



## **METRO COUNCIL MEETING**

Meeting Summary

March 22, 2012

Metro, Council Chamber

**Councilors Present:** Council President Tom Hughes and Councilors Rex Burkholder, Barbara Roberts, Carl Hosticka, Kathryn Harrington, Shirley Craddick, and Carlotta Collette

**Councilors Excused:** None

Council President Tom Hughes convened the regular council meeting at 2 p.m. Council President Hughes, with support from the full Council, reorganized the agenda to consider Resolution No. 12-4337 after *Citizen Communications*.

### **1. INTRODUCTIONS**

Council President Hughes welcomed Deputy Chief Operating Officer Scott Robinson and Senior Metro Attorney Marvin Fjordbeck. Mr. Robinson served as COO staff in Ms. Martha Bennett's absence, and Mr. Fjordbeck served as legal counsel in Ms. Alison Kean Campbell's absence.

### **2. CITIZEN COMMUNICATIONS**

There were none.

### **3. PRESENTATION ON "THE NATIVE AMERICAN COMMUNITY IN MULTNOMAH COUNTY: AN UNSETTLING PROFILE" REPORT**

Ms. Nichole Maher of the Native American Youth & Family Center provided a presentation on a report titled, "The Native American Community in Multnomah County: An Unsettling Profile." The report, a product of a collaborative research project between Coalition of Communities of Color, Portland State University's School of Social Work, and the Native community, is the most widespread study of the local urban Indian community. Ms. Maher noted that while the report is focused on Multnomah County, the trends facing the Native American community are found across the four-county area NAYA supports including Clackamas and Washington counties. She emphasized that the Portland area has the 9<sup>th</sup> largest Native American population in the United States and that the community represents approximately 4 percent of the total Portland area's population.

Ms. Maher highlighted some of the research's findings and emphasized the large disparities across all systems and institutions between Native Americans and whites. The research compared the two communities across 28 different indicators. Examples of disparities presented included differences in poverty levels, yearly incomes and graduation rates. (Full report included as part of the meeting record.) She stated that there are several things Metro can do to partner with the Native community and to help improve overall outcomes for the population.

Highlighted actions included:

- Make hiring people of color and Native Americans a priority and ensure the agency is a place where Native Americans would like to work.
- Enter a conversation with NAYA and the Native community around the recent Metro natural areas bond measure. The Native community was an active partner and advocate for the measure, but does not feel the benefits have equality impacted their community.
- Have Metro leadership partner with the Native community to identify 2 to 3 areas to improve overall indicators for Native Americans. (e.g. racial equity as a regional area of concern)
- Partner with NAYA and other Native American organizations. Ms. Maher emphasized the shared beliefs and alignment of Metro and the Native community's values; she welcomed and encouraged councilors to partner and help champion the causes the community is passionate about.

Council discussion included the recent bond measure and opportunities to partner with the Native community to tell the indigenous story through developed natural areas. Members emphasized the importance of telling the local tribes' history and storytelling's ability to add to the richness of the region's overall culture and livability. Ms. Maher recommended Metro connect with the Portland Indian Leaders Round Table for recommendations on significant Native American natural areas. Additional discussion included adoption and the foster care system and impacts to the Native community. This report is part of a larger six part series; for details visit the Coalition of Communities of Color web site.

**4. CONSIDERATION OF THE MINUTES FOR MARCH 15, 2012**

Motion:	Councilor Shirley Craddick moved to adopt the council minutes for March 15, 2012.
Second:	Councilor Barbara Roberts seconded the motion.

Vote:	Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .
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**5. ORDINANCES – SECOND READING**

**5.1 Ordinance No. 12-1272, For the Purpose of Amending Metro Code Chapter 5.01 to Repeal Provisions Related to Transfer Station Areas.**

Motion:	Councilor Kathryn Harrington moved to adopt Ordinance No. 12-1272.
Second:	Councilor Carlotta Collette seconded the motion.

Councilor Harrington introduced Ordinance No. 12-1272. Metro's solid waste disposal system consists of two classes of transfer facilities: regional and local transfer stations. Regional stations, such as Metro Central and Metro South, have no restrictions on the volume of tonnage they can accept. Local stations, all privately owned, are limited by the volume of waste the facility can accept. All private transfer stations are authorized by the Metro Council through franchises,

regulatory instruments used to establish terms and conditions for each station, including setting tonnage caps. Councilor Harrington highlighted a few benefits of tonnage caps including maintaining reasonable and consistent prices throughout the region, ensuring adequate waste flow to the public transfer stations, and encouraging travel time reductions for haulers.

The ordinance, if approved, would repeal revisions in Metro’s Code related to one method of tonnage caps at transfer stations that has never been fully implemented. In its place, Council will continue to establish uniform tonnage caps for all local transfer stations when approving franchise applications for 2013.

Council President Hughes opened a public hearing. Seeing no citizens who wished to testify, the public hearing was closed.

Vote:

Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .
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5.2 **Ordinance No. 12-1273**, For the Purpose of Amending the FY 2011-12 Budget and Appropriations Schedule, Recognizing New Grants, Donations and Other Contributions and Amending the FY 2011-12 through FY 2015-16 Capital Improvement Plan.

Council President Hughes passed the gavel to Deputy Council President Burkholder while he carried the legislation.

Motion:	Council President Hughes moved to adopt Ordinance No. 12-1273.
Second:	Councilor Carl Hosticka seconded the motion.

Council President Hughes introduced Ordinance No. 12-1273. At the conclusion of the fiscal year’s second quarter, Metro staff prepares a more thorough review of the agency’s financial projections. This work, paired with the completion of the previous year’s financial audit (FY 11-12), has identified areas where changing circumstances require adjustments to the agency’s financial plan. The ordinance, if adopted, would approve a series of administrative and/or substantive amendments. The amendments are as follows:

- Implementation of Government Accounting Standards Board (GASB) Statement 54
  - Ruling requires that community enhancement fees be received and reported directly in Rehabilitation and Enhancement Fund (REF), rather than Solid Waste Revenue Fund, with subsequent transfer to the REF.
- Consolidation of PERS reserve in the General Fund;
  - During the FY 2011-12 budget, the Council approved a proposal to use the PERS Reserve to pay all or a portion of the pension debt service obligation for a period of five years. All PERS reserves were consolidated in the General Fund. Actual reserve balances were slightly different than estimates. The amendment seeks to “true up” the balances transferred.

- Information Services Capital Improvement Projects
  - The amendment consolidates several existing smaller renewal and replacement projects resulting in a more efficient solution to the need.
- Metro's new Diversity Coordinator position
  - Amendment would move all appropriations for the program from Human Resources to the Office of the COO.
- Policy Advisor position
  - Former Metro Attorney will remain as a Policy Advisor until his retirement in November 2012. This action moves appropriations from the Office of the Metro Attorney to the Office of the COO.
- Program Supervisor Position
  - FY 11-12 budget reduced the position from 1 FTE to .75 FTE. However, due to internal reorganization, staff request to increase the position by .05 FTE. The increase is in the Natural Areas bond fund and no additional monies are requested.
- OMSI Payment
  - Amendment recognizes funding received during FY 11-12 and provides additional appropriation for staff work with OMSI on a National Science Foundation grant project.
- Residential Organics Program
  - Metro's transfer stations are handling 64,000 tons of organic materials due to the City of Portland's new residential food waste collection program. Handling this material was not anticipated in the current budget. Amendment transfers funds from Solid Waste Fund contingency account to operating account to cover the estimated \$3.6 million additional cost.
- Oxbow Park Remediation
  - Amendment would allocate General Fund contingency funds to help cover emergency facility removals and reopen the park campground. Oxbow suffered severe erosion during the winter of 2011-12.

Deputy Council President Burkholder opened a public hearing. Seeing no citizens who wished to testify, the public hearing was closed.

Council asked clarifying questions regarding the residential organics program and budget law requirements.

Vote:

Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .
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The gavel was passed back to Council President Hughes.

**6. RESOLUTIONS**

6.1 **Resolution No. 12-4337**, For the Purpose of Naming the Metro Regional Center's North Plaza after Former Metro Employee Steve Apotheker.

Motion:	Councilor Rex Burkholder moved to adopt Resolution No. 12-4337.
Second:	Councilor Collette seconded the motion.

Councilor Burkholder introduced Resolution No. 12-4337. If adopted the resolution would rename the Metro Regional Center's North Plaza after former Metro employee Steve Apotheker, one of Oregon's and the county's top recycling experts and activists who passed away in June 2011.

Mr. Jim Desmond and Ms. Meg Lynch of Metro shared a few words about Mr. Apotheker's leadership, dedication, passion, and professional accomplishments. Staff emphasized that naming the Plaza after Mr. Apotheker would honor his dedication to Metro's mission, lifelong commitment to the environment, his service, and the impact he had locally, regionally and nationally.

Councilors expressed their support for the resolution and noted that Mr. Apotheker was an example of the employee many strive to become. Members encouraged staff to continue their hard work.

Vote:	Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .
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Ms. Diane Meisenhelter, Mr. Apotheker's widow, thanked the Council for their support.

6.2 **Resolution No. 12-4339**, For the Purpose of Appointing the Following Members to the Metro Policy Advisory Committee (MPAC); Maxine Fitzpatrick as Multnomah County Citizen Member, Bob Grover as Washington County Citizen Member, and Wilda Parks as Clackamas County Citizen Member.

Council President Hughes passed the gavel to Deputy Council President Burkholder while he carried the legislation.

Motion:	Council President Hughes moved to adopt Resolution No. 12-4339.
Second:	Councilor Harrington seconded the motion.

Council President Hughes introduced Resolution No. 12-4339 which, if approved, would confirm the Council President's nominations for new Metro Policy Advisory Committee (MPAC) community representatives. MPAC, established by the Metro Charter in 1992, advises the Metro Council on land use issues in the Portland metropolitan area. Council President Hughes emphasized the importance of deliberate and periodic examination of positions in order to ensure new perspectives at the committee table. After seeking recommendations from Council members and Metro's elected partners, President Hughes selected to:

- Reappoint Ms. Wilda Parks as the Clackamas County Citizen representative;
- Appoint Ms. Maxine Fitzpatrick as the Multnomah County Citizen representative; and
- Appoint Mr. Bob Grover as the Washington County Citizen representative;

Ms. Fitzpatrick will replace Mr. Matt Berkow and Mr. Grover will replace Ms. Nathalie Darcy on MPAC. Council President Hughes stated his intention to revisit the alternate positions for each of the three citizen representatives later this year in preparation for 2013.

Council President Hughes thanked Mr. Berkow, Ms. Darcy and Ms. Parks for their service on the committee. He presented Ms. Parks, who was in attendance, a certificate of appreciation for her service. Councilors expressed their thanks to her and the other outgoing members and emphasized the value that the citizen representatives bring to the committee.

Vote:

Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .
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The gavel was passed back to Council President Hughes.

**7. CONTRACT REVIEW BOARD**

7.1 **Resolution No. 12-4336**, Resolution of Metro Council, Acting as the Metro Contract Review Board, For the Purpose of Approving a Sole Source Contract for the Procurement of an Independent Cemetery Operations Consultant.

Council President Hughes declared that the Metro Council was now acting as the Metro Contract Review Board.

Motion:	Councilor Roberts moved to adopt Resolution No. 12-4336.
Second:	Councilor Burkholder seconded the motion.

Councilor Roberts introduced Resolution No. 12-4336. Metro staff has worked diligently since January 2011 to improve Metro's pioneer cemetery operations. Staff has refined and established operational procedures, created a cemetery advisory committee comprised of local community representatives, and increased oversight of the grave opening and closing company, cemetery staff and reached out to partners in the cemetery industry. The resolution, if adopted, would award a sole source contract to Mr. Paul Elvig of Everett, Washington to examine and consult Metro on the agency's interment verification and soil management practices. Additionally, Mr. Elvig will be contracted to advise if these practices meet or exceed industry best practices and make recommendations for improvements that are compatible with sustainable operations. Staff and Metro's COO have determined that Mr. Elvig is uniquely qualified to perform the service.

Vote:

Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .
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**7.2 Deliberation on Appeal by Integrated Resource Management of Chief Operating Officer's Rejection of Initial Appeal Regarding Award of Contract for the Chehalem Ridge Forest Stand Management Under Metro Request for Proposal No. 12-1989.**

The Metro Council, acting as the Metro Contract Review Board, considered an appeal by Integrated Resource Management (IRM) regarding the award of a Metro contract for the provision of forest stand management services in the Chehalem Ridge Natural Area. IRM challenged the rejection of its initial appeal to Metro's COO.

Legal counsel overview of the meeting procedure

Mr. Fjordbeck stated that the appellant, IRM, has chosen to appeal the initial level of decision, the Office of the COO. As such, the appeal has come before the Council for its deliberation. He stated that following the hearing and Council's deliberation, the Council may proceed with three alternatives: (1) reject the appeal and uphold the COO's award of the contract; (2) uphold the appeal and award the contract to the appellant; or (3) direct staff to reject all bids and perform a new procurement.

In November 2011 Metro released a request for proposal (RFP) for a personal services contract for the provision of forest stand management services in the Chehalem Ridge Natural Area. Mr. Fjordbeck stated that a panel reviewed and evaluated the proposals. The process resulted in extremely close evaluation scores. As such, Metro staff conducted interviews with the top scorers – Trout Mountain Forestry (TMF) and IRM. Based on the ranking and the interviews, TMF was awarded the contract.

Appellant presents its appeal

Mr. Marc Barnes, President of IRM, presented the company's appeal. He distributed a set of materials to Council including:

- *Exhibit A – Initial IRM appeal letter to Metro's Procurement Officer*  
Mr. Barnes stated he appealed the contract award because Metro incorrectly and arbitrarily downgraded IRM's proposal related to commitment of budget and schedule parameters, and project staffing and experience. He provided brief information about his company and contracted logger.
- *Exhibit B1 – Excerpt of IRM's proposal regarding project costs*  
Mr. Barnes emphasized that IRM, unlike TMF, provided firm pricing.
- *Exhibit B2 – Excerpt of TMF's proposal regarding project cost and contractors*  
Mr. Barnes emphasized that IRM, unlike TMF, already selected and received commitment from a well known and respected logging contractor. He stressed that the TMF's proposal stated that pricing was subject to change.
- *Exhibit C – Excerpt of IRM's proposal regarding project schedule*  
Mr. Barnes stated that the schedule in IRM's proposal and that outlined in the RFP were the same and therefore his company should have received a higher score.

- *Exhibit D – Letter of response from Metro to IRM*  
Mr. Barnes highlighted that the letter stated that TMF was awarded a higher point value for their proposed schedule due to its level of description. He stated that the RFP did not require a descriptive schedule.
- *Exhibit E – IRM letter of appeal to Council*  
Mr. Barnes reiterated that the RFP did not require a detailed project calendar nor did the RFP stated that a descriptive schedule was required to receive full points.

Additional comments made by Mr. Barnes addressed the difference in the proposals estimated net revenue for Metro, and TMF's decision not to indicate which logging contractor would be used or his/her professional experience. (Testimony included as part of the meeting record.)

Staff response to appeal

Mr. Tim Collier, with assistance from Ms. Kate Holleran, of Metro provided the staff response to the appeal. Mr. Collier stated that Metro received four proposals in response to the RFP. He stated that IRM received a 14 out of a total 15 possible points for budget and schedule. IRM received the full 10 points for project budget and 4 (out of 5) points for project schedule. TMF received the full 5 points for project schedule due to their detailed schedule. After staff conducted interviews with the two companies, staff confirmed that the scores awarded during the RFP process were correct and TMF was issued the notice of intent to award the contract.

Council asked clarifying questions of legal counsel and staff regarding the point difference between the two proposals and acceptable grounds for appeals. Council requested staff share some of the discussion by the interview panel. Ms. Holleran addressed TMF's depth of professional experience. She stated that the revenue generated by the project was not the focus of the Metro RFP, but rather the RFP was intended to address water and natural resources protection and that its primary objective was to increase diversity of the property.

Testimony or other comments by all other interested parties

Mr. Scott Ferguson of TMF briefly described the company and the team assigned to the project, and emphasized that the team has extensive experience and resources to complete the project. Mr. Ferguson stated that TMF has worked with a variety of city governments and municipalities specifically on transitioning plantations into more biologically diverse habitat. He stated, per the RFP, that the team would review and develop the final prescriptions and project schedule over the first three months of the project. He indicated that the budget estimates provided were made in good faith, but a final number would not be available until after the project scoping had been completed. He stated that he did not recommend completing the project within a one-year timeframe. He also noted that TMF does have a logger committed to the project, but not yet under contract.

Council asked clarifying questions of staff regarding the schedule and desired timeframe.

Closing statement by appellant

Mr. Barnes provided closing comments. He emphasized his company's extensive experience with tree thinning projects and managing forests similar to that of Chehalem Ridge. He reiterated that he appealed the contract award decision because his firm should have



received more points for the fixed project budget and schedule. He also addressed the Council's question regarding the differences in anticipated revenue generated by the project. He outlined the research his firm completed for the proposal and stated that his team wanted to complete the project within one year in order to take advantage of the good logging prices.

Council asked clarifying questions about stem inclusion and discussion topics at the interviews. Mr. Barnes indicated that the majority of the interview focused on prescriptions and not budget or schedule.

Council deliberation

Motion:	Councilor Harrington moved to reject the appeal and uphold the staff recommendation.
Second:	Councilor Collette seconded the motion.

Council thanked Mr. Barnes for his testimony, but expressed their support for the staff recommendation stating that the process and decision were fair. Members thanked IRM for responding to the RFP and emphasized that it was clear that the company had the experience to complete the project, but that staff – through the RFP and interviews – were looking for more than a fixed budget (e.g. more about values and management of the environment.)

Vote: 

Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Collette, Craddick and Harrington voted in support of the motion. The vote was 7 ayes, the motion <u>passed</u> .
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Council President Hughes closed the Metro Contract Review Board meeting.

**8. CHIEF OPERATING OFFICER COMMUNICATION**

Mr. Robinson provided updates on upcoming construction and road closures due to the Highway 213 Jughandle project, Oregon Zoo's events for Packy's 50<sup>th</sup> birthday, and status update on a procurement process for transportation of residential organic waste.

**9. COUNCILOR COMMUNICATION**

There were none.

**10. ADJOURN**

There being no further business, Council President Hughes adjourned the regular meeting at 4:45 p.m. The Council will reconvene the next regular council meeting on Thursday, April 5 at 2 p.m. at the Metro Council Chamber.



Kelsey Newell, Regional Engagement Coordinator

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF MARCH 22, 2012**

<b>Item</b>	<b>Topic</b>	<b>Doc. Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
	Agenda	N/A	Revised 32212 Council Agenda	32212c-01
3.	PowerPoint	3/22/12	Native Americans in Multnomah County: An Unsettlingly Profile	32212c-02
4.	Minutes	3/15/12	Council minutes for March 15, 2012	32212c-03
6.2	Legislation	N/A	Resolution No. 12-4339 and staff report	32212c-04
7.2	Testimony	N/A	Testimony from Marc Barnes with Integrated Resource Management	32212c-05