

MINUTES OF THE METRO COUNCIL MEETING

Thursday, July 7, 2005
Metro Council Chamber

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

Councilors Absent:

Council President Bragdon convened the Regular Council Meeting at 2:01 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

There were none.

3. CONSENT AGENDA

3.1 Consideration of minutes of the June 23, 2005 Regular Council Meetings.

Motion:

Councilor Park moved to adopt the meeting minutes of the June 23, 2005 Regular Metro Council.

Vote:

Councilors Burkholder, McLain, Liberty, Park, Newman, and Hosticka voted in support of the motion. The vote was 6 aye, the motion passed with Council President Bragdon absent from the vote.

4. ORDINANCES – SECOND READING

4.1 **Ordinance No. 04-1063A**, For the Purpose of Denying a Solid Waste Facility Franchise Application of Columbia Environmental, LLC to Operate a Local Transfer Station

Motion:	Councilor Hosticka moved to adopt Ordinance No. 04-1063A.
Seconded:	Councilor Park seconded the motion

Councilor Park thanked staff for their efforts in trying to sort through all of the issues. He felt the decision was dependent upon each person's perspective and where they saw things were today. He said this application process started several years ago. He spoke to the changes in the solid waste industry throughout that period of time and the effects of those changes. He felt they were judging Columbia Environmental under those changes in the Code even though they had begun their process prior to those changes. He spoke to issues of fairness. He hoped that they would vote the ordinance now and come back with a negotiated application. Councilor Liberty asked Mike Hoglund, Solid Waste and Recycling Director, about a Columbia Environmental proposal to make ratepayer whole. Mr. Hoglund responded that, the applicant suggested the proposal. It was not part of the decision in front of Council right now. If the Council was to support the application, that may be a component of the application. Councilor Liberty explained his no vote.

He would be in favor of approval contingent upon accepting the proposal concerning making ratepayers whole. He also spoke to public benefit and fairness issues in support of the application. He talked about impact on ratepayers. Councilor McLain said she was voting in favor of the staff recommendation. She felt competition was important and that small businesses be given a fair shake. She felt this was about service, equity and the other parts of our system. They were also dealing with a finite resource. She spoke to accessibility issues and the need for equity in the west. She noted what Vehicle Miles Traveled (VMT) decisions were dependent upon. She said the system and the formula did not work. She talked about changes in the Code and when those changes occurred. Accessibility and capacity were always part of the decision-making. She suggested looking at the finite resources, accessibility and services offered to the region.

Councilor Newman said he would be supporting the staff recommendation. He felt the applicants were a victim of timing. Now considering the circumstances, the applicant fell short. He explained why. He was concerned about the cost going up to the ratepayers and the current unknowns in the system. He talked about Columbia Environmental's offers after the initial application. He felt the door was closed today but not forever. Councilor Liberty asked Councilor Newman about the ratepayers' fixed costs and the integrity of the system. Councilor Newman said counter offers from Columbia Environmental was not assured.

Councilor Park reviewed the staff report of Ordinance No. 01-916C. He talked about the history of the waste shed.

Councilor Burkholder spoke to positive benefits and costs to the region. He supported the work of the staff. He felt the new application was a better deal for the region. The other side was, is this gamble worth it? He spoke to positives on the side of the applicant. He addressed efficiency versus fairness issues. He also noted the risks for the applicant. The new proposal got Metro close to the fact that the cost to the rest of regions ratepayer was getting close. He felt the gamble was worth the cost.

Council President Bragdon said he would be voting no on this ordinance. Councilor Hosticka questioned the process if the motion was defeated. Dan Cooper, Metro Attorney, said Council had until July 22nd to make a final decision. If Council didn't make any decision before that date, the application was deemed accepted. He explained further what happened if Council did not approve the ordinance, the Council could give direction on terms and conditions concerning new information, which wasn't fully developed. Councilor Hosticka said if the applicant does nothing between now and the 22nd, would the application be as stated? Mr. Cooper explained what could happen.

Councilor Liberty asked about staff timing. He wanted to make sure that there was enough time for staff to evaluate the new information. He felt several Councilors were making their decision on keeping ratepayers whole. Mr. Hogle said a third option, if the ordinance was denied, they had some preliminary discussions with the applicant they would sit down and work out an agreement based upon what they heard today from Council. He said this would be the first transfer station that started from the ground up. The applicant was willing to extend the deadline as long as necessary to get approval.

Council President Bragdon said if they were to vote on this ordinance today, he would vote no. If there were an extension, he would ask staff to codify the additional proposals that Columbia Environmental had proposed. He spoke to competition and innovation in the industry. In terms of regulatory barriers to enter into the system, he felt we needed to be starting from scratch. He felt

we were defending a system rather than the public interest. He suggested that our system needed to change to allow for competition and variety of processes.

Councilor Park asked if Council was allowed to add extending the moratorium until Regional Solid Waste Management Plan and Disposal System was completed and put a moratorium on allocation of tons. Mr. Cooper said those items were separate actions. Councilor Park asked if they could express intent. Mr. Cooper said yes. He explained further if the applicant was willing to delay final votes to renegotiate, they had the liberty to do that.

Councilor Liberty asked Council President Bragdon about his no vote. He was trying to make sure that we weren't imposing higher costs to other participants in the system. Councilor McLain said if they denied the ordinance it was important to give staff clear direction. She suggested legal advise on what Metro could negotiate. She said they needed to be very specific about their guidance. She reminded that Metro was part of the system.

Councilor Hosticka said they were voting now on what was in front of Council not a hypothetical notion. He felt staff had done the analysis and looked at the regional impact. He urged that they should deny the application in front of them and come back in six months with another application.

Council President Bragdon laid out the three options that Council had today. Councilor Burkholder asked for clarification, did the application include the \$2.00 a ton issue. Mr. Hoglund said it was not included. Councilor Burkholder felt it was a critical piece and needed to be part of the application for him to support the application. Councilor Liberty understood the frustration about the changing application. He said the \$2.00 fee was just a part of making the ratepayers whole. He was still voting no but explained how his vote would change. Councilor Newman reminded the Council that if Metro didn't do anything in the course of two weeks, the application would be as it stands. He was concerned about the additional conditions that had been put in front of Council. He suggested voting yes, and having the applicant bring a new application to Council in six months.

Councilor Park asked about a motion to continue. Mr. Cooper said unless they had a written agreement between Chief Operating Officer and the applicant extending the deadline, the application was as it stood.

Motion to continue:	Councilor Park moved to continue the ordinance until July 21, 2005.
Seconded:	Councilor Burkholder seconded the motion

Councilor McLain explained why she couldn't support the continuation. Councilor Liberty expressed concerned about the minimal amount of time. Councilor Hosticka asked about procedure. This motion was on an application before Council. Mr. Cooper said the original application came in July 24, 2004. Then the applicant provided a modification to the application. He explained further what processes could occur. Councilor Hosticka said the effect would be to give the applicant opportunity to modify the application. Council President Bragdon explained his yes vote. Councilor Park agreed that we needed to get it taken care of by July 21st or let it go another six months.

Vote:

Councilors Park, Hosticka, Burkholder, Liberty and Council President Bragdon voted in support of the motion. The vote was 5 aye/2 nay, the motion passed Councilors McLain and Newman voting no.
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Councilor McLain said her direction to staff was that Council was not willing to accept an application that would make part of the region pay more for the service. Second, recycling was important. She suggested they nail down the specifics of their recycling. They needed to do more. Councilor Hosticka said he didn't think they gave direction to staff at all, they gave direction to the applicant. The onus was on the applicant to give Metro a new application with the expressed intent of changes noted by the Council. He suggested putting criteria around how they would support the application. They had not directed to staff to do anything. Councilor Park closed by suggesting Council study the staff reports.

Motion to reconsider the motion to continue:	Councilor Hosticka moved to reconsider the vote to continue the ordinance until July 21, 2005.
Seconded:	Councilor McLain seconded the motion

Councilor Hosticka explained his request to reconsider the vote. Council President Bragdon explained why he would be voting against this reconsideration. Councilor Newman would be voting yes to reconsider. Councilor McLain said she would also vote yes on the reconsideration. She said they had only one thing to vote on today, which was the application before Council. Councilor Liberty said he would vote no and explained the timeline. He felt they had given some direction to staff.

Vote:

Councilors Park, Burkholder, Liberty and Council President Bragdon voted against the motion. The vote was 3 aye/4 nay, the motion failed with Councilors Hosticka, Newman and McLain voting yes.
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Council President Bragdon talked about the changing solid waste system. Councilor Newman took issue with Council President Bragdon comments. The Council voted unanimously for a moratorium and explained the need to understand this changing system. They were trying to avoid an ad hoc system. He felt it was better to set up a system that they thought achieved that public good. Councilor Hosticka took issue with the comments made and explained why. Councilor McLain expressed her concerns about managing the system. She spoke to the philosophical debate today and the need to review the application.

5. OREGON LEGISLATIVE UPDATE

Mr. Cooper said the legislature was waning. There hadn't been a lot of movement on the bills that we were interested in.

6. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordon, COO, had nothing to say.

7. COUNCILOR COMMUNICATION

Councilor McLain talked about the architecture of Disneyland Main Street. Mr. Disney was ahead of his time as far as transit.

Mr. Cooper said he was in northern Arizona at the Grand Canyon and saw condors flying in the wild.

Councilor Burkholder reminded Council about the bridge pedal event August 14th. They wanted to celebrate the 10 greatest things that had occurred in the region over the last 10 years. They would be celebrated the open spaces bond measure as one of those 10 greatest things. He urged Council's participation.

Council President Bragdon said the Minister of Infrastructure and Urban Affairs from Canada would be at Metro on July 20th in the morning.

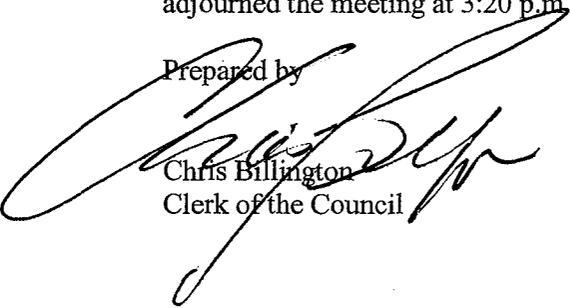
Councilor Liberty said he had the opportunity to ride the new sky train in Vancouver, Canada. He talked about high-density urban development. He talked about the pattern of development. He noted the high capacity transit system.

Council President Bragdon talked about history of the boundary commission. They had two cases before Metro. They had to reestablish a commission. He recruited individuals who were available to serve on the commission: Roger Vonderharr, Jill Thorn and Jeannette Hamby.

8. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 3:20 p.m.

Prepared by


Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JULY 7, 2005

Item	Topic	Doc Date	Document Description	Doc. Number
3.1	Minutes	6/23/05	Metro Council Meeting Minutes of June 23, 2005	070705c-01