

MINUTES OF THE METRO COUNCIL MEETING

March 5, 1998

Council Chamber

Councilors Present: Jon Kvistad (Presiding Officer) Ruth McFarland, Susan McLain, Patricia McCaig, Ed Washington, Lisa Naito, Don Morissette

Councilors Absent:

Presiding Officer Kvistad convened the Regular Council Meeting at 2:03 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

Art Lewellan, LOTI Designer, 3205 SE 8th #9 Portland OR had been presenting an alternative to the South North Light Rail. He spoke of the City Club meeting last Friday where several individual had presented their visions of the year 2040 following the Metro guidelines. He suggested that the transportation plan in regional center in Oregon City was fairly good, however, the Milwaukie regional center plan needed work. He then gave his vision of the year 2040 which included reducing the need for automobile use and creating mixed uses environments in walking communities with mass transit, rail systems, electric buses and trolleys being supported.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. MPAC COMMUNICATION

Councilor McLain met with the Coordinating Committee yesterday as did Councilor Naito and Presiding Officer Kvistad. MPAC had recommended a meeting between MPAC and Council to discuss regional funding and regional issues as far as the Metro budget. MPAC was looking forward to their two full meetings on Title III and to finding out what the Council's time frame was on other issues dealing with the UGB and the Metro Code update.

5. PARKS ACKNOWLEDGMENT PRESENTATION

Charles Ciecko, Director of Parks and Greenspaces, acknowledged and thanked Dr. Michael McKeel for his unique and generous contribution to the citizens of the region and Metro. He donated a conservation easement establishing a permanent land use restriction on a 29 acres in the Beavercreek Creek Canyon near the eastern edge of the City of Gresham. This donation would assure that the resource values of this property would be protected in perpetuity. Habitat value of the property was considered to be good to excellent. Estimated financial value of the donation was \$200,00. However, the site's wildlife, water quality, and scenic value could not be measured in dollars and cents. They viewed Dr. McKeel's contribution as an important first step in reversing the region-wide trend by demonstrating that profitable development and environmental

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protection were not mutually exclusive. This was Metro's first easement donation. He thanked Mr. McKeel again.

Councilor McFarland presented a plaque and thanked Dr. McKeel for his contribution.

Dr. McKeel thanked the Parks department, Tim McNeil, Charles Ciecko and Metro. The real value was that this wouldn't be the last time this happened in the region. He planned to do another donation in the next two years. It was his hope that others in his profession recognized what government services they had received and were able to repay some of those services with like donations.

6. CONSENT AGENDA

6.1 Consideration meeting minutes of the February 26, 1998 Regular Council Meeting.

Motion: **Councilor McLain** moved to adopt the meeting minutes of February 26, 1998 Regular Council Meeting.

Seconded: **Councilor Naito** seconded the motion.

Discussion: **Councilor Morissette** said SWAK was spelled SWAC.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed as amended.

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 98-722**, For the Purpose of Amending Metro Code Title X, Metro Regional Parks and Greenspaces, to Increase Rental Fees at Blue Lake Regional Park's Lake House.

Motion: **Councilor McCaig** moved to adopt Ordinance No. 98-722.

Seconded: **Councilor Washington** seconded the motion.

Discussion: **Councilor McCaig** reviewed that this ordinance involved the Lake House at Blue Lake Park. There was a survey done which determined that Metro was not receiving as much money as we could for renting the facility. The survey showed that we could remain competitive and would see no loss any bookings if the rental fees were increased. The net proceeds to the department were about \$5400. It would increase from \$100 to \$150 dependent upon time of day and the number of hours used.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-722. No one came forward. Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

Councilor Morissette said that he did not believe his vote to have been a tax increase. He believed what Metro was doing was to bring Metro's property in line with its true value.

Councilor Naito added that they were running government like a business.

7.2 **Ordinance No. 98-725**, For the Purpose of Granting A Yard Debris Processing Facility License to the Minsinger's Floral Nursery Inc. to Operate a Yard Debris Composting Facility.

Motion: **Councilor Washington** moved to adopt Ordinance No. 98-725.

Seconded: **Councilor McFarland** seconded the motion.

Discussion: **Councilor Washington** said this was a small facility in West Linn. They were trying to develop a uniform licensing process for all of these yard debris facilities. The facility had been composting and making their own debris for some time. They had been in business for a long time, the \$300 fee and quarterly reporting would be waived. They had no complaints from the neighbors.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-725. No one came forward. Presiding Officer Kvistad closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

8. RESOLUTIONS

8.1 **Resolution No. 98-2613**, For the Purpose of Authorizing the Executive Officer to Contract with Trexler and Associates for Reforestation Assistance on Metro Properties.

Motion: **Councilor McFarland** moved to adopt Resolution No. 98-2613.

Seconded: **Councilor Washington** seconded the motion.

Discussion: **Councilor McFarland** spoke of Resolution No. 98-2613. The issues were reviewed by Mr. Ciecko and Mr. Morgan in committee. There would be a contract with Trexler and Associates to plant trees on 122 acres in Clear Creek and Multnomah Channel areas. The contribution that Trexler would make was \$46,000 and Metro would agree to maintain the trees for 65 years while Trexler would benefit from the carbon credits if the credits became authorized. The Regional Facilities Committee had had a discussion with Legal Counsel about ownership and management. The committee felt comfortable with the agreement. She explained the carbon credit concept.

Councilor Morissette asked why 65 years was chosen for the contract.

Councilor McFarland declared that was approximately the growth plan of a tree. Trees that matured earlier than about 70 years were not really old enough to harvest, that was the growth cycle of a tree. When trees were planted, they were planted for the grandchildren.

Councilor Morissette stated that what was driving this was an industry that, by polluting, was off setting their pollutants with some future legislation so that the air shed would be cleaned by their actions, thus allowing them to pollute. Were we, by guaranteeing that we were going to maintain these trees for 65 years, really taking on a burden that should be maintained by Trexler, if they were getting the benefit of being able to pollute?

Councilor McFarland answered that these were places where we wanted trees anyway. We did not want them taken out and we did not want them cut down for 65 years. There wasn't much maintenance to be done with trees after they got to be of any size at all. They just grew.

Councilor Morissette stated that a polluter was getting the benefit of planting trees, why were they not responsible for maintaining them. He questioned the costs of clearing underbrush so that the trees could grow. Why did Metro get billed for these charges?

Dan Cooper, General Counsel, responded that, in part, this was a policy question. The utility industry was trying to design a program that they hoped the federal government would enact into something that gave them a benefit.

Councilor Morissette asked about that the maintenance, the thinning and the costs that Metro would incur to uphold its end of the bargain.

Mr. Ciecko spoke to the policy question. The view of Parks and Greenspaces was that the areas that would be planted with trees were areas in which trees were desired. Ultimately, Metro would bear the entire cost of both the planting and the maintenance on their own. Metro recognized this was a potential win-win situation. He continued by discussing what was entailed by maintenance. The most vigorous portion of the maintenance was in the first five years and this was referred to as the 'free to grow' period. After the first five years, generally the trees got above the underbrush and were able to grow and compete on their own. After that, they anticipated little maintenance going on and acts of God were specifically identified in the contract as not Metro's responsibility so in the event that a fire or insect damage was to occur and the trees died, Metro would not be exposed to a financial liability in that particular situation.

Councilor Morissette stated that he had just attended a Finance Committee meeting which addressed the resources that Metro did not have. He stated that he wholeheartedly supported doing some kind of process where credit may be given so that someone who was polluting over their limits could get the benefit. He read into the record the following: "The agreement commits Metro to nurture the trees, suppress fires, thin trees, and control damage by wildlife, insects, and disease and otherwise undertake efforts consistent with good silvicultural practices to protect the trees planted pursuant to the agreement for the period of 65 years." The agreement did allow Metro to conduct tree commercial thinning between twelve and fifteen years. He was not arguing that these trees should be cut down. Metro had no desire to cut the trees down nor did we need the timber revenue. He stated that he planted trees and many of those trees, that had no sprinklers in the initial years, died. He was worried that Metro was already taking on more than we could with the greenspaces and no maintenance ability. Metro could not afford to do what was being proposed. It was great to plant the trees and agree not to cut them down. Councilor Morissette believed that, in this resolution, Metro Council was agreeing to more than that.

Councilor McLain stated that she was comfortable with the resolution because it must be remembered that it was Metro who owned the open space. If Metro did not get this offer of a partnership with a business in the community, we would not only be maintaining these trees but would be buying the trees ourselves. She felt that Metro should not just leave some places without trees that we felt was necessary for the good whether it be land banking or whether it be just keeping it in a condition that we thought we could go forward until we could find those maintenance and development dollars or a partner that wanted to manage the area. She thought what we were looking at was good land management and good partnering. We had a business that wanted to get a carbon credit. We had an agency, Metro, that wanted to get some trees planted on its property. It was a win-win situation. Insofar as the amount of maintenance or the amount of input, it would be no different than if we did it ourselves completely. We might choose to hold off on planting the trees but we were definitely going to plant trees eventually. She thought that even though she appreciated Mr. Morissette's comments, since it was Metro-owned

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and it was a management practice that we would be doing anyway, this was a great partnership between Metro and Mr. Trexler.

Councilor Morissette asked Mr. Ciecko if he had the staff to prune, thin, and do all the things that were listed in item No. VI, on any of Metro's land. We had thousands of acres and we were going to have thousands more. He knew what it would cost to do this and he did not think Metro had the resources to do it. His concern was that he did not understand that when a good thing was happening, why we had to step over the line to create something that could potentially be a problem. Trees would get planted, some trees would survive, and as we went through the maintenance of those trees he recommended that Metro allow itself, within its budgetary ability, the option of whether we give carbon credits, not agree to give credits in advance.

Councilor McFarland closed by answering some of Councilor Morissette's concerns. Where these were planted trees they were apt not to require a lot thinning. However by the time these trees were ten or fifteen years old, whatever thinning must be done would be paid for by the wood it produced. The first four or five years, you trim brush to give the other trees opportunity to grow but after that, with the exception of thinning to make these timber trees, not much had to be done . She did not think maintenance was a big item. She recommended approval.

Vote: The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilor Morissette voting no.

8.2 **Resolution No. 98-2614**, For the Purpose of Amending the FY 1997-02 Capital Improvement Plan.

Motion: **Councilor Morissette** moved to adopt Resolution No. 98-2614.

Seconded: **Councilor Washington** seconded the motion.

Discussion: **Councilor Morissette** reviewed that this resolution dealt with the Koala exhibit which was planned to keep attendance up at the Zoo, one of the most attended tourist attractions in the State of Oregon.

Councilor McCaig added that this resolution amended the current Capital Improvement Plan because Metro did not provide for the koalas in the original plan.

Councilor McFarland said the Zoo attendance had been very admirably kept up, this was worth a great deal to Metro. She would be supporting this resolution.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

9. CONTRACT REVIEW BOARD

9.1 **Resolution No. 98-2612**, For the Purpose of Authorizing Exemptions for the Competitive Bidding Procedures and Pursuant to Metro Code, Chapter 2.04.056 Authorizing a Design/Build RFP for Contracting with an Exhibit Fabricator for New Exhibit Interpretives at Metro Washington Park Zoo.

Motion: **Councilor McCaig** moved to adopt Resolution No. 98-2612.

Seconded: **Councilor Naito** seconded the motion.

Discussion: **Councilor McCaig** said that a competitive bid process required that they took the lowest bid. This resolution asked that the Contract Review Board allow for the request for proposal process so that Metro had a bit more flexibility in making a determination about who the vendor should be for this specific project. \$250,000 had been allocated in the Oregon Project for an interpretive design, message boards and projects. In order for the best deal and creativity, which allowed for both the contracting and some of the educational materials to be included in it, it was suggested that the request for proposal processes was more appropriate than the competitive bid process. This resolution authorized Metro to do an RFP.

Councilor Morissette said his concern with this resolution was that Metro was in a situation where currently the Oregon Project was 4 million dollars over budget for conclusion. The Foundation was asked to raise 2 million dollars of this money and 2 million dollars would come from contingency. Had savings been considered prior to releasing this bid?

Councilor McCaig said this issued had not come up in committee.

Councilor Morissette suggested that there may be a process, unless the \$4 million in extra was passed, that would require all portion of the Oregon Project to be less extensive than originally anticipated. Right now they would be over budget by \$4 million if they delivered everything that was assumed.

Councilor McLain said she and Councilor Naito had gone to the Zoo and talked with the project manager and the interim director, Kathy Kiaunis about this issue. She did not consider the \$4 million as extras. These additional costs were discovered as the project began. These costs were essentials that had not been seen in the original design such as transition from old to new Zoo, a new gate and Light Rail entrance, stepping the project out in phases, appeal to the public and ensuring that the public got a reasonable experience at the Zoo. She did not agree with Councilor Morissette about his suggestion that this was a place to make cuts. They wanted to make sure that the project was worth the time, energy and effort, that it was going to be a good business and that they had invested the money in the right places. She felt that the places where the money had been invested were for the enjoyment of the public. She noted that \$2 million being produced by the Friends of the Zoo and \$2 million provided through other Metro funds for running the Zoo and capital outlay, was a good solution. The Zoo director had convinced her that this was an appropriate course of action at this time. This particular project was in the original package.

Councilor Naito said she thought they should set the presentation on the Zoo in a separate forum.

Councilor McCaig asked Mr. Cooper if the request for proposal would come back to Council? At some point we would have to make the determination about how the gap would be closed. She did not feel this was the time, this resolution spoke to a process that Metro would follow. If the question was whether the \$215,000 was still being well spent or should be spent there, she was looking for the avenue to still have that discussion. She urged an aye vote on this resolution and suggested that the general discussion about the Zoo could be discussed at the Budget meeting two weeks from now.

Mr. Cooper responded to Councilor McCaig's question, the resolution allowed the Executive Director to enter into an agreement with the most successful proposer just as he would have the authority to enter into a contract with lowest bidder if he had chosen to go out for low bids and did not need to come to Council at all on this question. He suggested that the Council had the

authority to get into the budgeting issues and make decisions about budget at any time and deal with these issues separately but this resolution was just an ongoing administrative action that was required to come before the Contract Review Board for the permission step to use the RFP rather than the low bid.

Councilor McCaig said she recommended voting on this resolution and having the overall discussion with the budget analyst and the Zoo about how the shortfall would be covered.

Councilor Morissette said that he did not have a problem with the request for proposal going out but as you went through each component of the expenditure, the conclusion was we were \$4 million short of what had been approved by the voters. Logically, this component may be slightly less than what was planned. He suggested getting a bid at the \$215,000 amount and one slightly lower so that this process did not need to occur again.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

10. COUNCILOR COMMUNICATION

Councilor McCaig reminded Council that the next Finance Committee would start at 3:40 p.m. not at 3:30 p.m. do to a room scheduling problem.

Councilor McFarland asked Councilor McCaig which budgets would be reviewed at the next budget meeting.

Councilor McCaig said the Department of Administrative Services and the Human Resources Department would be reviewed next.

Presiding Officer Kvistad said that the MPAC/Council Coordinating Committee met and there had been discussion about a joint meeting between the two groups. There had been some concern about evening meetings and times the two groups could meet. He asked the Council about an evening meeting for this purpose or if they wished to schedule a retreat at a different time or if the Council wished to meet with MPAC at their regularly scheduled meeting time on Wednesday evenings.

Councilor McLain said the majority of the people that sit on MPAC had day time jobs with many not in government. MPAC needed to have an opportunity to come and talk to the Metro Council about infrastructure funding, the planning budget and how to fund the Regional Framework Plan. She felt their request was reasonable. It was her hope that the Council could find a date in April where they could allot four hours. She also suggested two two hour meetings but felt this might lose some of the momentum. MPAC felt that a date in May was too late to impact the budget and it was crucial to talk about the Regional Framework Plan and how we would fund the infrastructure.

Councilor Morissette said when there was the discussion about having evening meetings the Council decided to have them quarterly. Thus far, evening meetings had occurred every month. He would support having an evening meeting on the regularly scheduled evening meeting in May from 4:00 p.m. to 8:00 p.m. Last year the Council had discussed monthly evening meetings and the idea was not supported. He felt this issue was being revisited, he suggested following the process that had already been set. He said that there would be no action taken on funding by any of the regional partners by May, he felt the May meeting would be more than adequate to deal with the MPAC/Council concerns.

Councilor McLain asked if it would be appropriate to have the evening meeting in April instead of May?

Councilor McCaig said there had already been an announcement about the public hearing for the budget at the May evening meeting.

Councilor Naito said that the Council should not deviate from the evening meeting dates. There were people who planned to attend those meetings and they knew in advance when these were set. She strongly believed that the Council should not start changing those dates. She felt there were some competing interests. She would rather start earlier in April but felt that there was a great deal to be gained by having the participation of the entire Council at this meeting. She noted that there may be some conflicts with local governments which meet on Thursday evenings.

Councilor McLain said they would clear their agenda if Council would do it on the MPAC meeting date. They would start an hour earlier, at 4:00 p.m., to accommodate the fact that the Council did not want to have evening meetings. She felt that the regular agenda in May plus having the four hour session on the MPAC/Council would make it a very late meeting. She suggested having the MPAC/Council meeting prior to the regularly scheduled meeting at 7:00 p.m. or after the 7:00 p.m. meeting. She asked about the time frame of this meeting.

Councilor McCaig said she would not have any interest in attending a four hour meeting. It was very difficult to make a four hour meeting productive. If there was enough materials for a four hour meeting, this could be broken down and done in smaller highly focused segments. The longer the meeting, the less quality occurred. Secondly, she did not understand the urgency of all seven councilors meeting with all of the members of MPAC.

Councilor Morissette said he felt they would be much more productive if the joint meeting was scheduled at a regularly scheduled Council meeting. He said if it was a night meeting it did not mean it would have to be a night meeting. He suggested a work session with MPAC where the legislation for the regularly schedule Council meeting was minimal.

Councilor Naito said the Council had identified last year that it was a good idea to get together with their partners. She felt that the Council should listen to the concerns being made, have a facilitator, a set agenda and get through the materials so all could participate in a concerted way.

Presiding Officer Kvistad suggested at the meeting on May 28th, the Council meet with MPAC from 5:30 p.m. to 7:00 p.m. and then go into their regular agenda at 7:00 p.m.

Councilor McLain added that this meeting should be away from the Chamber so there could be a work session environment. She did not think the meeting was long enough but felt it was a good first step.

Presiding Officer Kvistad said unless there was objection from the Council they would draft this recommendation to Judie Hammerstad for MPAC review. If there was a conflict they would get back to Council and let them know at the next regularly scheduled Council meeting.

Councilor McLain asked if this memo would be ready to take to MPAC this next week.

Presiding Officer Kvistad said that this would be prepared at the end of this meeting.

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Presiding Officer Kvistad announced the Council would move into executive session.

**11. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.662(1)(h)
DELIBERATIONS TO CONSIDER CURRENT LITIGATION.**

Presiding Officer Kvistad opened an Executive Session pursuant to at 3:00 p.m.

Present: Council members, Alexis Dow Auditor, Dan Cooper Legal Counsel, Council staff.

Presiding Officer Kvistad closed the Executive Session at 3:14 p.m.

12. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 3:15 p.m.

Prepared by,

Chris Billington,
Clerk of the Council

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