

# MINUTES OF THE METRO COUNCIL MEETING

Thursday, December 18, 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

There were none.

## 2. CITIZEN COMMUNICATIONS

There were none.

## 3. CONSENT AGENDA

3.1 Consideration of minutes of the December 11, 2008 Regular Council Meeting.

3.2 **Resolution No. 08-3966**, For the Purpose of Approving a Settlement Agreement With Arrow Sanitary Services, Inc. Regarding Metro Notice of Violation No. NOV-196-08.

Motion: 

Councilor Liberty moved to adopt the meeting minutes of the December 11, 2008 Regular Metro Council and Resolution No. 08-3966.
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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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## 4. ORDINANCES – FIRST READING

4.1 **Ordinance No. 08-1204A**, For the Purpose of Determining that Implementing Transit-Oriented Development is a Matter of Metropolitan Concern.

Council President Bragdon assigned Ordinance No. 08-1204 to Council. Councilor Liberty explained the ordinance.

## 5. ORDINANCES – SECOND READING

5.1 **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.

Motion:	Councilor Park moved to adopt Ordinance No. 08-1206.
Seconded:	Councilor Harrington seconded the motion.

Councilor Park said Ordinance 08-1206 proposed three actions: the creation of the Strategy Center under the recent reorganization, recognition of new funding from Oregon Department of Transportation (ODOT) to implement the Intergovernmental Agreement (IGA) for staffing assistance to the Columbia River Crossing project, and the adjustment of appropriations where needed to implement the recent classification/compensation study for non-represented employees. For the most part, the reporting changes made as part of the Sustainable Metro Initiative reorganization will not be reflected in the budget until the following fiscal year. However, it was necessary to shift certain positions and related appropriations during this fiscal year to accommodate the creation of the Strategy Center which was effective on October 1, 2008. This amendment proposed the shift of 4 positions (3 in Planning and 1 in Regional Parks) along with associated funding and appropriation authority to the Council Office to establish the Strategy Center. Elements of the Strategy Center, which did not change funding mix or classification, will remain where they were currently budgeted until July 1<sup>st</sup>. In addition, Metro had entered into an IGA with ODOT to lend expert staff assistance to the Columbia River Crossing Project. ODOT will reimburse Metro for staff expense (salary & benefits). Oregon Budget Law allowed us to recognize this revenue during the year it is received. Finally, on October 1, 2008 Metro implemented changes arising from the non-represented employee classification & compensation study. The study was implemented on a “least cost implementation” strategy meaning only those employees whose salary fell below the minimum of the compensation range received a salary increase to be brought up to the minimum. Metro budgeted an average of 1.5% across all departments and funds to implement the study. On a Metro wide level, this average provided sufficient resources to implement the study. However, in smaller departments that have a predominance of non-represented employees like the Council Office, the average of 1.5% was insufficient. This action provided appropriation for the Council Office and a small adjustment in Public Affairs to recognize implementation of the non-rep study. Councilor Park urged support.

Council President Bragdon opened a public hearing on Ordinance No. 08-1206. No one came forward. Council President Bragdon closed the public hearing.

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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5.2 **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.

Motion:	Councilor Hosticka moved to adopt Ordinance No. 08-1207.
Seconded:	Councilor Harrington seconded the motion.

Councilor Hosticka explained the annexation to the Metro Jurisdictional Boundary. It would make this parcel contiguous with the Urban Growth Boundary. He said the majority of the property owners and residents approved the annexation. He urged approval.

Council President Bragdon opened a public hearing on Ordinance No. 08-1207. No one came forward. Council President Bragdon closed the public hearing.

Councilor Park asked about urban services being extended to this property. Lydia Neill, Sustainability Center, said she did not think it was possible. Councilor Park explained why he asked the question. Councilor Burkholder asked if we were limited in our ability to allow urban services to our facilities. Ms. Neill responded to his question. Councilor Burkholder said if they had property that they wanted to have a toilet on, we would have to have composting toilets. Ms. Neill talked about the property and the

evaluation process they went through to come to solutions. Councilor Hosticka said this ordinance dealt with changes in the Metro Jurisdictional Boundary,

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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5.3 **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.

Motion:	Councilor Park moved to adopt Ordinance No. 08-1208.
Seconded:	Councilor Collette seconded the motion.

Councilor Park said the bond measures, increased solid waste enforcement, and new planning staff have increased the work of the Office of the Metro Attorney (OMA) over the last several years. Several new attorney positions have been added, but OMA has not similarly increased administrative FTE in response to this increased workload. Currently attorneys without support of a legal secretary are performing this work themselves, at a much higher cost per hour to Metro. In 2006 a 0.5 FTE Legal Secretary left Metro and the position was never filled. Then in fall 2008 another 0.5 FTE Legal Secretary left Metro. To date that position has not been refilled in hopes that it could be filled at a full 1.0 FTE. He urged support.

Council President Bragdon opened a public hearing on Ordinance No. 08-1208. No one came forward. Council President Bragdon closed the public hearing.

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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## 6. RESOLUTIONS

6.1 **Resolution No. 08-4003**, For the Purpose of Endorsing Final Regional Priorities for 2009 State Transportation Funding Legislation.

Motion:	Councilor Burkholder moved to adopt Resolution No. 08-4003.
Seconded:	Councilor Liberty seconded the motion

Councilor Burkholder said this resolution endorsed the final regional priorities for state transportation funding. He noted that Joint Policy Advisory Committee on Transportation (JPACT) endorsed this resolution. He summarized the staff report which provided a detailed summary of the package. Councilor Liberty called the public's attention to part of the package which supported taking care of our existing assets. He noted some of the other policies included in the resolution. Councilor Harrington said for the benefit of the public, it was unlikely we would receive funding for all of the transportation needs of the region. Resources were few and needs were great. Councilor Park asked about the gas taxes. Councilor Burkholder said it was not in the governor's proposal. He further explained revenue issues. Councilor Park explained why he asked the question and noted that we were just trying to maintain what we had.

Randy Tucker, Strategy Center, talked about indexing research. It would raise a lot of money. JPACT elected to support indexing but remained supportive of a total package with a variety funding

mechanisms. At the legislature there had been hesitancy to adopt indexing. Councilor Hosticka asked about the regional policy advisory group. Councilor Burkholder explained the work group. Councilor Burkholder said this would provide direction to Mr. Tucker as he assisted Metro in its lobbying efforts. He noted those who had been involved in the process.

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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6.2 **Resolution No. 08-4006**, For the Purpose of Terminating the Designated Facility Agreement Entered Into Between Metro and Roosevelt Regional Landfill Facility.

Motion:	Councilor Park moved to adopt Resolution No. 08-4006.
Seconded:	Councilor Collette seconded the motion

Councilor Park said the first two resolutions were the first of 4 resolutions that will formally terminate Designated Facility Agreements between Metro and landfills. Each facility has an opportunity to be heard at today's meeting of the Metro Council – which was why these were not on the consent agenda. In the case of the first 3 resolutions, the DFAs were being terminated because new agreements had been executed. The new agreements became effective January 1, 2009 and were effective for five years. Resolution No. 08-4006 will terminate the DFA with Roosevelt Landfill. Roosevelt was located in Klickitat County, Washington and was owned by Allied Waste Services. Resolution No. 08-4007 will terminate the DFA with Columbia Ridge Landfill. Columbia Ridge was located in Gilliam County and was owned by Waste Management of Oregon. Metro staff was available if there are any questions. Councilor Park urged an aye 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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6.3 **Resolution No. 08-4007**, For the Purpose of Terminating the Designated Facility Agreement Entered Into Between Metro and Columbia Ridge Landfill.

Motion:	Councilor Park moved to adopt Resolution No. 08-4007.
Seconded:	Councilor Harrington seconded the motion

Councilor Park urged support.

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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6.4 **Resolution No. 08-4008**, For the Purpose of Terminating the Designated Facility Agreement Entered Into Between Metro and Hillsboro Landfill.

Motion:	Councilor Harrington moved to adopt Resolution No. 08-4008.
Seconded:	Councilor Hosticka seconded the motion

Councilor Harrington said like the last two resolutions, Resolution No. 08-4008 will formally terminate a Designated Facility Agreement (DFA) between Metro and the Hillsboro Landfill. The facility has an

opportunity to be heard at today's meeting of the Metro Council – which was why this was not on the consent agenda. Just like the first two resolutions, the DFA with Hillsboro Landfill was being terminated because a new agreement with Metro had already been executed. The new agreement became effective January 1, 2009 and was effective for 5 years. Specifically, Resolution No. 08-4008 will terminate the DFA with Hillsboro Landfill. Hillsboro was located in Washington County and was owned by Waste Management of Oregon. Metro staff was available if there were any questions. She urged support. Councilor Burkholder asked about the future DFAs. Michelle Bellia, Senior Attorney said the new DFA had a termination date where the previous ones did not.

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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6.5 **Resolution No. 08-4009**, For the Purpose of Terminating the Designated Facility Agreement Entered Into Between Metro and Lakeside Reclamation.

Motion:	Councilor Hosticka moved to adopt Resolution No. 08-4009.
Seconded:	Councilor Harrington seconded the motion

Councilor Hosticka said like the last three resolutions, Resolution No. 08-4009 will formally terminate a Designated Facility Agreement (DFA) between Metro and the Lakeside Landfill.

Lakeside has an opportunity to be heard at today's meeting of the Metro Council – which was why this was not on the consent agenda. The facility was so notified of this opportunity on December 8th. Unlike the first three resolutions, the DFA with the Lakeside Landfill was being terminated because Metro and the landfill were unable to reach an agreement. Therefore, adoption of this resolution will terminate the agreement at the end of the year in compliance with the Metro Code.

Specifically, Resolution No. 08-4008 will terminate the DFA with Lakeside Landfill. Lakeside was located in Washington County and was owned by Howard Grabhorn. Metro staff was available if there are any questions. Councilor Hosticka urged support of Resolution No. 08-4009.

Council President Bragdon opened a public hearing on Resolution No. 08-4009.

Skip McKallip, Sussman Shank, 1000 SW Broadway Suite 1400 Portland OR 97205 representing Grabhorn Inc summarized the letter he sent on December 12, 2008 (a copy of which is included in the meeting record). He requested the Council table the resolution before them. Councilor Liberty asked what would happen if the variance was not granted. Mr. McKallip said he would expect they would file an appeal.

Council President Bragdon closed the public hearing.

Councilor Hosticka asked about the impact of tabling the resolution and how long would the process take for the hearing's officer to determine the variance request. Ms. Bellia said it would grant the variance. Alison Kean Campbell, Deputy Metro Attorney, said they would not be prejudging the decision of the variance but this DFA needed to be terminated by the end of the year. Ms. Bellia said there was no legal reason to delay action. She explained the contested case hearing procedures. Councilor Collette asked if this DFA needed to be cancelled by December 31, 2008. Ms. Bellia explained the Metro Code requirements and the procedures for termination.

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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6.6 **Resolution No. 08-4012**, Authorizing Sale of \$5 million of General Obligation Bonds to Protect Animal Health and Safety, Conserve and Recycle Water.

Motion:	Councilor Liberty moved to adopt Resolution No. 08-4012.
Seconded:	Councilor Collette seconded the motion

Councilor Liberty said because Metro has issued no other debt in calendar year 2008, we were able to make a bank-qualified financing to issue \$5 million in general obligation bonds at very favorable terms and reasonable issuance costs. This allowed the Zoo to begin serious planning for the construction projects identified in the bond to protect animal health and safety and conserve and recycle water. Internal Revenue Service (IRS) rules related to maintaining tax exempt debt required that Metro place at least 5% of the value under obligation within six months of issuance – for example hiring of staff or award of contracts – and that 85% be extended within three years. For this reason, Metro was electing to issue only \$5 million at this time. It was sufficient to begin the planning work necessary to negotiate and secure land use and construction permits without risking any tax exempt conditions. Further it left Metro opportunity to issue additional debt against the bond in 2009, if needed. Finally, the terms available for this issue were sufficiently favorable that they matched internal borrowing. Competitive proposals for this offering have resulted in 2.12% interest rate with a 2.22% all-in true interest cost, subject to Council approval to authorize the \$5 million debt. Metro would be able to levy property taxes to repay the debt in FY 2009-10, leaving its internal borrowing capacity available for other Metro projects, should the Council find this necessary and desirable. Councilor Liberty urged support.

Councilor Hosticka asked why they chose \$5 million. Councilor Liberty explained the figure. Council President Bragdon said the Zoo was gearing up to hire a project manager to oversee the construction efforts. Councilor Burkholder explained the project. Councilor Liberty thanked staff for pursuing the low interest rate.

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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6.7 Removed from agenda.

6.8 **Resolution No. 08-4011**, For the Purpose of Entering Metro Council’s Proclamation of the Results of the November 4, 2008 General Election Into the Council Records.

Motion:	Councilor Liberty moved to adopt Resolution No. 08-4013.
Seconded:	Councilor Park seconded the motion

Councilor Liberty said under election requirements, Metro Council was required to approve the election results. He urged support.

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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6.9 Removed from agenda.

## **7. CHIEF OPERATING OFFICER (COO) COMMUNICATION**

Michael Jordan, COO, reminded the Council about the office luncheon. Second, there had been a flurry of discussion about the headquarters hotel. They had had a number of meetings with fellow public agencies. There was a deadline in the development agreement of this week. During the discussions, it had become evident for the need for an extension. They were recommending a four month extension. They had asked their partners to acknowledge necessary interim actions.

Councilor Park said the project itself was very complicated and given the strained economy, it was necessary to take the time. He talked about partner negotiations. The project itself was a positive but getting there was very difficult. Councilor Hosticka said there was uncertainty in the bond market. He asked them to clarify the difference in the bonds for the Zoo versus financing package for the headquarters hotel. Mr. Jordan explained the differences.

## **8. COUNCILOR COMMUNICATION**

Councilor Burkholder said there will be a special meeting of JPACT on January 8<sup>th</sup> to discuss federal legislation.

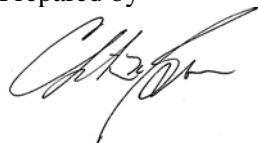
Council President Bragdon talked about Columbia River Crossing and conditions to move forward. He said in his judgment the presentation for independent review met the letter of the law but didn't really meet the concerns of the Metro Council. He talked about questions that the Metro Council and citizens needed answers to that were not included in the presentation. He said there were a couple of questions having to do with the number of lanes. He explained his concerns and next steps. He said they were going to have a joint work session with the Portland City Council on January 25<sup>th</sup> or 26<sup>th</sup>. Councilor Liberty said on the analysis of land use, he had already had calls so there was interest generated. This Council passed a resolution this summer indicating that they wanted to have Demand Management for this project. Not all entities agreed with this. Council President Bragdon said the tolling and demand management was related to physical capacity. Councilor Hosticka said he thought it would help to have a question posed to them that could be answered unambiguously. Councilor Collette asked whether this peer review panel was the same as the independent analysis to help meeting green house gas and VMT. Councilors continued to talk about what additional information they needed.

Council President Bragdon said they would have a swearing in ceremony on January 8<sup>th</sup> at the Oregon Zoo at 4:00 p.m. There would be entertainment.

## **9. ADJOURN**

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 3:25 p.m.

Prepared by



Chris Billington  
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF  
DECEMBER 18, 2008**

<b>Item</b>	<b>Topic</b>	<b>Doc. Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
3.1	Minutes	12/11/08	Metro Council Meeting Minutes of December 11, 2008	121808c-01
4.1	"A" version	12/18/08	<b>Ordinance No. 08-1204A</b> , For the Purpose of Determining that Implementing Transit-Oriented Development is a matter of Metropolitan Concern.	121808c-02
6.5	Letter	12/12/08	To: Metro Council From: George McKallip Jr, Sussman Shank LLP Re: Objection to Termination of Grabhorn's DFA	121808c-03