

## MINUTES OF THE METRO COUNCIL MEETING

Thursday, October 23, 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 2:02 p.m.

### 1. INTRODUCTIONS

There were none.

### 2. CITIZEN COMMUNICATIONS

There were none.

### 3. Removed from agenda

### 4. REPORT ON NATURAL AREAS OVERSIGHT COMMITTEE

Peter Krainock, Natural Areas Oversight Committee Chair, provided a review of the regional natural areas and Nature in Neighborhood (NIN) capital grants program. He highlighted the work of the committee over the last year. He talked about being imbedded in the program itself. The committee was encouraged to become experts in the natural areas. Council provided clear direction to the committee. The Metro Auditor also provided recommendations on the process. Mr. Krainock noted that the acquisitions program was working. The administrative costs were under the national average. He commended the Metro Council for the remarkable lack of politics in the processes. The staff proceeded based upon the science. The staff was highly qualified. He noted the double appraisal system; it was an enormous safeguard to protect the public's money. He spoke to outcomes, including financial costs. Metro was encouraged to devise performance measures that were unique. He then talked about the capital grants process and the committee's participation in the capital grants. He spoke to equitable distribution of Nature in Neighborhoods grants because the program was designed to be a regional grant program. They also encouraged learning from any contact. They encouraged developing additional matrices in case of a future program. They would also like to see an additional cost analysis in the coming year. They encouraged thinking big and looking at leveraging the money. Look at this program and do some things that hadn't been done before; be a government that learns.

Councilor Harrington wanted to understand the recommendation on outreach. What were they suggesting as the desired outcome? Mr. Krainock said this recommendation was related to the Nature in Neighborhoods grants. He provided further details on how to reach out to make sure there was equitable distribution. Councilor Harrington asked about practices that could be replicated. Mr. Krainock said they would be happy to provide feedback. Councilor Harrington talked about following the directive from the voters. Mr. Krainock said they did see some opportunities to leverage the bond measure money with local jurisdictions. Councilor Burkholder asked about using the previous analysis of past purchases to provide guidance for future purchases. Mr. Krainock said they would utilize this analysis to learn lessons. Councilor Burkholder urged looking at equity that was not necessarily geographic. He felt their job was to look at these things in other ways than geographic because it was not the only way to define equity. Mr.

Krainock said it was important to report to the general public that efforts had been made to address the geographic issue. Councilor Liberty said he had been concerned about the governmental capacity. He felt the partnership requirement might be an issue. He felt the staff outreach was substantial.

Councilor Collette thanked them for the report. She asked him to talk more about thinking big. Mr. Krainock said creating the new performance measurements process was unique. It provided flexibility. They had seen flexibility in staff as well.

Councilor Park thanked the committee for their work. He said over time the economy changes. Some of the purchases that had been made were great. He suggested putting economic markers into the performance measures. Mr. Krainock thought that was a very good suggestion. He would add this in the coming years. Councilor Park also talked about the non-capital NIN grants. Staff had done a lot of outreach and that grant program had experienced the same issues of geographic equity. Staff had provided workshops on how to write grants. Geographic equity may not be the only equity component. Mr. Krainock said they would be looking at enhancing the performance measures for the coming year.

Council President Bragdon felt the character of the committee had been very useful to the Council and the staff, and that the committee had been very proactive in helping shape the program. He talked about the economy of today and that the real estate market was now in flux. He talked about appraisals and how they could integrate that discussion into their committee review. Council President Bragdon spoke to dead deals and learning from them. He was in favor of documenting the dead deals but wouldn't characterize those deals as failures. Mr. Krainock said it was a question of contacts that never became deals and was there a way of improving these contacts. Council President Bragdon asked about the refinement process and if it was sufficient. Mr. Krainock said this was what provided the framework to make the program successful. Council President Bragdon said the Council was very involved in the refinement process.

## 5. CONSENT AGENDA

### 5.1 Consideration of minutes of the October 16, 2008 Regular Council Meeting.

Motion: 

Councilor Burkholder moved to adopt the meeting minutes of the October 16, 2008 Regular Metro Council.
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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.
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## 6. ORDINANCES – FIRST READING

### 6.1 **Ordinance No. 08-1202**, Amending the FY 2008-09 Budget and Appropriations Schedule by Transferring Appropriations from Contingency for the Sustainable Metro Initiative, adding 1.0FTE Project Manager, Amending The FY 2008-09 Through FY 2012-13 Capital Budget and Declaring an Emergency.

Council President Bragdon assigned Ordinance No. 08-1202 to Council.

## 7. ORDINANCES – SECOND READING

### 7.1 Removed from agenda.

**8. RESOLUTIONS**

8.1 **Resolution No. 08-3989**, For the Purpose of Granting a Variance Request Submitted by Waste Management of Oregon for the Hillsboro Landfill.

Motion:	Councilor Liberty moved to adopt Resolution No. 08-3989.
Seconded:	Councilor Harrington seconded the motion

Councilor Liberty introduced the resolution and explained that this variance for the Hillsboro Landfill. He spoke to Enhanced Dry Waste Recovery Program (EDWRP) and the deadline of January 1, 2009. If a facility could not meet the deadline, the landfill had to request a variance. He said the recommendation of the Chief Operating Office was to grant the variance with specific conditions (a copy of these conditions was included in the staff report).

Dean Kampfer, Waste Management, 7227 NE 55<sup>th</sup> Avenue Portland OR 9728 said they were here to discuss the variance and to provide an update on the dry waste facility. He thanked the Metro staff for reviewing their variance. Due to conditions outside of Waste Management's control, the Material Recovery Facility (MRF) would not be completed by January 1, 2009 but would be by July 1, 2009.

Dan Wilson, District Manager of Waste Management, 3205 SE Minter Bridge Rd Hillsboro OR 97123 provided an overview of the facility site and the new Material Recovery Facility (MRF) and maintenance facility. He talked about the timeline from February 2008 through July 2009.

Councilor Liberty asked about a realistic recovery rate before the process line was completed. Mr. Kampfer said that was difficult to tell at this point because of the different variables such as weather.

Councilor Park asked about the enforcement level and how that would be done to recover at least 25%. Mr. Kampfer said he assumed there would be no enforcement over the six months.

Scott Robinson, Deputy Chief Operating Officer, introduced the staff recommendation (a copy of his summary was included in the staff report). The COO recommended granting the variance.

Councilor Park asked about the standards for their recovery plan during that six month delay. Roy Brower, Regulatory Affairs, responded to his question. Councilor Park asked what standards the other facilities would be held to. Mr. Brower responded to his question and talked about the phase-in period. Councilor Harrington said one of her concerns was the ability for the ecosystem to continue to work. She assumed that the tonnage the Hillsboro Landfill received would go through the temporary MRFing. Mr. Brower said they were waiting to see what the proposal would be from Waste Management. Councilor Harrington commented on the regional waste system and the tonnage that was in play. Mr. Brower said she was correct in her analysis.

Council President Bragdon opened a public hearing. No one came forward. Council President Bragdon closed the public hearing

Councilor Burkholder explained his yes vote. He urged paying close attention to the recovery plan that was due to Metro on November 15<sup>th</sup>. He thought it was a reasonable request. Councilor Harrington thanked Councilor Park for exploring potential options. She was concerned about the solid waste recovery plan, particularly for the west side. She would be supporting this resolution. Councilor Liberty asked about recovery rates during that six month period, and was this discussed? Why wouldn't the waste go to the facility that had the capacity? Mr. Robinson responded to his question. Councilor Liberty disclosed

that they were applying pre-existing standards so he considered this as a quasi-jurisdictional proceeding therefore he disclosed an ex-parte contact, Ray Phelps. Councilor Park talked about the competitive market. He appreciated staff's response about not creating unfair advantages. He would be voting in favor. Council President Bragdon explained his yes vote.

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.
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8.2 **Resolution No. 08-3990**, For the Purpose of Denying a Variance Request Submitted By Lakeside Reclamation Landfill.

Motion:	Councilor Liberty moved to adopt Resolution No. 08-3990.
Seconded:	Councilor Harrington seconded the motion

Councilor Liberty explained the variance request. The recommendation was for a denial. He explained what a yes vote would be.

Larry Davidson, Grabborn Attorney, 1 SW Columbia #1850 Portland OR 97258, introduced Howard Grabborn, who said he had asked staff to pull this resolution off the agenda. They had not had time to fully respond to what they had just received over the last week. They wanted time to look at the new materials. If Council did proceed with the variance request, he commented that Lakeside could not build a MRF. He couldn't get the county approval to MRF. They couldn't change their operations for just six months. He said part of the reason for the denial were the citations from Department of Environmental Quality (DEQ). This governing body couldn't make a decision based on unfounded allegations. Lakeside Landfill was a small operation. He felt the six month delay was warranted. Lakeside had been responsible (a copy of his letter was included in the record). As of July 1, 2009 Lakeside would be gone. They thought they had met the purpose and intent of EDWRP. Councilor Harrington asked about his comment about the process being accelerated. Mr. Davidson said he didn't think he had said this. Councilor Liberty said the variance in the case of Lakeside would not get to the objective of 15% residual. Mr. Davidson responded to his comment. Councilor Hosticka said he was trying to understand what Council was expected to do; if this were removed from the agenda, what would this allow Lakeside to do? Mr. Davidson said it would allow them to review the new materials. He talked about the consideration of the Designated Facility Agreement (DFA) in December. They would like to come back and talk to Council about the variance. If Lakeside were shut down, those loads would go to Hillsboro or Metro. Councilor Hosticka said if they allowed a delay of the resolution, would that give them what they wanted. Mr. Davidson responded to his question. Councilor Liberty asked clarifying questions. Mr. Davidson responded that business would be as usual.

Mr. Robinson introduced the COO's recommendation (a copy of his summary was included in the staff report). Councilor Park asked about the timeline. Mr. Robison said if the COO's recommendation was upheld and the variance was denied, Lakeside still had the opportunity to seek a DFA. Councilor Hosticka said if Council upheld the recommendation to deny the variance, they could apply in six months? Dan Cooper, Metro Attorney, said if Council denied a variance, then November 1 became the real deadline. If Lakeside sought a DFA, they could continue to take waste from the Metro region until July 1, 2009. Councilor Hosticka asked if there had been any difference in failing to act and acting to accept the COO's recommendation. Mr. Cooper responded to his question. It was his advice to take a clean action on the recommendation today. Councilor Park asked further clarifying questions. Mr. Brower said it was Metro's intent to follow the EDWRP standards for Metro's facilities. Councilor Liberty asked further questions. Mr. Robinson said his summary was correct. Council President Bragdon said our Code was fairly clear. It

required certain things of facilities. If the facilities can't meet those requirements, it was appropriate to seek a variance. In terms of the testimony today, would the recommendation change? Mr. Robinson said nothing would change in terms of the recommendation.

Council President Bragdon opened a public hearing.

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

Larry Davidson said 90% of the waste that comes from Lakeside came from Metro so if they denied the waste, it would shut down Lakeside. He talked about their request and noted one of the Councilors had commented that his request was vague. Councilor Liberty asked if the client was notified that pictures were going to be taken. Mr. Davidson said he wasn't sure. Mr. Brower said when an inspector showed up at Lakeside, they checked in with the office. Those pictures were provided to the facility in the individual inspection reports. Councilor Harrington asked Mr. Davidson about the percent of business that Lakeside received from Metro. She clarified that the waste was from the Metro region. Mr. Davidson said yes.

Council President Bragdon closed the public hearing.

Councilor Liberty asked Mr. Cooper if there was a legal duty to provide them with more time. Mr. Cooper said no.

Councilor Hosticka said he was interested in the request for a delay from Lakeside. He felt the issue had gone on much too long. He thought the Council should deny the variance. He would support the resolution.

Councilor Park summarized that if they denied the variance, Lakeside could come back and ask for a DFA. He would be supporting the staff recommendation. Councilor Harrington concurred with Councilor Hosticka and explained why. Council President Bragdon concurred with the other Councilors comments about supporting the COO's recommendation.

Vote:

Councilors Park, Burkholder, Collette, Harrington, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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## **9. CHIEF OPERATING OFFICER COMMUNICATION**

Scott Robinson, Deputy COO, noted the significant efforts of the Information Systems group to migrate to a new email system. The Oregon Zoo had achieved their goals for the Predators of the Serengeti exhibit.

## **10. COUNCILOR COMMUNICATION**

Councilor Hosticka said he had attended a meeting yesterday where they talked about building three arterials using existing connections to I-5. This was a positive outcome.

Councilor Collette updated the Council on the High Capacity Transit (HCT) think tank. Councilor Harrington asked if the meeting was noticed so they didn't have to worry about a quorum.

Councilor Burkholder said he participated in a federal transportation forum. The discussion was about vision of transportation in the State as well as how the federal government could help with that vision. He also talked about the joint Metro Policy Advisory Committee/Joint Policy Advisory Committee on Transportation/Council meeting which looked at the land use scenarios. He felt the discussion went well.

Councilor Liberty updated the Council on the regional revolving housing loan fund. He also talked about the Sellwood Bridge costs. He now had the information and felt this would make Council's discussion much more useful.

Council President Bragdon said the Lone Fir Working Committee met last night. Staff had done a great job in facilitating the discussion to design a memorial area. He talked about the groups who were involved to commemorate a variety of groups. Second, the Deputy COO was preparing a list of federal requests. He also noted that Council would not meet next week. Councilor Burkholder suggested emphasizing green projects.

Councilor Harrington said there were two Listening Posts for the Metropolitan Transportation Improvement Program (MTIP) in Oregon City and at Metro in the chambers next week.

## **11. ADJOURN**

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 4:04 p.m.

Prepared by

A handwritten signature in black ink, appearing to read 'Chris Billington', written in a cursive style.

Chris Billington  
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF  
 OCTOBER 23, 2008**

<b>Item</b>	<b>Topic</b>	<b>Doc. Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
5.1	Minutes	10/16/08	Metro Council Meeting Minutes of October 16, 2008	102308c-01
8.2	Email and attachment	10/16/08	To: Metro Council From: Jodie Scholz Re: Lakeside Landfill	102308c-02
8.2	Letter	9/26/08	To: Metro Council From: Brian Wegener, Watershed Watch Coordinator Tualatin Riverkeepers Re: Lakeside Landfill	102308c-03
8.2	Letter and request for variance	10/1/08	To: Metro Council From: Howard Grabborn., President Grabborn Inc Re: Lakeside Landfill	102308c-04
8.2	Email	10/20/08	To: Metro Council From: Meredith Jaeger Re: Lakeside Landfill	102308c-05
4.0	Report	October 2008	To: Metro Council From: Natural Areas Oversight Committee Re: A report to the community from the Natural Areas Program Performance Oversight Committee	102308c-06
8.1 & 8.2	Western Metro Region Waste System report	10/23/08	To: Metro Council From: Roy Brower, Solid Waste Regulatory Affairs Re: Report on Flow control	102308c-07
8.2	Testimony	10/23/08	To: Metro Council From: Art Kamp Re: Lakeside's request for variance	102308c-08
8.2	Testimony	10/23/08	To: Metro From: Larry Davidson Re: Lakeside's request to remove Res. No. 08-3990 from October 23, 2008 agenda	102308c-09
10	Map	10/23/08	To: Metro Council From: Councilor Hosticka Re: Revised Alternate Concept	102308c-10
1	Revised agenda	10/23/08	Metro Council Agenda for October 23, 2008 revised	102308c-11