

**MINUTES OF THE METRO COUNCIL MEETING**

Tuesday, May 4, 2004  
Sunnybrook Service Center

Councilors Present: David Bragdon (Council President), Susan McLain, Rex Burkholder, Carl Hosticka, Rod Park, Brian Newman, Rod Monroe

Councilors Absent:

Deputy Council President Newman convened the Regular Council Meeting at 1:12 p.m.

**1. INTRODUCTIONS**

Deputy Council President Newman introduced Bob Adams, West Linn City Councilor.

**2. CITIZEN COMMUNICATIONS**

There were none.

**3. ORDINANCES – SECOND READING**

3.1 **Ordinance No. 04-1042**, For the Purpose of Amending Metro Code Chapter 5.02 to Amend Disposal Charges and System

Motion to amend:	Councilor Park moved to substitute Ordinance No. 04-1042 with Ordinance No. 04-1042A.
Seconded:	Councilor McLain seconded the motion

Councilor Park spoke to Ordinance No. 04-1042A. He said after working closely with the solid waste industry, we developed an amended version of Ordinance No. 04-1042 to provide a more equitable allocation of cost increases. He noted, for a complete list of proposed rate changes, see Table 1. Metro’s proposed disposal fee would increase \$4/ton (5.9% increase) to around \$71/ton. To put this in perspective: This rate was still less than 1992-93 rate of \$75, the average effect on residential ratepayer was \$.25 per month and excise tax increase alone only resulted in \$.12 per month increase to ratepayers. For \$.25 a month, residents received access to thousands of acres of parks and greenspaces and the region will reap the economic benefits of investing in our tourism industry. This amendment also proposed phasing in the new cost allocation model proposed by the Rate Review Committee. This amendment recognizes and enacts Metro’s responsibility to work more effectively with local jurisdiction and the solid waste industry to better serve the public.

Councilor Hosticka asked for clarification on which ordinance did what. Councilor Park and Dan Cooper, Metro Attorney, further explained the changes to the ordinances. Councilor McLain clarified what each ordinance would do. Mr. Cooper talked about debt service and allocation. Councilor McLain said this was a Rate Review Committee recommendation. Councilor Hosticka asked about the table in the staff report. Mr. Cooper said the staff report reflected an excise tax that was not part of the ordinances.

Council President Bragdon opened a public hearing on Ordinance No. 04-1042A and 04-1048A.

Ray Phelps, Willamette Resources Inc., 10295 SW Ridder Rd., Wilsonville, OR 970707 summarized his testimony for the record. He thanked the Council for Ordinance No. 04-1042A. He then spoke to Ordinance No. 04-1043 and was happy to hear that this ordinance would be tabled. He talked about Ordinance No. 04-1048. They did not support the proposal but supported the goals of funding for parks and the convention center. They were interested in working with Council on a solution. These were excellent programs but he didn't think that they should be funded by excise tax. They were concerned about where the top would end up.

Mike Dewey, 1249 Commercial St. SE, Salem OR, a Waste Management representative said they supported the recommendation of Ordinance No. 04-1042A as a phased in approach. They also wanted to be involved in a collaborative approach to fund parks and the convention center. He spoke to the rate increase. It would cost an additional \$800,000 a year. Considerations had to be looked at as to what costs could be passed on. He spoke to the consequences of these changes.

Eric Merrill, Waste Connections, 501 SE Columbia Shores #350 Vancouver, WA 98661 expressed his concern about the increase in excise taxes. The overall increase for non-solid waste purpose caused concerns. They were concerned that non-solid waste activities were being funded by solid waste excise tax. They supported funding for parks and convention center but not with solid waste excise tax. They appreciated that Metro would be working with them.

David White, Chair of Tri-County Council, 1739 NW 156<sup>th</sup> Ave., Beaverton, OR 97006 spoke to the sense of frustration that he was hearing from the industry. Council's actions had different impacts dependent upon the size of the company and what kind of work the company did. He said the haulers were frustrated. They believed that Metro's actions created an imbalance in the industry. They felt it was unfair to burden the solid waste system with non-solid waste activities. He suggested asking the citizens if they wanted to pay for these activities with solid waste excise tax. They felt that the Rate Review Committee had done good work. They understood the value of parks and wanted to work with Metro on the funding issue.

Councilor Park talked about regulated versus non-regulated. Mr. White said Portland was highly regulated. They were not advocating for additional regulation.

Council President Bragdon closed the public hearing.

Councilor Burkholder asked about how the phasing worked. Councilor Park said the Rate Review Committee had recommended phasing in costs. This would be a two-year phase in. There were concerns about the franchise and excise tax. There was a level of frustration of not having a clear dialogue with the industry. He spoke to the goals of the solid waste industry. Mr. Cooper added the numbers were based on a two-year phase in but the Council would have to vote on next year's phase in separately.

Vote to Substitute:

Councilors Burkholder, McLain, Monroe, Park, Hosticka, Newman and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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Councilor McLain explained her vote. They had a lot of testimony where industry had talked about two goals; commitment to make sure costs that were allocated were the cost for service and if we were going to have the goals of the solid waste service that they make sure the resources were there. There needed to be more discussion staff.

3.2 **Ordinance No. 04-1043**, For the Purpose of Amending Metro Code Chapter 5.03 to Amend License and Franchise Fees; and Making Related Changes to Metro Code Chapter 5.01.

Withdrawn from further discussion

3.3 **Ordinance No. 04-1048**, For the Purpose of Amending Metro Code Chapter 7.01 To Increase the Amount of Additional Excise Tax Dedicated to Funding Metro’s Regional Parks and Greenspaces Programs and to Provide Dedicated Funding for Metro’s Tourism Opportunity and Competitiveness Account.

Motion to substitute:	Councilor Monroe moved to substitute Ordinance No. 04-1048 with Ordinance No. 04-1048A
Seconded:	Councilor Hosticka seconded the motion

Councilor Monroe explained his suggested amendment. Mr. Cooper further explained the substitution. Council President Bragdon supported both of these measures. Councilor Newman asked about the “A” version. Mr. Cooper clarified the motion.

Vote to amend

Councilors Burkholder, McLain, Monroe, Park, Hosticka, Newman and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

Council President Bragdon announced that Ordinance Nos. 04-1042A, 04-1048A and 04-1052 would be held over until May 13<sup>th</sup> Council meeting.

**4. RESOLUTIONS**

4.1 **Resolution No. 04-3440**, For the Purpose of Endorsing Metro’s Draft Goal 5 Phase 2 ESEE Analysis, Making Preliminary Decisions to Allow, Limit, or Prohibit Conflicting Uses on Regionally Significant Fish and Wildlife Habitat And Directing Staff to Develop a Program to Protect and Restore Regionally Significant Fish and Wildlife Habitat.

Councilor Hosticka introduced the resolution. He said this resolution was the second phase of a three-phase process. He spoke to each step. Andy Cotugno, Planning Director, summarized the staff’s recommendation. To date there had been quite a bit of review. He detailed those reviews from advisory committees.

Council President Bragdon opened a public hearing on Resolution No. 04-3440.

Jim Labbe, Audubon Society of Portland, 5151 NW Cornell Rd., Portland OR 97210 read his testimony into the record. He said there was a number of people in the audience who supported the Audubon Society’s recommendations (those people stood in support) but would not be speaking in the interest of time.

Donna Matrazzo, Audubon Society of Portland, 5151 NW Cornell Rd., Portland OR 97210 spoke to protection of headwater streams. They were concerned that the current proposal did not protect streams enough. She spoke to how streams protected the health of the entire watershed. She noted that streams provided the public with many public values and detailed some of these values. Councilor Burkholder asked what small headwater streams were comparable to. Mr. Labbe said they were talking about upland wildlife habitat. Councilor Burkholder asked if they were talking

about some mapping changes. Mr. Labbe said yes. Councilor Hosticka added that City of Portland had also suggested mapping changes.

Karen Munday, Audubon Society of Portland, 5151 NW Cornell Rd. Portland OR 97210 spoke to wildlife protection and habitat issues. She urged increasing the protection of scarce habitats.

John Frewing, 7110 SW Lola Lane, Tigard, OR 97223 provided written testimony and summarized that testimony. He commended the Council on what they had done thus far. Councilor Newman spoke to Exhibit D and strategies for restoration. He asked for help on restoration ideas.

Nancy Yuill, Clackamas County Community Land Trust, 2316 SE Willard, Milwaukie OR 97222 read her written testimony into the record. She supported the maximum protection option. She spoke to balance and stewardship of the land.

Dick Shook, Friends of Kellog and Mt. Scott Creeks Watersheds, 9815 SE Casa Del Rey Dr, Milwaukie, OR 97222 summarized his written testimony. He said his property was in an impacted area. He emphasized the importance of green corridors to public parks.

John LeCavalier, 1622 SE 55<sup>th</sup> Portland OR 97215 summarized his written testimony. He talked about the Environmental Learning Center partnership. He spoke to the values of urban spaces and what they can bring to schools and communities. We needed to protect the resources that we had now. His key point was to strengthen the matrix to better protect the higher values wildlife areas.

John Ferguson, Home Owner for Habitat, 19110 White Crest Ct., Boring OR 97009 said he was a land owner and care taker of upland forest on one of the Boring Lava Domes. This was a prime wildlife area and threatened by development. He was also a geo-technical engineer who dealt with developments. He spoke to problems with development in critical wildlife areas. He spoke to some of the issues such as the stream impacts of development. There was increased run off, erosion problems and fish dying because of run off from two houses. He had seen riparian areas demolished by development. He gave further violation stories. He urged protection of upland areas. These areas were fragile.

Steve Johnson, Citizen Landowner along Johnson Creek, P.O. Box 82935 Portland OR 97232 did not testify

Tom Wolf Trout Unlimited 22875 N.W. Chestnut St., Hillsboro, OR 97214 did not testify.

Loretta Pickerell, Friends of Goal 5, 26370 SW 45<sup>th</sup> Dr., Wilsonville, OR 97070 did not testify.

Beverly Bookin, Commercial Real Estate Economic Coalition, 1020 SW Taylor Suite 760 Portland OR 97205 provided written testimony and summarized it for the record. She noted some recommendations that their coalition had.

Cindy Cato, Associated General Contractors, 9450 SW Commerce Suite 200 Wilsonville OR 97070 provided written testimony. She highlighted her testimony. She emphasized their major concern. They suggested all industry land and centers be moved to the high economic area.

Kathleen Sala, 19620 SE Wooded Hills Dr., Portland OR 97236 read her testimony into the record.

Noelwah Netusil, Reed College 3203 SE Woodstock Blvd Portland OR 97202 provided written testimony, which she summarized for the record. She had served as a member of the Goal5 ETAC. She talked about her research on development and open spaces. Properties located by openspaces sell for more than those that have no openspaces. She spoke to the ESEE analysis. She felt preservation could protect the economy. She thanked the Metro Council and Metro staff for their hard work. Councilor Hosticka asked for copies of her studies.

Nancy Beamer, 1910 SE Lexington Portland OR 97202 said she was a scientist. She was a citizen resident since 1967 and was testifying as a citizen. She talked about the population increases and the impact on streams and habitat. She talked about the need for balance and that the biological balances were being compromised. She said the environmental qualities had drawn many to come to this region. There was value of property that was located near environmental amenities. She encouraged the Council to continue the tradition of stewardship of streams and habitat.

Christopher Burkett P.O. Box 22108 Milwaukie OR 97269 read his letter into the record. He supported careful stewardship. Councilor Newman asked about regulation of trees, planting and shrubs. Mr. Burkett talked about the Goal 5 proposal and impacts on existing gardens and trees. He cautioned care on how things were worded. Councilor McLain said they were looking very carefully at planting issues. She felt his point was well taken. They didn't want him to think that this program would support no gardening. They wanted people to garden. She spoke to best practices.

Dawn Adams, 2310 Century Lane West Linn OR 97068 said they needed to save these acres to protect fish and wildlife. They were not really owners of the land but stewards taking care of our portion of the earth. We must preserve our remaining wetlands. She wanted these vital habitats saved. She urged maximum protection and long time stewardship.

Martin Loring, 7325 SE Barbara Welch Road Portland OR 97236 said he lived on 2.25 acres that were considered highest value of upland habitat. He also worked with GIS in Clackamas County so was aware of how GIS worked. Barbara Welch Road was built on a streambed. He said the areas above his property had been mapped. He spoke to strict regulations on the lower lands and lesser protection on the upland streams. He urged that they map the upland stream areas and have stronger protections for these areas. He felt the Metro's recommendation were less strict than City of Portland's program. Councilor Burkholder asked if he supported stronger protection of these areas. Mr. Loring said he supported stronger protection. Sometimes you came to these decisions with GIS model and didn't always address upland mapped areas. Councilor McLain thanked him for his specific comments because they were very helpful. They didn't just depend on GIS maps. They had also walked the properties. She talked about the partners they worked who provided more specific information.

Brian Wegener, Tualatin Riverkeepers 16507 SW Roy Rogers Rd Sherwood, OR 97140 said he brought Metro's disappearing streams map. He felt this illustrated the critical juncture we were at. Many streams had been piped. Once the stream was lost it was lost forever. He urged protecting what they had. His second picture illustrated the Cedar Mill Watershed. Losing upland habitat and forestlands affected the entire landscape. He was concerned that the recommendation wasn't being precautionary. Too much was being lost. They wanted to endorse Option 1A and suggested also strengthen upland habitats as well as a program to bring back and grow the canopy of the forest. This protected water quality as well as habitat. We also needed to address storm water issues.

Ruth Burkett PO Box 22108 Milwaukie OR 97269 said she already felt defeated. Their property was extraordinary. She spoke to Title 3 and Goal 5 issues. She was 100% in favor of protecting our natural habitat. In our region, Metro regulations were looking helpful. They needed to prevent additional destruction of habitat. She talked about invasive and non-native species of plants and trees. She urged keeping the properties beautiful and not necessarily getting rid of invasive, non-native plants. She asked Council to protect our streams and habitat but allow for the intelligence of those who did not bulldoze the area. She urged allowing them to protect their property without over regulating in a way, which was not necessarily native species only but natural species as well. Paul Garrahan, Metro Assistant Attorney, clarified Title 3 and the authority under Goal 5. In the current Title 3, it defined the removal of more than 10% of vegetation near streams. Under Goal 5 you could define what constituted a development activity. Councilor McLain said in Title 3 they talked about development activities. She appreciated Ms. Burkett's comments. They weren't against gardening, natural plants or anti-backyard. We can all learn about natural and native plants. They wanted their streams and species protected. Ms. Burkett talked about G1 of Title 3. Councilor Newman suggested that a work session needed to include Ms. Burkett's concerns.

Pat Russell, North Clackamas Citizen Assoc 8010 SE Cypress Milwaukie OR 97267 said he was wearing two hats today. He transmitted a copy of the minutes from his CPO meeting. He thanked Councilor Newman. He showed where his CPO was on the map. They were at the confluence of Kellogg Creek. He then spoke as an individual resident and the mature tree canopy in his neighborhood. He noticed in the Goal 5 planning there had not been enough recognition of tree patterns. He talked about unregulated tree removal. We have a lot of urban streams that needed tree canopies. There needed to be a master plan development for the creek. It was important for Metro to think about systems. He then provided two written letters.

Jacqueline Tommas, Clackamas River Basin Council, 19288 S. Mattoon Rd., Estacada, OR 97023 said they completed studies of almost all of the streams in the Clackamas River Basin. She talked about streams in the way of current urban development. She talked about industrial lands. There shouldn't be permitted exceptions. Quit letting them changes the rules.

Ann Gardner, Schnitzer Steel, 3200 NW Yeon, Portland OR provided written testimony, which she summarized for the record. She said the concern was about a 258 parcel on the Willamette River, the Kaiser shipyard. It was classified as a Class 3 riparian area but was fully developed. It was a scrap yard. She said it was an environmentally sound business. The site was uniquely served and provided economic vitality for the area. She said they managed the site consistently. They met the objectives of the functioning of floodwater. They needed to examine the program to protect these types of area. Councilor Hosticka asked for her help. The developed floodplain category was a huge category. He would appreciate her help if there was a way to distinguish these areas from others.

Dean Apostol, Farmer, 23850 SE Borges Gresham OR urged the strongest possible measures for protection of wildlife habitat. The natural resources of the area were the goose that laid the golden egg. He was on the committee for the Springwater plan. He was concerned about limiting protection of habitat because of development.

Doug Bollam, 3072 Lakeview Blvd., Lake Oswego, OR 97035 said the matter was extremely complex. He commented about existing structures that would be in the overlay zone. In Title 3 they took steps to protect these structures. He felt they had overlooked the times when you wanted to have encroachment. They had programs for educational purposes. We should take advantage of the people who were already

there to help with stream monitoring and educational programs particularly if they had a global benefit. There were people and improvements that were in the zone already. We should take advantage of this. If people were willing to make improvements, which would address educational or scientific purposes, they should be allowed to do this such as a wetland program associated with a grade school. He felt this could help an entire community.

Council President Bragdon closed the public hearing and announced that this resolution would be considered at the May 20, 2004 Council meeting. He said Council would be discussing this next Tuesday.

**5. CHIEF OPERATING OFFICER COMMUNICATION**

There were none.

**6. COUNCILOR COMMUNICATION**

Councilor Park asked Mr. Cotugno to distribute a letter on transportation (a copy of which is included in the record). They were asking the Council to support the letter. Mr. Cotugno said this letter was trying to sort out the positions that were good and bad. There were no objections to the letter.

Councilor Hosticka reminded Council about the industrial land tours, May 5th, 7th, and 10<sup>th</sup>.

**7. ADJOURN**

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 3:42 p.m.

Prepared by

Chris Billington  
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF MAY 4, 2004**

Item	Topic	Doc Date	Document Description	Doc. Number
3.1	Amendment	05/04/2004	To: Metro Council From: Michael Jordan, Chief Operating Officer, with concurrence of David Bragdon, Council President, Ordinance No. 04-1042A, For the Purpose of Amending Metro Code Chapter 5.02 to Amend Disposal Charges and System Fees	050404c-01
3.2	Amendment	05/04/2004	To: Metro Council From: Council President David Bragdon, Ordinance No. 04-1048A, For the Purpose of Amending Metro Code Chapter 7.01.023 to Increase the Amount of Additional Excise Tax Dedicated to Funding Metro's Regional Parks and Greenspaces Programs	050404c-02
3.2	Amendment	05/04/2004	To: Metro Council From: Council President David Bragdon, Ordinance No. 04-1052, For the Purpose of Amending Metro Code Chapter 7.01.023 to Provide Dedicated Funding for Metro's Tourism Opportunity and Competitiveness Account	050404c-03
6	Letter	05/04/2004	To: Don Young, Chair, House Transportation and Infrastructure Committee, James Oberstar, Ranking Member, House Transportation and Infrastructure Committee, James Inhofe, Senate Environment and Public Works Committee and James Jeffords, Senate Environment and Public Works Committee From: Rod Park, JPACT Chair Re: Road Tolls and Pricing Incentive Pilot Program in Transportation Bill	050404c-04
3.1, 3.2, 3.3	Testimony	05/04/2004	To: Metro Council From: Ray Phelps, Willamette Resources Re: Ordinance No. 04-1042, 04-1043 and 04-1048	050404c-05
4.1	Testimony	05/04/2004	To: Metro Council From: Judith Vetsch Re: supports regulations for health of water sources	050404c-06
4.1	Testimony	05/04/2004	To: Metro Council From: Pat Russell Re: distressed about current direction of Goal 5 process	050404c-07
4.1	Minutes	05/04/2004	To: Metro Council From: Pat Russell, Secretary, North Clackamas Citizens Assoc. Re: minutes from March 9, 2004 NCCA meeting	050404c-08



4.1	Testimony	05/04/2004	TO: Metro Council From: Jim Labbe, Audubon Society Re: Increasing protections and direction for program development	050404c-09
4.1	Testimony	05/04/2004	To: Metro Council From: Dick Shook Re: Maximum protection for streams and watersheds	050404c-10
4.1	Testimony	05/04/2004	To: Metro Council From: Beverly Bookin, CREEC Re: Chief Operating Officer's Option 2B recommendation	050404c-11
4.1	Testimony	05/04/2004	To: Metro Council From: Karen Munday, Audubon Society Re: increasing level of COO Option 2B recommendation	050404c-12
4.1	Testimony	05/04/2004	TO: Metro Council From: John Frewing, Re: increasing levels of protection	050404c-13
4.1	Testimony	05/04/2004	To: Metro Council From: Nancy Yuill Exec. Dir. Of Clackamas Community Land Trust Re: support of the maximum protection option	050404c-14
4.1	Testimony	05/04/2004	To: Metro Council From: John LeCavalier Re: support of comments by Audubon Society and Tualatin Riverkeepers	050404c-15
4.1	Testimony	05/04/2004	To: Metro Council From: Cindy Catto, Public Affairs Dir. AGC Re: supports COO recommendation of Option 2B	050404c-16
4.1	Testimony	05/04/2004	To: Metro Council From: N. Netusil, Goal 5 ETAC member, Re: environmental zoning and sale price of homes	050404c-17
4.1	Testimony	05/04/2004	To: Metro Council From: Kathleen Sala Re: changing the designation for property	050404c-18
4.1	Testimony	05/04/2004	To: Metro Council From: Christopher and Ruth Burkett Re: concern over effects of regulations on property	050404c-19
4.1	Testimony	05/04/2004	To: Metro Council From: Ann Gardner, Schnitzer Investment Corp. Re: Habitat Protection for Developed Industrial Lands	050404c-20