

## MINUTES OF THE METRO COUNCIL MEETING

Thursday, December 11, 2008  
Metro Council Chamber

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

Councilors Absent: David Bragdon (excused)

Deputy Council President Liberty convened the Regular Council Meeting at 2:02 p.m.

### 1. INTRODUCTIONS

There were none.

### 2. CITIZEN COMMUNICATIONS

There were none.

### 3. CONSENT AGENDA

3.1 Consideration of minutes of the December 4, 2008 Regular Council Meeting.

3.2 **Resolution No. 08-3972**, For the Purpose of Confirming the Appointment of Nancy Neuman to the Metro Committee For Citizen Involvement (MCCI).

3.3 **Resolution No. 08-4004**, For the Purpose of Extending the Term and Confirming Appointments of the Brownfields Task Force

Motion:

Councilor Collette moved to adopt the meeting minutes of the December 4, 2008 Regular Metro Council and Resolution No. 08-3972 and 08-4004.
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Vote:

Councilors Burkholder, Harrington, Liberty, Park, Collette, Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.
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Councilor Harrington noted the members on Brownfields Task Force and acknowledged their service.

### 4. ORDINANCES – FIRST READING

4.1 **Ordinance No. 08-1206**, Amending the FY 2008-09 Budget and Appropriations Schedule Creating the Strategy Center, Recognizing Intergovernmental Revenue, and Providing Appropriation For the Council Office, and Declaring An Emergency.

Deputy Council President Liberty assigned Ordinance No. 08-1206 to Council.

4.2 **Ordinance No. 08-1207**, For the Purpose of Annexing Lands on the North Edge of Wilsonville Road at Its Intersection With Willamette Way West to the Metro Jurisdictional Boundary.

Deputy Council President Liberty assigned Ordinance No. 08-1207 to Council

- 4.3 **Ordinance No. 08-1208**, Amending the FY 2008-09 Budget and Appropriations Schedule By Transferring Appropriations From Contingency to the Office of the Metro Attorney, Adding 0.5 FTE Legal Secretary and Declaring an Emergency.

Deputy Council President Liberty assigned Ordinance No. 08-1208 to Council.

**5. ORDINANCES – SECOND READING**

- 5.1 **Ordinance No. 08-1203**, Amending the FY 2008-09 Budget and Appropriations Schedule Recognizing a Grant From the Oregon Community Foundation For the Connecting Green Blue Ribbon Committee For Trails, and Declaring an Emergency.

Motion:	Councilor Burkholder moved to adopt Ordinance No. 08-1203.
Seconded:	Councilor Collette seconded the motion.

Councilor Burkholder said this was a budget amendment to recognize a grant from the Oregon Community Foundation. He summarized the background of the grant and some of the work of the Connecting Green Blue Ribbon Committee for Trails.

Deputy Council President Liberty opened a public hearing on Ordinance No. 08-1203. No one came forward. Deputy Council President Liberty closed the public hearing.

Vote:

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.
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- 5.2 **Ordinance No. 08-1205**, Amending the FY 2008-09 Budget and Appropriations Schedule Transferring Appropriation From Contingency to Debt Service, Authorizing Defeasance of Certain Solid Waste Revenue Bonds, and Declaring an Emergency.

Motion:	Councilor Park moved to adopt Ordinance No. 08-1205.
Seconded:	Councilor Harrington seconded the motion.

Councilor Park said this action allowed Metro to defease the outstanding solid waste 2003 revenue bonds and approves the budget action necessary to implement the action. A defeasance satisfied the financial and legal obligations of the bonds and ensured that all bondholders were fully protected without raising rates or cutting programs. The rate covenant of the solid waste bonds required that Metro set rates high enough to meet a 110 percent coverage ratio over the debt service on the bonds each year. Simply put, Metro must raise enough revenue to pay all the operating expenditures and have enough left over to pay 110 percent of the annual debt service. The rapid and significant decline in tonnage since the beginning of the fiscal year has reduced the solid waste operating revenue to the point where Metro will struggle to meet the coverage requirement this year. There were only two debt service payments remaining on the 2003 solid waste bonds – January 1, 2009 and July 1, 2009. Metro has already pre-funded the January 1<sup>st</sup> payment and had planned on pre-funding July 1<sup>st</sup> payment at the beginning of January. However, these pre-funding steps will not satisfy the bond covenant ratio requirement. At a time when 100% of the funding to pay the bonds was on deposit with the trustee and the Solid Waste system has sufficient cash reserves to fully pay off the bonds, we find ourselves in the unlikely situation of violating our bond covenants. Approval of this action will satisfy all legal and

financial obligations of the bonds while fully protecting the bond holders and avoid a violation of bond covenants. Issuance costs for the defeasance were estimated at around \$1,500 to \$2,000 primarily for bond counsel, financial advisor and escrow verification agent.

Deputy Council President Liberty opened a public hearing on Ordinance No. 08-1205. No one came forward. Deputy Council President Liberty closed the public hearing.

Council President Bragdon noted that Ray Phelps, currently in the audience, was Chief Financial Officer when bonds were issued. Councilor Park urged support.

Vote:

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.
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## 6. RESOLUTIONS

Scott Robinson, Deputy Chief Operating Officer, noted that Council had four NSLs before Council today. The resolutions would allow wet waste to be delivered to disposal sites not owned by Metro's contractor, Waste Management.

Under its disposal contract, Metro was obligated to deliver 90% of the region's wet waste to Waste Management (WM) landfills. Leaving 10% of the waste available for disposal at non-WM landfills.

Since 1999, because of continually rising waste generation, Metro has generally allocated the full amount requested by companies seeking to use non-WM landfills (up to the 10%).

In 2009, however, based on the latest tonnage and revenue projections, waste generation was declining significantly such that it was impossible to honor all requests for tonnage disposal at non-WM landfills. (The declining waste tonnage reflected the state of the economy and the general slow down in construction and consumption.)

Staff was proposing the Council take some additional steps in granting these Non-System Licenses (NSLs) in 2009 to mitigate any risk of Metro violating its disposal contract. Specifically: Grant 1-year NSLs, and allocate tonnage in 6 month and quarterly increments for the year (as tonnage projections allow). Tonnage cutoff procedures in the NSLs were being strengthened (e.g. more frequent reporting; ability for Metro to redirect flow on 24 hour notice; and cutoff waste flow altogether). Metro intended to grant away up to 9.5% of the available tonnage in 2009 i.e. retain .5% as a "reserve" for a buffer. Council will consider future allocation options for disposal of this waste at non-WM landfills in 2009. The staff reports for each of the resolutions provide a detailed discussion of the issues and staff was available today to answer any questions of Council.

Councilor Harrington asked Mr. Robinson about additional license conditions and redirecting waste from non-Waste Management landfills. Does it already exist in NSLs? Mr. Robinson said yes. Councilor Harrington talked about section 2 and trying this system out for six months. She summarized the process. Mr. Robinson said her summary was correct. Councilor Hosticka asked about the 10% calculation. Dan Cooper, Metro Attorney, said it was normally on a calendar year basis. The contract did not specify what happened if they didn't meet the target. Councilor Harrington said Metro currently got monthly reports so we were tracking every month. She said there was a control mechanism to meet the requirement by the end of the year. Mr. Cooper added to her summary. Councilor Burkholder asked about the price we pay per ton and the cost of disposal to the public. Mr. Robinson responded to his question. Councilor Burkholder talked about system goals and maintaining an appropriate price for the public. He suggested

they might want to look at the 10% issue again because of our economic downturn. Deputy Council President Liberty talked about the 90% minimum flow guarantee.

Deputy Council President Liberty opened a public hearing.

Ray Phelps, Allied Waste Services, 10295 SW Ridder Road, Wilsonville Oregon 97035 read his letter into the record.

Councilor Park asked clarifying questions. Mr. Phelps provided more details as to what they would have to do if they were notified by the Chief Operating Officer that waste had to go to a Metro facility and explained the additional costs. Councilor Hosticka asked if they added ...”or a Waste Management facility.” Would that solve the problem? Mr. Phelps said it was the “g” paragraph that would increase the costs. Councilor Hosticka asked staff if they could do an amendment to achieve their goal. Mr. Robinson said the NSL dealt with the Chief Operating Office and Metro’s authority to redirect the waste to a public facility. There was nothing that would prevent WRI from taking waste to their own facility and then to Riverbend. Mr. Phelps said they would be redirecting waste before the 24 hour notice. Mr. Robinson said the arrangement they were discussing was where the waste goes from the WRI facility. Allied could redirect the waste to Riverbend, which was a Waste Management facility. Councilor Harrington said she was getting a conflicting message of Section 7, item G. Does the language exist in the current contract? Mr. Phelps said to him this language was new. Councilor Hosticka said he was trying to understand the 44,000 tons. Mr. Phelps said it was part of the total. Warren Johnson, Regulatory Affairs, said the provision does exist in current NSLs. The issue was in the current license it was not clear, so they were clarifying the NSL. Mr. Robinson said he felt Deputy Council President Liberty’s summary of the proposed NSLs was correct. Michael Jordan, COO, said if there were real issues regarding the way “G” was written, the legal department could work with the NSLs. He explained his authority. Mr. Phelps explained the use of the word “authorize” and that they were fine with that language. Mr. Robinson said one thing that was important to understand was that three of the four NSLs being proposed had no direct landfill to take waste. Mr. Cooper explained the authority. Mr. Phelps suggested that they restore the language that was in the current NSLs. WRI was the only NSL authorized to operating inside the district. The other three NSLs were not inside the district. Councilor Burkholder asked if there was a solution for all of the NSLs or was this a unique circumstance? Deputy Council President Liberty suggested the Office of the Metro Attorney talk with Mr. Phelps to see if they could come up with agreeable amendment language.

Mike Dewey, Waste Management, said they wanted to thank the staff for being collaborative in this effort. They had done a good job in the detailed analysis. They approved of the staff report. He noted he was speaking to the process. They thought it made sense to have the 6 month review. They wanted to make sure that the 90% flow was working. He also talked about having a conversation about the 10%.

Councilor Harrington said it was her understanding that they get monthly report to track the 90%. Was it his understanding that we have that information? Mr. Dewey said it was his understanding that Metro got that data monthly. Mr. Dewey said in past years they had been concerned about the 10%, but in the past year they were comfortable with how waste was managed. Councilor Harrington said she appreciated that they felt Metro was on track.

Mr. Robinson said they had come to an agreement to amend the language for Resolution No. 08-3987. He provided the new suggested language, G second line, strike words “Metro Central and South Stations” and suggest language “to any Metro system facilities”.

Deputy Council President Liberty closed the public hearing.

- 6.1 **Resolution No. 08-3985**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to American Sanitary Services, Inc. For Delivery of Putrescible Waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center.

Motion:	Councilor Burkholder moved to adopt Resolution No. 08-3985.
Seconded:	Councilor Harrington seconded the motion

American Sanitary Services was a hauling company owned by Waste Connection of Fresno, California. American was franchised by city of Portland to provide solid waste collection services in the southeast portion of the city. American had requested authority to deliver up to 9,401 tons in 2009 to Clark County transfer stations. (They have authority to deliver 6,613 tons in 2008.) However, based on a proportion of actual deliveries during the last 12-month period, Metro was proposing that American be granted up to 4,842 tons in 2009. American consolidated its Metro-area waste at the West Vancouver Transfer Station with waste collected in Clark County where it was barged to Finley Buttes Landfill located in Morrow County. American has had an NSL with Metro since 2002. There have been no compliance issues during the previous term of the license. Councilor Burkholder urged adoption of Resolution 08-3985.

Vote:

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.
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- 6.2 **Resolution No. 08-3986**, Authorizing the Chief Operating Office to Issue a Renewed Non-System License to Arrow Sanitary Services, Inc. For Delivery of Putrescible Waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center.

Motion:	Councilor Burkholder moved to adopt Resolution No. 08-3986.
Seconded:	Councilor Collette seconded the motion

Councilor Burkholder said Arrow Sanitary Services was a hauling company owned by Waste Connection of Fresno, California (who also owned the American Sanitary franchise discussed earlier). Arrow was franchised by city of Portland to provide solid waste collection services in the several parts of the city. Arrow has requested authority to deliver up to 37,673 tons in 2009 to Clark County transfer stations. (They have authority to deliver 35,367 tons this year.) However, based on a proportion of actual deliveries during the last 12-month period, Metro was proposing that Arrow be granted 33,020 tons in 2009. Arrow consolidated its Metro-area waste at the West Vancouver Transfer Station with waste collected in Clark County where it was shipped to Finley Buttes Landfill located in Morrow County. Arrow has had an NSL with Metro since 1999. In 2007, Arrow violated its tonnage cap by over 3,000 tons. Metro issued an enforcement action and \$3,756 penalty. The matter was contested and the hearings officer found in Metro's favor. Metro and Arrow tentatively agreed to settle the penalty for \$3,200 (\$556 less) to minimize further legal costs. This settlement matter will be considered by the Council on December 18. Other than the tonnage cap violation, there have been no compliance issues. He urged adoption. Councilor Park asked about a conflict of interest. Mr. Cooper said he did not see a reason to do so.

Vote:

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.
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6.3 **Resolution No. 08-3987**, Authorizing the Chief Operating Office to Issue a Renewed Non-System License to Willamette Resources, Inc. For Delivery of Putrescible Waste to Coffin Butte Landfill.

Motion:	Councilor Hosticka moved to adopt Resolution No. 08-3987.
Seconded:	Councilor Harrington seconded the motion

Motion:	Councilor Hosticka moved to amend Resolution No. 08-3987 with language addressed previously.
Seconded:	Councilor Harrington seconded the motion

Vote to amend: 

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.
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Councilor Hosticka introduced Resolution No. 08-3987 and said Willamette Resources (WRI) was a Metro-franchised local transfer station and material recovery facility located in Wilsonville and owned by Allied Waste Industries of Phoenix, Arizona.

WRI had requested authority to deliver up to 45,000 tons in 2009 to the Coffin Butte Landfill in Benton County. (WRI has authority to deliver 45,000 tons in 2008.) However, based on a proportion of actual deliveries during the last 12 month period, Metro was proposing that WRI be granted a maximum of 44,018 tons in 2009. WRI consolidated its waste and hauled it directly to Coffin Butte Landfill. WRI has had an NSL with Metro since 2000. There have been no major compliance issues with WRI. Councilor Hosticka urged adoption of Resolution 08-3987.

Vote: 

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.
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6.4 **Resolution No. 08-3988**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Crown Point Refuse, Inc. For Delivery of Putrescible Waste to the Wasco County Landfill.

Motion:	Councilor Park moved to adopt Resolution No. 08-3988.
Seconded:	Councilor Harrington seconded the motion

Councilor Park said Crown Point Refuse was a hauling company locally owned and based out of Troutdale. Crown Point provided solid waste collection services in east unincorporated Multnomah County primarily located outside the Metro Region. Some of Crown Point's routes, however, extend inside the Metro region. Crown Point had requested that they be allowed to collect and consolidate a small volume of tonnage collected within the Metro region so that it can be delivered directly to the Wasco County Landfill located in The Dalles. Crown Point had requested authority to deliver 500 tons in 2009; however, based on a proportion of deliveries during the last 12-month period, Metro was proposing that Crown Point be granted 321 tons in 2009. Wasco County Landfill was owned by Waste Connections. As a non-Waste Management landfill, the tonnage was tracked closely to assure that no violation of Metro's disposal contract occurs. Crown Point has had a non-system license to deliver wet waste to the Wasco County Landfill since 2004. There have been no compliance issues during the previous term of the license. Councilor Park urged adoption of Resolution 08-3988.

Vote: 

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka voted in support of the motion. The vote was 6 aye, the motion passed.
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Mr. Phelps thanked the Council for working with him on the language for WRI's NSL.

## **7. CHIEF OPERATING OFFICER COMMUNICATION**

Michael Jordan, COO, talked about the holiday party attendance last year and this year. He thanked the Oregon Zoo staff for their efforts. Councilor Collette said the Oregon Zoo's attendance this year had already surpassed the 1.5 million record as of November 2008. Councilor Harrington said this year's Zoo lights had additional features including more lights. The Zoo lights seemed to be as popular this year as it has been in past years. She encouraged citizens to come this year. Councilor Collette talked about the supporters of the Zoo dinner on Monday night and the long term supporters of the Zoo.

## **8. COUNCILOR COMMUNICATION**

Councilor Burkholder talked about the Tri-County Haulers meeting and that they had shared that the markets for recycles have plummeted. He talked about other discussions that were going on about the short-term financial downturn. Councilor Park clarified local rate setting and impacts on the citizens as well as Metro. He wondered if they needed to be having a conversation with local governments about impacts. Councilor Harrington said rate setting was done on an annual basis. She talked about reducing consumption such as the use of water bottles. The next round of rate setting would be more interesting for all governments.

Councilor Burkholder talked about the joint meeting with Joint Policy Advisory Committee on Transportation (JPACT), Metro Policy Advisory Committee (MPAC) and Council last Wednesday. This was an opportunity to talk about how they dealt with growth in the region. The meeting would help devise our region's urban forum. It had been very useful to help them understand the challenges that the region faces. Councilor Liberty added his comments about the meeting. He felt there was a lot of collaboration and consensus. Councilor Park talked about fiscal reality in terms of transportation dollars. He saw a decrease in the appetite for funding increases. Councilor Harrington complemented staff for putting together rich information. In prior Council discussions related to this series of events over a period of time. She said several persons have noted how useful this information was. She thanked staff for putting information on the web site as well as making the DVDs available. As the polling was done, the general consensus was they were expecting an array of diverse opinions but they found there was more consensus than they expected. The exercises were helping Council hone future policy directions. Councilor Liberty added that they would show the polling of electeds only. Attendance was up for this meeting. When asked if the federal government should initiate the green house gas strategy, the consensus was that we needed to take charge of our own strategy. Councilor Collette talked about the feedback that she had been receiving about the meetings. She felt the new electeds were looking forward to attending as an opportunity to learn from fellow elected.

Councilor Harrington talked about the MPAC meeting next Wednesday, December 17<sup>th</sup>. Every agenda noted the next meetings. She also noted the TV broadcast schedule on the back of the Council agenda. She said our meetings will now be available on the web. She talked about the many qualities of Metro and the Metro Council and that we do our business in a very transparent fashion.

Councilor Liberty said last night was a public hearing on the Sellwood Bridge. No matter which option was chosen, it would impact neighborhoods and businesses. He felt it was going to be a struggle to finance the bridge.

Councilor Liberty said he would be in a polar bear costume tomorrow night. He urged attendance at Zoo lights.

**9. ADJOURN**

There being no further business to come before the Metro Council, Deputy Council President Liberty adjourned the meeting at 3:34 p.m.

Prepared by

A handwritten signature in black ink, appearing to read "Chris Billington". The signature is fluid and cursive, with a large initial "C" and "B".

Chris Billington  
Clerk of the Council



**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF  
DECEMBER 11, 2008**

<b>Item</b>	<b>Topic</b>	<b>Doc. Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
3.1	Minutes	12/4/08	Metro Council Meeting Minutes for December 4, 2008	121108c-01
6.3	Letter	12/11/08	To: Metro Council From: Ray Phelps, Allied Waste Services Re: Resolution No. 08-3987	121108c-02
6.3	Amended Exhibit A	12/11/08	<b>Resolution No. 08-3987</b> , Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Willamette Resources, Inc. for Delivery of Putrescible Waste to Coffin Butte Landfill.	121108c-03