

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE)
METRO CODE IN ORDER TO REASSIGN)
THE DUTIES OF THE CLERK OF THE)
METRO COUNCIL)
ORDINANCE NO. 11-1251
Introduced by Councilor Carlotta Collette

WHEREAS, Metro Code 2.01.020 states and defines the roles, responsibilities and meeting management procedures for the "Clerk of the Council;" and

WHEREAS, the Metro Council Office has undergone numerous staff and organizational structure changes since the adoption of this definition into Metro Code; and

WHEREAS, because of these changes, the current definition of the "Clerk of the Council" is outdated and inaccurate in representing current office operations; and

WHEREAS, "Clerk of the Council" duties and responsibilities have been assigned throughout both the Council Office to various staff, and throughout the agency namely to Metro's Records Officer; and

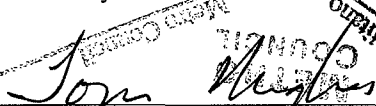
WHEREAS, because of reassignments the title "Clerk of the Council" for a single individual is irrelevant, inaccurate and not legally necessary; and

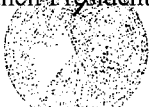
WHEREAS, because the Council Office in collaboration with Metro's Records Officer have assumed "Clerk of the Council" duties, the title for a single individual does not exist; now therefore,

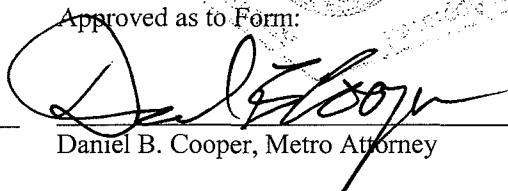
THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Sections of the Metro Code containing references to the Clerk of the Council are hereby amended as set forth in Exhibit "A" attached hereto.


ADOPTED by the Metro Council this 13 day of January 2011.


Tom Hughes, Council President



Approved as to Form:

Daniel B. Cooper, Metro Attorney

Attest:


Kelsey Newell, Recording Secretary

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2.01.001 Definitions

For the purpose of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:

(a) "Adoption" means the act of the council to approve a motion to adopt an ordinance or resolution.

~~(b) "Clerk" means clerk of the council.~~

(eb) "Quorum" means the majority of the members of the council holding office.

(Ordinance No. 88-241, Sec. 1. Amended by Ordinance No. 95-583B, Sec. 1; Ordinance No. 02-958A, Sec. 1.)

2.01.020 ~~Clerk of the Council~~Council Meetings and Records

~~The clerk of the council, or a~~ qualified alternate staff person designated by the Chief Operating Officer, shall ~~act as recording secretary for the council, shall~~ be present at each meeting of the council and shall provide that the proceedings be recorded as specified in section 2.01.090(B). Sound recordings shall be made of each meeting. Equipment malfunction shall not be a reason to postpone the meeting and shall not negate the minutes. The ~~council clerk~~recorder may temporarily interrupt council proceedings in the event of equipment malfunction, changes of tapes or other cause of short-term loss of recording. The ~~clerk~~Chief Operating Officer shall also maintain a journal of council proceedings that shall be available to the public during regular office hours.

(Ordinance No. 79-65, Sec. 2. Amended by Ordinance No. 88-241, Sec. 1; Ordinance No. 95-583B, Sec. 1; Ordinance No. 02-958A, Sec. 1.)

2.01.055 Participation of Council Members by Electronic Means

(a) For any regular meeting or special meeting of the council, council members may participate in the meeting by the use of a voice or data communication device that allows communication with all other meeting participants provided the following conditions are fulfilled:

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(1) The councilor who wishes to participate by electronic means must file a written request with the Council President stating the reasons why the councilor cannot be physically present at the meeting, and why extraordinary circumstances exist that require that the councilor should participate by electronic means.

(2) The Council President files with the ~~council clerk~~Chief Operating Officer a written report explaining the circumstances and containing the Council President's determination that the physical absence of the councilor is both unavoidable and excusable and that the physically absent councilor should participate in the meeting.

(3) A majority of the council must be physically present at any special or regular meeting for a quorum to exist.

(b) Any emergency meeting may be conducted by electronic means consistent with the Oregon Public Meetings Law.

(c) Participation at any council meeting by electronic means shall not constitute attendance at a meeting of the council for the purpose of Section 23(1)(e) of the Metro Charter.

(Ordinance No. 94-559A, Sec. 1. Amended by Ordinance No. 02-958A, Sec. 1.)

2.01.090 Conduct of Meetings

(a) A quorum of the council is a majority of the members of the council holding office. If a quorum is present, the council may proceed with the transaction of its business. If fewer councilors are present they may compel absent members to attend.

(b) Minutes of each meeting shall ~~be prepared by the clerk of the council or his/her designee, and shall~~ include at least the following information:

(1) All members of the council present;

(2) All motions, resolutions, and ordinances proposed and their dispositions;

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(3) The results of all votes, and the vote of each councilor by name; and

(4) The substance of any discussion on any matter.

(c) Minutes of executive sessions may be limited consistent with Oregon Law.

(d) The written minutes shall be available to the public within a reasonable time after the meeting, and shall be maintained as a permanent record of the actions of the council by the ~~clerk of the council~~Chief Operating Officer.

(e) The council shall by resolution adopt rules establishing procedures governing conduct of debate on matters considered by the council at council meetings.

(f) Council members present, but not voting or not specifically abstaining, shall be counted as voting with the majority. In the event that there is no such majority, such members shall be counted as abstaining.

(g) Except for ordinances, the Council President may order the unanimous approval of any matter before the council unless there is an objection from one or more councilors. If there is an objection, then a voice vote shall be taken, unless the objecting councilor requests a roll call vote in which case a roll call vote shall be taken. At each meeting, the ~~clerk of the council~~ shall rotate the order for each roll call vote so that the councilor who voted first shall vote last on the next roll call vote, except that the Council President shall always vote last on a roll call vote.

(h) In the event a matter is the subject of a voice vote or a roll call vote, after the vote is taken the Council President shall announce the result of the votes. Prior to proceeding to the next item on the agenda, or if the item voted upon is the last item on the agenda before adjournment, any member may request that the ~~clerk of the council~~ change that member's vote in which case the change in vote shall be announced by the Council President and the result of the votes as modified shall also be announced. Upon commencement of the next agenda or adjournment, as the

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case may be, all votes shall become final and may not be further changed without the unanimous consent of the council.

(i) Any matter not covered by this chapter or a rule adopted by the council pursuant to a resolution shall be determined by Robert's Rules of Order, newly revised. The council may by a positive vote of two-thirds of the members of the council authorize the suspension of any rule adopted by a resolution of the council.

(j) All meetings of the council, its committees and advisory committees shall be held and conducted in accordance with the Oregon Public Meetings Law.

(Ordinance No. 95-583B, Sec. 1. Amended by Ordinance No. 02-958A, Sec. 1.)

2.02.120 Ethical Requirements for Employees, Officers,
Elected and Appointed Officials

(a) The purpose of this section is to establish a Code of Ethics for Metro public officials which is consistent with current public policy established by the Oregon Legislative Assembly. Failure to comply with the provisions of this Code shall be grounds for disciplinary action for employees of Metro.

(b) "Public official" means any employee, officer, elected official or appointed member of a board, commission or committee of Metro.

(c) All public officials of Metro shall strictly comply with the following requirements:

(1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official is associated.

(2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single

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source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate, if elected, would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.

(3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgment would be influenced thereby.

(4) No public official shall further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.

(5) No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefor or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate, if elected, would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.

(d) The Auditor and every member of the Council of Metro shall be required to comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the ~~Council Clerk~~Chief Operating Officer at the time of filing with the appropriate state agency.

(e) The Chief Operating Officer, the Metro Attorney, the Chief Financial Officer, and all members of the Metropolitan Exposition-Recreation Commission and all Department Directors shall file annually with the ~~Council Clerk~~Chief Operating Officer a Statement of Economic

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Interest which is substantially consistent with that required by ORS 244.060.

(f) Public officials shall comply with the following requirements regarding the declaration of potential conflicts of interest and recording the notice of a potential conflict:

(1) If the public official is an elected public official or an appointed public official serving on a board or commission, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.

(2) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the potential conflict, and request that the appointing authority dispose of the matter giving rise to the potential conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(3) Nothing in subsection (1) of this section requires any public official to announce a potential conflict of interest more than once on the occasion which the matter out of which the potential conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.

(5) When a public official gives notice of a potential conflict of interest, the potential conflict shall be recorded in the official records of the public body.

(Ordinance No. 89-305A, Sec. 3. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1; Renumbered by Ordinance No. 05-1082, Sec. 1.)

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2.17.050 Financial Reporting Requirements

(a) Elected officials shall comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the ~~Council Clerk~~Chief Operating Officer at the time of filing with the appropriate state agency.

(b) All Department Directors and Metro commissioners shall file annually with the ~~Council Clerk~~Chief Operating Officer a Statement of Economic Interest which is substantially consistent with that required by ORS 244.060.

(c) In addition, the Statement of Economic Interest shall disclose the ownership of any real property outside the Metro boundary and within Multnomah, Clackamas or Washington County.

(Ordinance No. 99-795B, Sec. 1.)

2.18.030 Additional Campaign Finance Reporting Requirements

(a) Every Candidate and every Metro Elected Official who is a candidate for any public office shall file with the ~~Metro Council Clerk~~Chief Operating Officer an electronic link to any campaign finance report required to be filed pursuant to ORS 260 or any applicable federal law. Campaign finance report electronic links shall be provided to the ~~Metro Council Clerk~~Chief Operating Officer within two (2) days after they became available from the state or federal filing officer.

(b) Prior to taking any action or voting on any matter in which any person who has a legislative or administrative interest has made a campaign contribution of \$500 or more in the aggregate to the Metro Elected Official, the Metro Elected Official shall disclose the existence of the contribution on the public record, if the contribution has not been previously made available in a campaign finance report electronic link required to be filed pursuant to (a) above.

(c) A Metro Councilor shall make the disclosure of such contributions on the record required by (b) above

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immediately prior to voting or abstaining from voting on the matter. The Metro Auditor shall disclose such contributions by filing a written notice with the ~~Metro Council Clerk~~Chief Operating Officer or the Council prior to taking action on any such matter. In all cases, the disclosure shall include the name of the donor, the amount of the contribution and the nature of the donor's legislative or administrative interest in Metro.

(Ordinance No. 00-849A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1; Ordinance No. 08-1180, Sec. 1.)

2.18.040 Public Dissemination of Campaign Finance Reports

The ~~Metro Council Clerk~~Chief Operating Officer shall cause all campaign finance report electronic links to be posted on Metro's website. Website access to the campaign finance report links shall be maintained on the Metro website until the earlier of the January 1 following the election or the Metro elected official's term ends.

(Ordinance No. 00-849A, Sec. 1. Amended by Ordinance No. 02-967, Sec. 1; Ordinance No. 08-1180, Sec. 1.)

6.01.080 Filing and Effective Date of Commission Resolutions

(a) Within five (5) days after the passage of any resolution, the Commission shall file a copy of the resolution with the ~~Council Clerk~~Chief Operating Officer, or such other officer as the Council may designate, who shall maintain a special record of the Commission's resolutions which shall be accessible to the public under like terms as the ordinances of Metro. The ~~Council Clerk~~Chief Operating Officer ~~or such other officer as the Council may designate~~ shall immediately notify the Council of the receipt of the resolution.

(b) Resolutions of the Commission shall be effective upon adoption or at such other time as specified by the Commission.

(Ordinance No. 87-225, Sec. 1. Amended by Ordinance No. 97-677B, Sec. 3; Ordinance No. 02-975, Sec. 1; and Ordinance No. 09-1229, Sec. 1.)

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9.01.060 Method of Making Appointments

(a) Whenever a vacancy occurs in a Council position representing a subdistrict on the Council, the Council shall commence a process to fill the vacancy by appointment by a majority vote of the remaining members of the Metro Council. The appointment process shall include the following:

(1) Notification of the appointment process and of the availability of application forms in a newspaper of general circulation in the Metro Area, in local newspapers which serve the Council subdistrict, and other journals, publications and circulars deemed appropriate at least four (4) weeks prior to the appointment.

(2) Notification of the appointment process and of the availability of application forms to official neighborhood organizations, cities, civic groups, and other recognized groups with territory within the vacant Council subdistrict at least four (4) weeks prior to the appointment.

(3) Notification may be given at the direction of the Council President in advance of any formal declaration of a vacancy by the Council.

(4) The Council President may establish a deadline for the receipt of applications which shall be no earlier than one (1) week prior to the date set for the making of the appointment at the time notice is given.

(5) Conduct of a public hearing in the vacant subdistrict before a subcommittee of the Council appointed by the Council President. The subcommittee shall report all testimony received to the full Council.

(6) Conduct of interviews with applicants for the vacant position before the Council.

(7) The Council shall in a public meeting appoint the person to fill the vacancy from a list of applicants who have been nominated and seconded by Councilors. Voting for the person shall be by a written signed ballot. The ~~Council Clerk shall announce the~~ results of each ballot shall be announced following the vote and ~~shall record~~ the result of each Councilor's ballot

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shall be recorded. Any applicant who receives a majority of the votes by the remaining members of the Council shall be elected to the vacant position. If no applicant receives a majority vote of the Council on the first ballot, the Council shall continue to vote on the two (2) applicants who receive the most votes until an applicant receives a majority vote of the Council.

(b) If a vacancy occurs in the office of Council President or Metro Auditor, the Metro Council shall appoint a person to fill the vacancy subject to the following procedure. The appointment process shall include the following:

(1) Notification of the existence of the vacancy and that the Council will be making an appointment to fill the vacancy shall be given in a newspaper of general circulation within the Metro Area and in such other manner as deemed appropriate by the Council at the time the vacancy is declared.

(2) Conduct of interviews with applicants for the vacant position before the Council.

(3) The Council shall in a public meeting appoint the person to fill the vacancy from a list of applicants who have been nominated and seconded by Councilors. Voting for the person shall be by a written signed ballot. The ~~Council Clerk shall announce the results of each ballot~~ shall be announced following the vote and ~~shall record~~ the result of each Councilor's ballot shall be recorded. Any applicant who receives a majority of the votes by the remaining members of the Council shall be elected to the vacant position. If no applicant receives a majority vote of the Council on the first ballot, the Council shall continue to vote on the two (2) applicants who receive the most votes until an applicant receives a majority vote of the Council.

(Ordinance No. 93-517B. Amended by Ordinance No. 02-977, Sec. 1.)

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 11-1251, FOR THE PURPOSE OF AMENDING THE METRO CODE IN ORDER TO REASSIGN THE DUTIES OF THE CLERK OF THE METRO COUNCIL

Date: December 22, 2010

Prepared by: Dan Cooper, Metro Attorney, 503-797-1528
Tony Andersen, Legislative Coordinator, 503-797-1878

BACKGROUND

Because of various office reorganizations, changes in roles in the Metro Council Office and Office of the COO, and general personnel direction provided by the Metro Council from 2007-2010; the Clerk of the Council's roles and responsibilities have evolved over the years and duties once held by a single position are now shared throughout the office and delegated accordingly.

In an effort to make more efficient and update Council Office operations, this ordinance removes an outdated title from Metro code and directs the Metro Council Office and Office of the COO to manage the portfolio of duties once held by the Clerk, now a collectively shared list delegated to different team members of the office. As of January 2011, there is no single or assigned Clerk of the Council, and this ordinance updates the discrepancy.

Additionally, by adopting this ordinance efficiencies will continue to improve and best practices identified as the Council Office and Office of the COO work programs continue to transition from historically-focused administrative support positions to a more policy-centric coordination model for current staff members.

ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code, Metro Code Title II Administration and Procedures, Chapter 2.01 Council Organization and Procedures, Section 2.01.020 Clerk of the Council.
3. **Anticipated Effects:** The Metro Code containing references to the Clerk of the Council will be amended as set forth in Exhibit "A" to Ordinance 11-1251.
4. **Budget Impacts:** None.

RECOMMENDED ACTION

Council staff recommends the adoption of Ordinance No. 11-1251.