

MINUTES OF THE METRO COUNCIL MEETING

Thursday, March 13, 2008
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Kathryn Harrington, Robert Liberty, Rex Burkholder, Rod Park, Carl Hosticka, Carlotta Collette

Councilors Absent:

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

1. INTRODUCTIONS

Council President Bragdon introduced Professor Anthony Pearl from Simon Fraser University. He was meeting with a variety of Councilors and had a group of Urban Planning students in town this week.

2. CITIZEN COMMUNICATIONS

There were none.

3. CONSENT AGENDA

3.1 Consideration of minutes of the February 28, 2008 Regular Council Meeting.

3.2 Removed from agenda.

3.3 **Resolution No. 08-3925**, For the Purpose of Confirming the Appointment of The Vice Chair of the Joint Policy Advisory Committee on Transportation.

Motion:

Councilor Liberty moved to adopt the meeting minutes of the February 28, 2008 Regular Metro Council and Resolution No. 08-3925.

Vote:

Councilors Burkholder, Harrington, Liberty, Park, Collette, Hosticka and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

4. ORDINANCES – FIRST READING

4.1 **Ordinance No. 08-1169**, For the Purpose of Amending the Urban Growth Boundary in the Vicinity of the City of Cornelius Upon Application by the City of Cornelius.

Council President Bragdon assigned Ordinance No. 08-1169 to Council.

4.2 **Ordinance No. 08-1180**, For the Purpose of Amending Metro Code Chapter 2.18 (Campaign Finance Regulation) and Declaring an Emergency.

Council President Bragdon assigned Ordinance No. 08-1180 to Council.

5. RESOLUTIONS

5.1 Resolution No. 08-3921, For the Purpose of Endorsing Regional Priorities For State Transportation Funding Legislation.

Motion:	Councilor Burkholder moved to adopt Resolution No. 08-3921
Seconded:	Councilor Park seconded the motion

Councilor Burkholder said this resolution laid out a set of principles which had been developed through a cooperative effort of various governments in the region, talking about what we would like to see come out of the State Legislature in 2009. He said the notable piece was the fact that the region as a whole had gotten together and agreed on a set of principles that we go forward with. He talked about the history of the transportation package. It brought people together to determine key issues that needed to be addressed. This had been done at the federal level for quite some time. They wanted to do the same at the State level. One of the key things they were doing was stating what the problem was. He noted the needs in transportation were very severe now. There were not enough dollars to maintain our system, much less getting up to speed in all of the modes, as big impacts on our economy will continue to occur, harming livability over time. He noted safety was a key issue and that we weren't able to address safety issues. He talked about long-term value of the investments we have made in the past that were at risk because we can't afford to maintain the roads and bridges that we have. There were also new issues such as climate change and energy prices. If we don't have dollars we don't have the tools to do things. These issues would help make their arguments for transportation funding. They were just going to ask for more dollars, but there were other key pieces, such as strategic investments that address those outcomes we were trying to achieve, investments that reinforce Oregon's livability and sustainability, investments that have economic response, such as freight movement and improving system reliability and safety as well as improving access to our centers. They also wished to maintain flexibility and equity for local governments. These principles were landmarks in themselves and would give us something to work on into the future. He encouraged endorsement.

Councilor Hosticka asked if other units of government were doing similar resolutions. Councilor Burkholder said he couldn't answer that but that the Joint Policy Advisory Committee on Transportation (JPACT), which included representatives of those governments, had endorsed the resolution. He thought it was a good suggestion. Councilor Park commented that it had taken many years to get to this point. It was a first step in moving us towards more cooperation. Councilor Liberty said there had been a sustained effort in the last two years to make sure our partners in JPACT participated in the discussion on transportation, since transportation and land use planning were two sides of the same coin. Councilor Liberty wondered if this resolution had been considered at Metro Policy Advisory Committee (MPAC). Councilor Burkholder said the governments that were represented at JPACT were the same that were represented at MPAC. Local government staff in cooperation with Metro staff developed this. Andy Cotugno, Planning Director, indicated that MPAC had discussed this.

Vote:

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

5.2 Resolution No. 08-3922, For the Purpose of Approving a Settlement

Agreement With Pacific Powervac LLC Regarding Metro Notice of Violation No. NOV-186-07.

Motion:	Councilor Collette moved to adopt Resolution No. 08-3922.
Seconded:	Councilor Burkholder seconded the motion.

Councilor Collette said this resolution would approve the Solid Waste Director's recommended settlement of this matter. She provided some details of Pacific Powervac. Over the period of two years, the company delivered processed slush to the Coffin Butte Landfill, located outside the Metro region. They classified the waste as cleanup material. Metro investigated and issued a notice of violation to both Pacific Powervac and Coffin Butte. She provided details of the notice to each entity. Coffin Butte paid their fine. Pacific Powervac provided documentation that not all of the sludge was the wrong sort of waste. The director was seeking a new settlement. Pacific Powervac had agreed to pay this amount. The Council must approve this proposal in order to finalize the settlement.

Councilor Burkholder said he wanted to make sure that the waste was not mistakenly considered petroleum contaminated soil or was this just an issue of trying to avoid a fee? Roy Brower, Solid Waste and Recycling Regulatory Affairs Manager, said they had a very specific definition for what constitutes cleanup material contaminated with hazardous substance. Councilor Burkholder asked for verification of the fine's validity, which Mr. Brower provided. Councilor Burkholder said when there was a violation on fish and wildlife; the fines went to the Oregon Zoo to help with endangered species recovery and education. He asked the Council if they would consider something similar in terms of using the fine money for education, outreach and special programming. He suggested dedicating these funds to trying to prevent doing something like this in the future, to help promote recycling and waste reduction activities. It might be a way of not increasing rates to the general public.

Councilor Park wondered how long ago the violation had taken place. Mr. Brower said it was over a period of two years. He explained why there was a reduction in the fine. Councilor Park wondered about the auditing of classification. Mr. Brower said they would normally have caught it when it first began, but when you look back in time and see the matter, then you understood what was going on. This was what got their attention and that was when they began the investigation.

Councilor Collette asked staff about the fine and the frequency of fines. If Council were to start to dedicate fines to funds, would there be a fund? Mr. Brower said total penalties in a year range from \$250,000 to \$400,000. He estimated collecting around \$250,000 in back fees and taxes. Dan Cooper, Metro Attorney, responded that this money comes in two colors, one, was the solid waste system fee, which was dedicated to solid waste purposes. There was also a large fraction that was excise tax, and excise tax can be spent on any general Metro purpose.

Councilor Liberty asked if there were different levels of toxicity. Mr. Brower said this waste was going to a lined subtitle D authorized landfill. In either case it was being properly disposed of. Councilor Harrington talked about the different buckets of money. Mr. Brower provided clarification on the fine.

Councilor Park said he would like further discussion of Councilor Burkholder's proposal at a different time. He thought they should look at the pros and cons. He talked about his experience on the Board of Agriculture and how the fees were utilized.

Councilor Collette urged approval.

Vote:

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

6. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, said they were in close negotiations with Multnomah County on Area 93 for an Intergovernmental Agreement. Second, discussions were proceeding regarding a potential Oregon Zoo bond measure. He had asked Tony Vecchio, Zoo Director, to work with several Councilors and the Oregon Zoo Foundation on the preliminary discussions around the construction of that bond measure. The remodeling on the first floor was just about finished. He would be coming to the Council fairly soon to discuss the third floor remodel. On Monday, Andy Shaw will begin his tenure at Metro to fill the infrastructure finance role. He provided some history of Mr. Shaw. He most recently was responsible for overseeing policy development and advocacy in the areas of taxation, finance and transportation finance for the League of Oregon Cities. He brings a background of both the financial side of infrastructure and is also acutely aware of the politics of local government. He noted he would be on vacation from March 19th through March 30th returning on March 31st.

Council President Bragdon said yesterday was the deadline on the solid waste transport submissions and he hadn't heard; was it closed? Mr. Jordan said they received seven bids, six of which were truck and one which was a hybrid barge/truck. They would be going through an analysis to see if they are responsive bids and how to weight those based on specific criteria. There was no railroad bid.

7. COUNCILOR COMMUNICATION

Councilor Liberty noted the article in the Oregonian today about the ballot measures which passed in the City of Damascus. It was disturbing. It showed well how necessary the connections were between urban growth boundary expansions and actually delivering a result. It would be useful to have a report from the City and our staff about the consequences. We had all learned the same lesson about expanding the boundary and not knowing what was going to happen on that land. He was concerned about the natural resource protections and the ability of the City to make changes in the future as well as financing services. He was concerned about what it would mean about land supply.

Councilor Harrington requested that if there was action to provide such a report to Council that the questions might apply not only to emerging areas that were brought into the urban growth boundary through past action of the Metro Council, but also in the broader picture; what did it mean for cities if their citizenry said that they didn't want to pay any taxes? She wouldn't want to see some of the questions be limited to just a brand new city but also see if there was application in a broader context.

Councilor Liberty said he would welcome that. Damascus was such a large expansion area and assumptions were made pretty clearly that it was going to be. If we had known about the votes, the Council might have reached a very different decision about what was going to happen on that land. Councilor Hosticka added that as long as they were getting some analysis of that, when he read through their measure, it said not only "past" but "acquiesced to." He would like to get some

analysis from Metro's legal counsel about the meaning of those words in this context, and how they impacted Metro's ability to make decisions that affect the whole region, when one part of the region can put a special asterisk saying something doesn't apply to them, in terms of acquiescing. It sounded like not only things they passed but also that Metro or other units of government may have passed that they were enforcing. Mr. Cooper said he did understand the question and he thought it was a very good question. He would try to get Council an answer.

Councilor Park said he had talked some with a Damascus City Councilor who was trying to understand what they were supposed to do next. It not only affected fees and prospective taxes but retroactive to 2006. Some of the things that Metro put together about infrastructure were dealing with franchise fees that the Damascus City Councilor had assumed, incorrectly he believed, that the County could collect for the City. Counties were not allowed to collect those franchise fees. So now the City had some things on the books that had to be looked at. When they get a report from Damascus, he would like to have that discussion with MPAC as well. The other part of this was the concern about the effect it may have on other cities. What wasn't mentioned was the turn down of the annexation of the area in Oregon City, which was another version of the same thing in another part of the region.

Councilor Liberty said the point was well made, which was a decision by one city affecting an entire region. Second, he had a conversation with Dee Walsh, Executive Director of Reach Community Development, about Metro's parking structure. He received a letter back from her indicating interest in our property. The Council President had talked about the possible interest in an RFP. A copy of the letter is included in the meeting record. Council President Bragdon noted background on the issue, that it was not just the parking garage but also the air rights above the garage. It might be worth taking a look at. Mr. Cooper added that he was part of the Board of Directors of Reach. He said this was a non-profit that did not pay its board so he had no financial interest in Reach, but if this project were to go forward he wanted to make sure that Council was fully aware of his connections to Reach, as well as his duties to the Metro Council. It would be dealt with in a highly ethical way that was transparent to the public. Council President Bragdon noted that he was on the advisory council for Reach.

Councilor Hosticka said they had a discussion at MPAC about performance based growth management in which they discussed the definitions of a successful region. He reported that the Mayor of the City of Tigard made a motion to add the following language under the discussion of a successful region: "new urban areas be planned and developed under municipal governance structures," and adding a performance indicator which said new urban planning and development occurs within municipalities. That was passed unanimously by MPAC. The thrust of this was to say that MPAC would like to see any development of areas that we may add to the UGB occur within municipalities. The relevance for him was that Ordinance No. 08-1169, currently before Council, may add areas to the Urban Growth Boundary. He asked the legal counsel to prepare an amendment to the conditions that would operationalize the motion that the Tigard Mayor gave to MPAC so we could consider that at the time that we might be considering adding land to the UGB. Mr. Cooper said they would take care of this.

Councilor Harrington said that at the meeting on March 27th, Council would consider two items that relate to the Regional Solid Waste Management Plan (RSWMP). The first item was the action to adopt the RSWMP. It was first read in 2007, and the document had recently been modified. There were short modifications. She had asked staff to provide a summary of the changes as well as the modified document. The second ordinance was a companion ordinance to

clarify what parts of the RSWMP was policy guidance versus mandatory requirements, and what enforceability related to compliance. Second, she would be away on family leave next week.

Councilor Park said he wanted to talk about Councilor Hosticka's suggestion about looking at conditions. He wanted a better understanding of conditions as well as the question of whether it was tied in any way to a requirement or a condition of being met if the land were brought inside the Metro jurisdictional boundary. He was looking for guidance.

Councilor Burkholder reported on the JPACT trip to Washington, DC. They had gone back and spoken with the congressional delegation as well as some relevant committees working on climate change and transportation. The positive aspect was that the region had come to a consensus on what we would be asking our congressional delegation for. They were thanked by the delegation members for providing a single document of highest priorities for the region. They didn't offer a lot of hope for funding at this time, though there was some significant investment coming to this region through this process, specifically in the area of transit, which must be earmarked every appropriations bill. They spent most of their time talking about what kind of principles and policies should be adopted as part of that federal legislation in order to help us achieve our goals in the region. This was a key piece of their discussion. They presented the "Portland Story" about our successes in reducing vehicle miles traveled and providing more livable communities and doing it in a way that provides people travel options and choices. They offered that as a model for the country in terms of looking at policies that would help promote that kind of development.

This morning JPACT approved the Regional Travel Options Five Year Strategic Plan, which detailed the vehicle miles reduction, carbon dioxide reductions and the increase in activity with Transportation Management Associations. There was also an adoption to guide the development of the transportation priorities program. He spoke of minor changes.

Councilor Liberty said there were a couple of situations about which he was distinctly uncomfortable. He had strong feelings about the wisdom of spending \$4 billion to build a sixteen-lane freeway facility. That had not received approval by any unit of government. He also talked about the I-5/99W Connector. He didn't feel this was an accurate representation of where we were. He felt it was extremely awkward.

Councilor Harrington complimented Pam Peck, RTO Manager, and all members of that sub-committee of TPAC. The presentation made it very clear, very quickly that the region overall was benefiting from these programs. They did a stellar job of summarizing the information and communicating its value to the region.

Councilor Collette said Peter Neuman, author of *Cities and Sustainable Eco Systems*, was very impressive at a brown bag lunch. She noted that the chamber was packed. He was very inspiring. She talked about some of the things that they were doing in Australia. One of the questions he was asked was about the \$4.1 billion project being considered for the Columbia River Crossing. He turned it back and asked how else could that \$4.1 billion be used if only the train were built? He brought the group around to think about how we phase our decision-making and investments. She encouraged Councilors to read his book.

8. ADJOURN

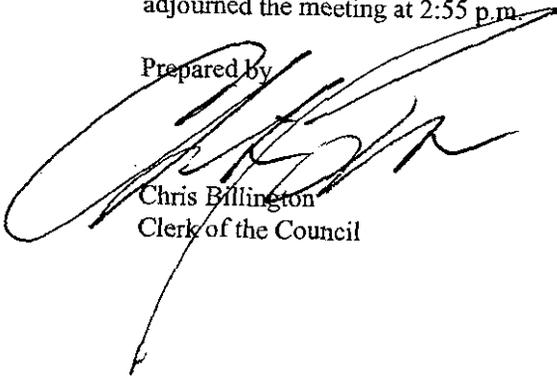
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There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 2:55 p.m.

Prepared by

A large, stylized handwritten signature in black ink, appearing to read 'C. Billington', is written over the 'Prepared by' text and extends downwards.

Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF
MARCH 13, 2008**

Item	Topic	Doc. Date	Document Description	Doc. Number
3.1	Minutes	February 28, 2008	Metro Council Meeting Minutes of February 28, 2008	031308c-01
4.1	Revised	3/11/08	Ordinance No. 08-1169 , For the Purpose of Amending the Urban Growth Boundary in the Vicinity of the City of Cornelius Upon Application by the City of Cornelius.	031308c-02
7.0	Letter	3/4/08	To: Councilor Liberty From: Dee Walsh, Executive Director of Reach Re: Metro's parking structure	031308c-03
	Agenda	3/7/08	Amended Agenda	031308c-04