

MINUTES OF THE METRO COUNCIL WORK SESSION MEETING

Tuesday, September 28, 2004
Metro Council Chamber

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

Councilors Absent: Rex Burkholder (excused)

Council President Bragdon convened the Metro Council Work Session Meeting at 2:02 p.m.

1. DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, SEPTEMBER 30, 2004.

Council President Bragdon reviewed the September 30, 2004 Council agenda. He noted a suggestion from Councilor Park about Resolution No. 04-3494 and the three-part proposal. He suggested more flexibility, allowing all three goals. Council President Bragdon suggested amending the resolution this week. Final action would be October 7, 2004. Councilor Park said there were continuing negotiations with Metropolitan Exposition-Recreation Commission (MERC). Councilor Newman asked if they still had to come to Council if they were requesting a different way to spend the money. He wanted to have a specific conversation about any changes to the policy. Councilor McLain summarized the agreement. Council President Bragdon said their framework gave MERC guidance.

2. FOLLOW-UP OF FINANCIAL ASSUMPTIONS

Kathy Rutkowski, Budget Manager, said last week she had presented the budget assumptions. This week she was responding to questions Councilors had about those assumptions. She noted two reports before Council (a copy of which is included in the meeting record). She talked about the range of options for Cost of Living Adjustment (COLA). The analysis she had done assumed all employee groups not just AFSCME. She noted 16.5% of every dollar was funded by excise tax. She explained additional table (page 5). She then spoke to the Capital Improvement Projects (CIP) and Councilors' request about what kind of projects that falls within the \$50,000 to \$100,000 range. She said most of those projects were renewal and replacement. Councilor McLain asked about the definition of CIP. Karen Feher, Financial Planning, clarified the definition. Councilor McLain asked why we were doing this? Ms. Rutkowski said the \$50,000 projects fell off the radar screen. Councilor McLain said we have a contracting code and CIP criteria for a particular reason. She believed that these allowed for good public review. She wanted to make sure that they were only changing a number from \$50,000 to \$100,000. Ms. Rutkowski said there was nothing that would change our contract code. They were only changing the dollar amount from \$50,000 to \$100,000. Councilor McLain said as long as these were reported to the Council annually she was OK with this but wanted to ensure the public process.

Councilor Park asked about the elevator replacement at the Oregon Zoo. Ms. Rutkowski said they would see it during contract review board, part of the annual budget process and currently as part of the CIP. Under the proposed change, Council would review it under the first two only. They would however report back to Council. Councilor Park summarized that in the CIP you see it up front. You see a more holistic plan in the CIP. He wondered when we would see these types of projects? Was it important to see the project at \$50,000 versus \$100,000? He gave an example of the Latex Paint Facility. Michael Jordan, Chief Operating Officer, said he wasn't sure that would

resolve his concern. Council President Bragdon asked about the reason for the proposed change. Ms. Rutkowski responded that \$100,000 seemed to be the threshold that the Council wanted. Council President Bragdon asked if this would all be included in the resolution. Ms. Rutkowski said it would be in the resolution.

3. REGIONAL SOLID WASTE MANAGEMENT PLAN REGULATION TO DISPOSAL SYSTEM PLANNING

Mike Hogle, Solid Waste and Recycling Director, said they were getting into the component of the disposal system and how to deal with the wet waste. Council President Bragdon asked about the public comment period. Mr. Hogle updated the Council on the "Let's Talk Trash" public outreach effort. Doug Anderson, Solid Waste and Recycling Department, said this discussion started last year. The Department and the Council felt that they lacked a strategic direction on this issue. They were looking at this issue for the Regional Solid Waste Management Plan (RSWMP) update. Between today and November they would like agreement about the disposal system plan. Today he wanted to outline the issues and talk about the draft work plan.

Issue 1) Statement of purpose of disposal plan, why did we do a plan? Private sector would look at the plan. He spoke to the Metro's role and end point. He further detailed Issue 2) what should the plan address.

Councilor Park said you could view the public system as our transfer station or the entire system. He felt it should be part of the statement of purpose rather than goals and objectives. Mr. Anderson spoke to meeting Metro's disposal contract obligation. He noted constraints. Councilor McLain raised the question of legal aspects. Mr. Anderson asked about the funding source issue. Councilors felt this should be included. He then asked Council about the "other" bullet. Councilors did not add anything for the "other" bullet.

He then talked about the Principles (the how). He said the decision on public ownership of disposal facilities was a controversial issue. He asked to what extent did they need to do detailed planning versus recognizing the decision would be coming up in 2009. Councilor McLain said in the principles section, Council needed to remember the values and use this as a guide as to how Council felt about the principles. She talked about our responsibilities to the service package and/or the regulatory package. Mr. Anderson said the plan should address what services were provided and the best way we should go about this. Councilor Newman said he wanted to address the issue of whether we should own the transfer stations. Councilor McLain had suggested a way to go about getting to the answer to the question.

Mr. Anderson then addressed the services that were required to provide and who provided them. Should this be included in the plan? Councilors agreed that it should. He asked to what extent should Metro's regulate private facilities. He suggested looking at certain regulatory aspects such as market entry, fair and reasonable prices and market share. He then addressed the rehabilitation and enhancement policies. Councilor Newman asked about the transport issue. Mr. Anderson said our contract for transport was part of how we delivered the waste. He said they had to be aware of these but didn't feel it rose to the level of the plan. Mr. Hogle said where they might want direction would be when the contract came up again, they might want to look at revisiting the contract and look at a policy construct in the RSWMP on transport.

The last issue was plan scope. Councilor McLain discussed business practices in the model. Council President Bragdon stated that we could not foresee the answers at the moment. Mr.

Anderson stated that in the past there had been certain Councilors who asked if we would be in the business after 1999, not the current council, but councils past.

Mr. Anderson went on to discuss the timeline and work plan. He asked if Council agreed to this time frame and the work plan. Councilor McLain said Solid Waste Advisory Committee (SWAC) would have an opportunity to look at this as well. Mr. Anderson summarized what they had accomplished in today's meeting.

Councilor Park asked about operational costs. How much do we charge the regional system fee? Mr. Anderson asked for clarification on whether this was public or the entire system. He also suggested a way to figure out the value of the capital assets of the transfer stations. If you didn't have a value of the asset how did you know what you were protecting? Mr. Anderson said they could draft a white paper to look at a bigger context. Value and use issues were policy calls. He asked if they would find this of value. Councilors agreed.

1. DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, SEPTEMBER 30, 2004 AND UPDATE ON THE AZA ACCREDITATION.

Tony Vecchio, Zoo Director, said they received their accreditations with honors. The list of concerns was being addressed right now. They fixed what could be fixed and started the process for fixing other AZA recommendations. He said Mike Keele and Teri Dresler should be given accolades for their efforts. He talked about the success of the World Animal Festival.

4. FISH AND WILDLIFE HABITAT PROGRAM ELEMENTS AND POLICY CHOICES

Chris Deffebach, Planning Department, and Malu Wilkinson, Planning Department, said they were updating the Council on transfer development right (TDR) programs. Ms. Deffebach said tomorrow the Work Plan Implementation would meet. She would be going over what they planned for the group. Ms. Wilkinson detailed the off-site TDR. The land that was being preserved was the sending site and the land it was being transferred to, was called the receiving site. There were a lot of TDR programs around the country most were developed to protect farmland. She spoke to states that had TDR programs. None of the other programs had an Urban Growth Boundary (UGB). She spoke to local programs and how they were working. She gave three examples of TDR programs, Montgomery County program protecting farmland. This was a very successful program. New Jersey Pinelands, which included multiple jurisdictions focused on the development in towns. The third example was King County, which had a program that protected farmland, rural areas and natural resources. The density was transferred into the urban area.

She noted pros and cons of TDR programs. She detailed the impacts on the UGB, the TDR banks, undevelopable land, TDR threshold, ratio of development rights, UGB expansion areas, and density transfer charges (a copy of which is included in the meeting record). Councilor Park talked about a reduction in taxes if you had exception or EFU lands. He talked about the Damascus piece and whether you could use TDRs. There was a TDR that took place in 1973. Councilor McLain talked about land use being efficient and well used, but that the program still allowed protection. Second the private property rights were addressed. We needed to know as much as we could about the tools in our toolbox. She felt this was proactive and positive for the public. Ms. Deffebach said this was a starting point.

Councilor Hosticka reported to the Council what happened at the Tualatin Basin Natural Resources Coordinating Committee. He urged pursuing this discussion. There were a lot of different twists on it. He reported that there were no decisions made at the meeting yesterday. There were twenty papers and they got through about a third of them. They highlighted several issues including a major concern about loss of capacity for development, where, how and when would that loss be made up, map corrections and who would make those adjustments. They also discussed the backyards issues that Metro had discussed and suggested a tree ordinances review to see what the commonalities and differences were and suggested developing a basin wide consistency. There was no further meeting scheduled. Brent Curtis said one of the issue was the developed floodplain issue, which they didn't talk about. There was widely varying views on each of these issues and there needed to be more discussion before resolve.

Councilor McLain reminded the Council what the public had asked them to do.

Ms. Deffebach said she had materials she was planning to distribute to the working group. They were working towards developing performance standards to come in to the district plan approach. This group would be helping them flesh this out. She noted what Council had passed so far concerning the council direction for developing a fish and wildlife habitat program. The other paper she would be sharing was a tentative agenda for the meetings. Finally, she provided materials that others had been asking concerning the Economic Social Environmental and Energy (ESEE) decision fact sheet on buildable lands. Councilor Park asked, of the 8500 acres how much was under federal issues such as wetlands? Ms. Wilkinson said wetland shouldn't be in the 8500 acres. She would look into this for Councilor Park and report back.

5. TITLE II NEW AREA PLANNING

Ray Valone, Planning Department, said this was a follow up on new area planning as well as Title 11. Dick Benner, Senior Attorney explained the Title 11 issues. They had learned about difficulties with doing this planning. He summarized the major points, lack of clarify about the residential density of areas that came into the boundary. He spoke to what the Code currently said now. There was no specific density. In the draft he prepared he offered several options. Second, when Council brought land into the UGB, planning must be accomplished within two years. What happened if local government couldn't get it done in time? He had proposed language that would allow extensions. He then discussed some of the other issues (a copy of which is included in the meeting record). He emphasized this was a first draft. If Council gave direction to begin the process, there would be much more discussion before anything came back to Council. Council President Bragdon said the real issues were the local governments willingness and the fiscal capacity. Both were illustrated by industrial land adjacent to Hillsboro. They had done concept planning in 2002. There were other places, which didn't see the need or didn't have resources to do the planning. These couldn't be addressed in our own Code. Mr. Benner spoke to potential obstacles in urbanizing land being brought into the UGB.

Councilor Hosticka asked about enforceability. Mr. Benner said Title 11 planning requirement was part of the local government functional plan. The COO reported every year to Council about how local governments were compliant with Title 11. Council would then enter an order. He gave an overview of the process for entering a compliance order. Councilor Park asked about the language "10 dwelling unit per acre", he reminded that this was an average. He asked about preservation of capacity. He felt it was important that we had a marker if the concept planning wasn't finished. It may be a decision of the Council to focus on the centers areas. He spoke to Metro as an enforcer versus facilitator. Councilor McLain said they couldn't solve every one's planning processes but as a region we might be able to provide better resources. Council

President Bragdon said we needed to have the larger discussion because it was currently out of Council's hands. Mr. Benner said if you find yourselves needing to add capacity soon, what happened in the Title 11 planning wasn't done for acreage brought in several years ago. You needed to rely upon the capacity when you brought the land into the UGB.

Council President Bragdon asked about Mr. Jordan's experience in bringing in land in Clackamas County. Mr. Jordan said if you were to walk the boundary, you could find, as many iterations of the development as you had jurisdictions. He said there were no linkages between land use laws, annexation laws, and fiscal capacity. Council President Bragdon asked if costs were covered would jurisdictions be willing to plan. Mr. Jordan said budget issues had driven the conversation. Councilor Park asked if they wanted to mandate planning. Councilor McLain urged providing a carrot rather than a stick.

Mr. Valone talked about the Pleasant Valley and Gresham planning. The only one that penciled out was the town center. They had come up with a phasing in process. He talked about some of the problems. Mr. Valone said Gresham had been keeping track, the residential was a 75% and commercial was a 120% pay out. Councilor Park talked about the need for Gresham's costs to net on commercial return. Mr. Valone asked if they could go forward with Title 11 changes.

Mr. Valone passed out a New Area Planning projects and what had changed. He talked about a letter from Multnomah County concerning a request for Metro to amend a condition within the ordinance that added "area 93" to the UGB (a copy of this letter is included in the record). He said there were certain projects that wouldn't be finished. How did he proceed? Councilor McLain suggested looking at the connection between those who couldn't finish their planning. She suggested Metro be a convener with those jurisdictions who weren't finishing their plan. Council President Bragdon talked about those who did not want to do the planning versus a case where they were willing to do the planning but were waiting for the court system to make decisions. Councilor Park talked about allowing extensions and the reason why that could bring lawsuits. Councilor McLain said she would allow extensions with conditions. Mr. Jordan talked about the process for extension. It was an application. He wondered if there wasn't an opportunity to try to accelerate the process and engage Metro Policy Advisory Committee (MPAC) in this discussion. Mr. Benner said there was one other alternative, which was to amend Ordinance No. 02-969B to allow longer planning times. Dan Cooper, Metro Attorney, said Councilor Monroe had asked him to prepare a letter from himself to Multnomah County where he had discussions with the property owners about their willingness to pay the costs. Councilor McLain said she would be more in favor of that than moving the goal post. She wanted conditions. Mr. Jordan said he would work with staff to try and solve the problem. Councilor Park said they needed to identify the problem first. Councilor McLain reinforced what she had said before, she wanted to not allow extensions without some conditions.

Mr. Valone said they would come back to Council with some options. He sent emails on the Damascus Boring project. It would be a huge event to come up with alternatives for the 12000 acres.

6. CITIZEN COMMUNICATION

There were none.

7. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(i) AUTHORIZED TO REVIEW AND EVALUATE THE EMPLOYMENT RELATED PERFORMANCE OF THE CHIEF OPERATING OFFICER

This session was delayed.

8. CHIEF OPERATING OFFICER COMMUNICATION

There were none.

9. COUNCILOR COMMUNICATION

Councilor Park talked about multi-model funding. Council President Bragdon had lunch with Governor Kitzhaber and had talked about the Goal 5 issue.

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 4:55 p.m.

Prepared by,

Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF SEPTEMBER
28, 2004**

Item	Topic	Doc Date	Document Description	Doc. Number
1	Agenda	9/30/04	Metro Council Agenda for September 30, 2004	092804c-01
2	Memo	9/28/04	To: Metro Council From: Kathy Rutkowski, Budget Coordinator Re: Budget Assumptions Follow-up	092804c-02
2	Attachment to Resolution NO. 04-3496	9/28/04	To: Metro Council From: Kathy Rutkowski, Budget Coordinator Re: Attachment 1 Summary of Financial Assumptions for FY 2005-06 Budget	092804c-03
3	Agenda	9/28/04	To: Metro Council From: Doug Anderson, Solid Waste and Recycling Department Re: Disposal System Planning Agenda	092804c-04
4	Policy and Direction Summary	9/28/04	To: Metro Council From: Chris Deffebach, Planning Department Re: Council Direction for Developing a Fish and Wildlife Habitat Program	092804c-05
4	TDR Summary sheet	9/28/04	To: Metro Council From: Malu Wilkinson, Planning Department Re: Off-site Transfer Development Rights (TDR) Summary	092804c-06
4	ESEE Decision Fact Sheet	9/28/04	To: Metro Council From: Chris Deffebach, Planning Department Re: ESEE Decision Fact Sheet	092804c-07
4	Agenda for Work Group	9/28/04	To: Metro Council From: Chris Deffebach, Planning Department Re: Metro Fish and Wildlife Habitat Program Work Group Proposed agendas through December 2004	092804c-08
5	Title 11 Update	9/28/04	To: Metro Council From: Dick Benner, Metro Senior Attorney Re: Summary of Proposed Changes to Title 11 Update	092804c-09
5	Letter	9/23/04	To: Mary Weber, Metro Planning Department From: Karen Schilling, Planning Director for Multnomah County Re: Request for Metro to amend a condition within the Ordinance that added "area 93" to the UGB	092804c-10
5	New Area Planning Spreadsheet	9/28/04	To: Metro Council From: Ray Valone, Planning Department Re: New Area Planning projects and status	092804c-11