimony and the input provided did not change the existing plans in any way. He said the conceptual plan was currently under appeal with the Land Use Board of Appeals and contrary to the DOC report and the testimony today, of the 50 or so in attendance at the open houses, the vast majority were opposed to the plan.

Lisa Quist, 11075 SW Matzen Dr., Wilsonville OR 97070 read her testimony supporting the UR-42 expansion into the record (a copy of which may be found in the permanent record of this meeting). She noted that the DOC report regarding storm drainage on the site said the combined conclusion of the City of Wilsonville and the DOC engineers was that the flooding situation could be corrected with an appropriate storm drainage system. She said they had been assured by Metro that Metro would not support the Dammasch site for the prison before they moved to Wilsonville 2 years ago.

Presiding Officer Kvistad asked that she submit that report to the record.

Presiding Officer Kvistad closed the public hearing at 3:14 p.m..

Discussion: **Councilor McCaig** asked Dan Cooper comment on the boundary issues that had been raised.

Mr. Dan Cooper apologized for the confusion between the two "A" versions of the Ordinance. He said he had hurriedly drafted the first version. He said the version that had been moved was prepared by Mr. Shaw who corrected a reference made to the RUGGO policy and restated it as a condition of the urban reserve. He said that was appropriate. He said an ordinance dealing with the criteria for annexations after the boundary commission was abolished in the beginning of next year was on its way to the Councilors.

Councilor McCaig clarified that the document before Growth Management had set the northern boundary at the northern city limits boundary. She said they did not have the authority to set the city limits boundary but they were dealing with the urban reserves boundary and it had been set as a permanent UR boundary

Councilor McLain clarified what she was voting on. She was not voting on the suitability of a prison siting. She said as a Metro Councilors she was reviewing her decision of March 6, 1997 dealing with urban reserves and the region's ability to handle the responsibility of having appropriate urban reserves for the possible population and needed urbanization in the next 20-50 years. She said no matter where the prison was sited it would affect the urban reserves and the ability to handle the future needs. She felt it was Metro's responsibility to coordinate the land use

response to those types of developments if they came forward. She said expansion of UR-42 was a responsible vote to take care of UR needs for all types of uses.

Presiding Officer Kvistad said this had been very difficult and they had to make the best of a bad situation. He said he did not take lightly the difficult task placed before Council. He said he would support the item.

Councilor Morissette said it was indeed an awkward situation to be in. He said he would like to be instrumental in getting a prison site away from schools. He urged support for the expansion.

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

Presiding Officer Kvistad announced that this ordinance would be sent for findings to Legal Department with a possible final adoption date of July 16, 1998 at the Regular Council Meeting.

7.2 **Ordinance No. 98-738A**, For the Purpose of Adopting Ethical Requirements for Metro Officials and for Lobbyists.

Motion: **Councilor McLain** moved to adopt Ordinance No. 98-738A.

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

Councilor McLain reviewed Ordinance No. 98-738A history. She said the code had been worked on for over 3 years in the Government Affairs Committee. She said the process had a clear message that the agency wanted an ethics code to protect the public in the best way possible. She said there had been discussion regarding whether it should be a resolution or an ordinance and with or without penalties. They chose to do an ordinance, advisory in nature. She said the term "objectivity" was an issue because elected officials were supposed to come to decisions and make choices. She said Ordinance No. 98-738A started out with a purpose and policy statement. The committee felt there should be consequences. She reviewed sections of the policy.

Councilor McCaig asked Councilor McLain to highlight the places that were additional to public policy.

Councilor McLain said she would do that and asked Mr. Cooper to help. She said the code was requiring Metro officials and employees to operate under high ethical standards. She said there were additional provisions that might apply that were not in the code.

Councilor McCaig asked when questions would be allowed and Councilor McLain said she had almost completed her comments and would be happy to take questions then.

Councilor McLain continued to relate pertinent points from the ordinance. She closed by pointing out 2 ways to deal with the issue: having a wish list that hoped the staff would be good, fair and ethical or actually defining good ethical behavior. She felt this ordinance declared Metro had more than a wish list and wanted to hear from the public.

Councilor McFarland said she would not support this ordinance. She felt that Councilor McLain had worked very hard for this legislation but she believed the final document was

vindictive and viciously punitive and needlessly stringent. She felt it was in response to outside forces who thought they knew best what should be in the code. She said it had become very clear that members of this body would be subject to continuous criticism and public vilification if someone decided they were not following the code.

Motion to

Table: **Councilor McFarland** moved to table Ordinance No. 98-738A.

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

Vote to table: The vote was 5 aye/ 1 nay/ 0 abstain. The motion passed with Councilor McLain voting no. Presiding Officer Kvistad declared the ordinance tabled.

7.3 **Ordinance No. 98-739**, An Ordinance Amending the FY 1997-98 MERC Budget and Appropriations Schedule for the purpose of adopting the FY 1997-98 Supplemental Budget and Declaring an Emergency.

Motion: **Councilor McFarland** moved adoption of Ordinance No. 98-739.

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

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-739. No one came forward. Presiding Officer Kvistad closed the public hearing.

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

7.5 **Ordinance No. 98-759**, An Ordinance Amending the FY 1997-98 Budget and Appropriations Schedule by Transferring \$8,000 from Materials and Services to Personal Services within the Office of the Auditor to Complete a Cash Receipts Audit; and declaring an Emergency.

Motion: **Councilor McCaig** moved to adopt Ordinance No. 98-759.

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

Councilor McCaig said this was what the technical amendment in the budget would allow as an operation expense.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-759.

Alexis Dow, Auditor, said she appreciated the earlier action precluding the necessity of doing this in the future.

Presiding Officer Kvistad closed the public hearing.

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

7.6 **Ordinance No. 98-764**, For the Purpose of Granting a Yard Debris Processing License to C.L. Danner Nursery to Operate a Yard Debris Processing Facility; and declaring an emergency.

Motion: **Councilor McFarland** moved to adopt Ordinance No. 98-764.

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

Councilor McFarland said the debris was from C.L. Danner's own operation and was not a large operation. She said they had been doing it for a while but in the interest of having it properly licensed and taken care of she asked for adoption of this ordinance.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-764. No one came forward. Presiding Officer Kvistad closed the public hearing.

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

8. RESOLUTIONS

8.1 **Resolution No. 98-2662**, For the Purpose of Declaring a vacancy in the Office of Metro Councilor for Council District No. 6.

Motion: **Councilor Washington** moved to adopt Resolution No. 98-2662.

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

Discussion: **Councilor Washington** reviewed some dates and explained what happened when a vacancy was declared. He said as of June 22, 1998, there was a vacancy in District 6 and according to process, on June 16 a public hearing was held in that District. He said 4 candidates appeared at that hearing. He said June 24 1998 at 5 p.m. was the deadline for submitting applications for the position. He reported that 4 applications had been submitted, Rod Monroe, Scott Pratt, Jacqueline Dingfelder, and Dwight (D.W.) Owens. He said on July 1 there would be interviews with Metro Council and July 2 would be the meeting for potential action. The appointee would serve until November when the elected person would be sworn in and take over.

Councilor McLain asked if there was a committee for the interviews. Her concern was that she was not notified about the interviews and the timing was interfering with a previous engagement which could have been changed if she had known.

Presiding Officer Kvistad said he was going to have a discussion under Councilor Communications as to time and place for the interviews. This was just used to declare a vacancy. He said he wanted the applicants to have access to all the Councilors.

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

Presiding Officer Kvistad declared a vacancy for Council District No. 6.

Councilor McLain wondered if there would be a ballot with all the names and it would be a preferential ballot or a singular ballot.

Presiding Officer Kvistad said since the rules were different and they were working under a different charter than the last time, they would more than likely hand out a series of ballots and/or take a voice vote. He believed it would go directly to a vote rather than a preference vote. He wanted the vote to take place on July 2.

Councilor Washington asked Mr. Cooper if there had to be a majority of 4.

Dan Cooper said it would take 4 votes for a single candidate to appoint them to the vacancy. He said there was a code section in which the procedures had been established but he did not have it in front of him.

8.2 **Resolution No. 98-2665**, For the Purpose of Adopting a Classification and Compensation Plan for Metro Non-Represented Employees.

Motion: **Councilor McCaig** moved Resolution No. 98-2665.

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

Councilor McCaig said a report said the good news about the classification and compensation plans found that they were paying most of the people fairly and adequately. She said the net cost to the agency to bring everyone up to the entry level would be \$135,000 which could be absorbed by the existing budget. She brought up an amendment that needed to be made.

Motion to amend: **Councilor McCaig** moved to amend Resolution No. 98-2665 to an "A" version which added a classification titled "Program Director III" at a salary range 27 which paid between \$67,932 and \$95,105.

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

Vote To

Amend: The vote was 6 aye/ 0 nay/ 0 abstain. The motion to amend passed unanimously.

Vote on the

Main Motion: The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

8.3 **Resolution No. 98-2666**, For the Purpose of Rededicating the 1990 Metro Tax base to the Oregon Zoo.

Motion: **Councilor McFarland** moved to adopt Resolution No. 98-2666.

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

Discussion: **Councilor McFarland** said due to the passage of Measure 50, information had been received from TSCC that they thought the 1990 measure for future zoo funding was inadvertently opened to any kind of use that the Metro Council might find for it. This resolution resolved that by saying that Metro wished to abide by the dedication of the 1990 tax base originally approved by voters and remove any uncertainty over the possible use of this tax base for anything other than that which it was stated for at that time.

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

9. COUNCILOR COMMUNICATION

Presiding Officer Kvistad asked for scheduling conflicts for the interview of the applicants for the vacancy. He felt all the Councilors should attend the interview. After discussion, the date was set for approximately 12 noon on July 2.

Councilor McLain said she met with the Regional Commission of Venice Italy who had come over for a 2 day trip to meet with Metro and the City of Portland about recycling and solid waste and environmental issues. They were very complimentary about the region and the work that had been done here. They chose to visit this region over the other 5-6 areas in the world doing positive work about recycling. She said she had attended the Water's Edge conference dealing with salmon and fish issues as it related to water issues in the region. She felt Council needed to make some decisions about their position on this. She believed the Council should have an ethics code. She hoped there would be an opportunity to take it up again with direction from Councilors about the items of ethical behavior that were important to them.

Councilor Washington said several years ago, Mr. Tom Novak asked for a letter of support regarding the oxygenated fuel (Councilor Morissette did not sign that letter). He reported that they were asking for a continuation of that support with no changes from the original letter. He asked the Councilors to read it and sign it if they wished.

Councilor Morissette said he thought it was very important we have a reasonable ethics code but believed it did not have to be so complicated. He expressed concerns about non-profits being strong lobbyists as well as paid ones. He said he didn't want to discourage people from running for office.

Presiding Officer Kvistad noted that there was a statement in the box about ethics and values that he would administratively put in place for staff and adhere to himself.

10. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 4:21 p.m.

Prepared by,

Chris Billington
Clerk of the Council