

MINUTES OF THE METRO COUNCIL MEETING

March 26, 1998

Council Chamber

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

Councilors Absent: Susan McLain (excused)

Presiding Officer Kvistad convened the Regular Council Meeting at 2:08 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

Mr. John Weigant, 429 N Bridgeton #B, Portland, OR 97217, believed that most of the work that Metro did was excellent, particularly he favored Metro's efforts at a strong policy of growth management. He believed the efforts of growth management were conservative and realistic. He felt that policies to carry out growth management were somewhat lacking. Due to this belief, he had officially registered a protest with the Metro ballot title for the Oregon Convention Center. He noted that Mr. Don MacIntire had also registered opposition to the ballot title. Metro's requirements for a ballot title required an impartial statement and he felt that the one that was published hardly qualified as an impartial statement. He believed that the statement was entirely one sided, filled with misinformation, information subject to interpretation. He felt that the Council needed to know their protester, therefore, he was here to register an opposition to the ballot title. He felt Metro needed to rethink how Metro's policies with the Oregon Convention Center and purpose for economic growth meshed with policies of growth management and the econometric population projection model that equated population growth to jobs and economic growth.

Councilor McFarland asked if Metro had done anything right with the ballot measure?

Mr. Weigant said he believed, judging from the ballot title, that the Oregon Convention Center was a powerful enough economic force in the community that it should be privatized.

Councilor McFarland summarized Mr. Weigant's comments indicating Metro had done hardly anything right.

Presiding Officer Kvistad said that Metro had built a wonderful facility.

Mr. Weigant agreed.

Councilor McFarland noted that what Mr. Weigant suggested was to turn the Convention Center over to private industry and let them run it.

Mr. Weigant said when you make the claim that Metro has had a 2.2 billion dollar economic impact since the Convention Center was built, he did not understand how you could justify this bond.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. MPAC COMMUNICATION

None.

5. CONSENT AGENDA

5.1 Consideration meeting minutes of the March 19, 1998 Regular Council Meeting.

Motion: **Councilor McCaig** moved to adopt the meeting minutes of March 19, 1998 Regular Council Meeting.

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

Discussion: **Councilor Naito** suggested changing one of her remarks in the minutes, she had submitted this in writing to the Clerk of the Council. Councilor Morissette clarified the spelling of Mr. Stimson's name.

Vote: The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed as amended.

6. ORDINANCES - FIRST READING

6.1 **Ordinance No. 98-726**, For the Purpose of Changing the Name of the Metro Washington Park Zoo to Oregon Zoo.

Presiding Officer Kvistad assigned Ordinance No. 98-726 to Regional Facilities Committee.

6.2 **Ordinance No. 98-736**, For the Purpose of Granting a Yard Debris Reload Facility License to Best Buy in Town, Inc. to Operate a Yard Debris Reload Facility.

Presiding Officer Kvistad assigned Ordinance No. 98-736 to the Regional Environmental Management Committee.

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 98-731**, For the Purpose of Granting a Yard Debris Processing Facility License to Allwood Recyclers, Inc. to Operate a Yard Debris Processing Facility and Declaring an Emergency.

Motion: **Councilor McFarland** moved to adopt Ordinance No. 98-731.

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

Discussion: **Councilor McFarland** said this ordinance had passed out of committee with a 3/0 vote.

Councilor Morissette added that this ordinance was relicensing a recycling facility that had already been in existence.

Councilor McFarland said the franchising of this facility had been delayed, this was not anything new. She recommended a do pass.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-731. No one came forward. Presiding Officer Kvistad closed the public hearing.

Councilor McFarland urged the council's support.

Vote: The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously of those present.

8. RESOLUTIONS

8.1 **Resolution No. 98-2604**, For the Purpose of Approving the FY 1999 United Work Program.

Motion: **Councilor Washington** moved to adopt Resolution No. 98-2604.

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

Discussion: **Councilor Washington** said this resolution would approve the United Work Program, continue the transportation planning and work program for FY 1999 as well as authorize the submittal of grant applications to the appropriate funding agencies. This program covered all of the planning and grants for the Portland and Vancouver area such as the federally funded programs, studies to be conducted by Metro, the Regional Transportation Council, TriMet, ODOT, the City of Portland as well as local jurisdictions. Major commitments would continue for the completion of the Traffic Relief Options Study, the congestion pricing pilot project, adopting a Regional Transportation Plan, completing the South Willamette River Crossing study, initiating a Highway 217 corridor and I-5 Bi-state trade corridor study as well as increasing the communication of transportation system performance needs and proposed plans. This program matched the project and studies reflected in the proposed Metro budget submitted by the Metro Executive to the Office of the Metro Council and was subject to revision in the final Metro budget. Approval of this resolution would mean that grants could be submitted and contracts could be executed so work could commence on July 1, 1998 in accordance with Metro established procedures.

Councilor Morissette commented that the work program's over reliance on alternative modes, in his opinion, was too high. There was not enough effort being spent on studies for additional highway projects, road widenings and the like.

Councilor Washington urged the council's support.

Vote: The vote was 5 aye/ 1 nay/ 0 abstain. The motion passed with Councilor Morissette voting nay.

9. CONTRACT REVIEW BOARD

9.1 **Resolution No. 98-2618**, For the Purpose of Amending the Contract between Metro and David Evans and Associates (Contract No. 904969) for Design and Construction Management Services for the Peninsula Trail in North Portland.

Main

Motion: **Councilor McCaig** moved to adopt Resolution No. 98-2618.

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

Discussion: **Councilor McCaig** said that this was a rather complex item. The Peninsula Crossing Trail was a \$1.6 million greenspaces bond measure item. In 1995, the project was estimated to cost about \$1.6 million. With interest Metro now had about \$1.8 million in the bank for the entire project. About six months ago there was an amendment before the council to allow Metro to take advantage of some federal funds and replace openspaces dollars with the Springwater OMSI Trail. This was about a \$580,000 switch, Metro took the \$580,000 bond money and leveraged federal dollars to put into the Peninsula Crossing Trail and replaced the Springwater OMSI Trail with bond dollars. In doing this switch, there were increased costs associated with putting federal dollars into the Peninsula Crossing project. The project was still within the \$1.6 million but the \$580,000 that was added to the project were all federal dollars. There was a corresponding contract amendment that went with this switch for \$90,000 which allowed David Evans and Associates to pursue those additional requirements related to the federal dollars now in the project.

This resolution was another amendment to the David Evans contract. Their original contract for the \$1.6 million project was \$122,000, then there was the amendment for \$90,000 related to the switch over of federal dollars, and this was a \$38,000 contract amendment before Council. The \$38,000 contract amendment was related first, to the federal dollars, the David Evans group said that the federal dollars had caused increased permitting, supervisory and documentation requirements and second, some of the increase was simply the cost of the project, some of the design needs were some that they had not anticipated. She had reviewed the documentation and found that there were several items that should have been included in the scope of the David Evans contract and not in this amendment. She said she would be bringing forward an amendment to this resolution.

Councilor Morissette asked Councilor McCaig if the federal program was in place when the additional cost of \$90,000 was added?

Councilor McCaig said yes.

Councilor Morissette summarized that the David Evans group had had an opportunity to estimate what that impact was going to be and at that time their estimate was \$90,000.

Councilor McCaig reiterated that she understood Councilor Morissette's question and the answer was that they did have that opportunity and this resolution was an addition to those original costs. She reviewed her amendment. In looking at the \$38,000, there were some costs which she believed were legitimately included within the scope of their finding that the costs exceeded what they believed would be covered with the additional \$90,000. There were some minor items that she felt were nickel and diming Metro and she felt this \$4000 mattered. The two items that she had pulled out were the artists selection of \$3600. They had anticipated it in their

original budget but had not included it in their final budget and so now they were requesting an amendment. This did not pass the nod test for her. If they could anticipate it at the time, knew that it must be done but didn't put it in their final budget and now they said they forgot but they would like to get paid for it, she recommended deleting this item. The second piece of the amendment focused on the unanticipated expenses where they were billing Metro \$1,032.76 for printing of mylar maps that they had not anticipated. This also did not pass the nod test when they now had a \$233,000 contract with Metro, they should have anticipated that Metro might need these maps. She indicated that the rest of the increases in cost were appropriate.

Motion to

Amend: **Councilor McCaig** moved to amend the resolution by changing the dollar figure reducing the amount of change order #2 by \$4,632.76. The new change order amount will be \$3,500. The new contract total, post order would be \$256,839.60.

Seconded to

Amend: **Councilor Morissette** seconded the amendment.

Discussion: **Councilor Naito** indicated that she had had some questions in committee about the artists fees as well. She noted the 1% for the arts which she understood had been anticipated in the \$90,000 figure. She said when this additional money came in, how did it effect the overall project, probably not at all. She thanked Councilor McCaig for her scrutiny of the resolution, it had not made sense to her why there would be additional costs with respect to artists just because Metro had received federal money. The 1% art program was a state run program.

Councilor McCaig said this was correct, the price of doing the artist competition had turned out to be a nightmare. There had been many more applications than anticipated, more staff time had been used but they had not included these costs in their original bid. It was part of the original process, there was nothing new as a result of the federal dollars associated with the project. She felt the additional artists and time to review applications was an oversight on David Evans and Associates part when they put the contract together but this was not Metro's responsibility to cover those oversight costs.

Councilor Washington clarified with Councilor McCaig that the adjustment would be from \$38,132.76 down to \$33,500.

Councilor McCaig said that was her recommendation, eliminating the overview of the artists selection for \$3,600 and \$1,032 of unanticipated expenditures.

Councilor Washington asked, based on this letter, was there an assumption that Metro was going to pay the \$38,000?

Councilor McCaig said prior to putting forward the amendment, she had made a call to see the extent to which Metro had the ability to negotiate, she assumed we did have that ability and had verified that Metro did in fact have the ability to negotiate the price.

Vote: The vote was 6 aye/ 0 nay/ 0 abstain. The amendment passed
to Amend: unanimously.

Presiding Officer Kvistad declared that Resolution No. 98-2618 had been amended and would now be Resolution No. 98-2618A. He called for further comments on the motion as amended.

Councilor Morissette expressed his concern. The Council had reviewed this contract previously and now the costs had overrun again. He did not doubt that there was a lot of work in putting this project together but when you estimated a project you had to assume you would complete it. He felt the greenspace staff had done a good job of putting these proposals together. They were complicated but when he bid a job he had to live with his mistakes. He appreciated the last amendment that reduced the \$38,000 and he was sure that David Evans deserved much of this adjustment but there were a lot of times when Councilor Morissette had misestimated a bid, he had deserved it too but he hadn't gotten it. He urged the Council not to support the additional money proposed for this group. They had already had their chance to propose their amendment, the rules were laid out, granted the process changes, but that was part of working with government.

Councilor Naito said she would support the change order. This was a very important trail and a very exciting project. She believed it was the actions of Metro itself which additionally increased these costs, those could not have been foreseen by David Evans and Associates. She expressed concern as we move forward, because of the nature of the trail itself, they may anticipate even additional change orders coming forward. It was with some hesitation that she supported this proposal but she felt it was a very important project. She thought it was important to move forward with the project.

Councilor Morissette said his comments were not at all related to the project, they were to the fact that a bid was made, there was an adjustment made already and now there was another adjustment. He thought it was important that no matter how important a project was, you tried to stay on price. His comments were more to the budgetary process and the cost overruns than they were to the value of the project.

Councilor McCaig said, first, the project in 1995 was estimated at \$1.6 million, the project now would be \$1.675 million. Metro was doing very well four years later on a project of this size to be within that sort of framework. Secondly, the testimony that Councilor Naito was referring to was not eliminating the possibility for David Evans to be back. Primarily Metro anticipated that, with a construction project this size as the construction part unfolded (the design piece), it was possible that the Council might see some other change orders to different elements of the project. She thought the majority of these changes would be construction and hopefully not the David Evans contract. She concurred with Councilor Naito's comments, it was a great project. She felt that the Council had some right to expect that there would be some of these kinds of changes to the project and to the scope of these contracts as Metro engaged in something this big. She reminded the Council this was the first time that we had done this type of project. It was her hope that the Council would support this resolution as amended.

**Vote on
the Main**

Motion: The vote was 4 aye/ 2 nay/ 0 abstain. The motion passed with Councilor Morissette and Presiding Officer Kvistad voted nay.

10. COUNCILOR COMMUNICATION

Presiding Officer Kvistad said that the April 2nd Metro Council meeting was canceled due to a lack of action items. He noted that there had been an item for first reading, the Ethics Ordinance. He had sent this ordinance to both the Auditor and the Executive Officer and had asked them to review it. They would be making comments and return these to the Council, these comments would be sent to the committee and then at that point it would be on the agenda for first reading.

Councilor McCaig said she wished to talk about the Budget/Finance calendar schedule. Due to yesterday's meeting she expressed concern that the Council had enough time to get through the rest of the items on the Budget Committee. She suggested adding a half hour instead of adding an entire new meeting day. She suggested starting at 2:30 p.m. for the April 1st meeting instead of starting at 3:30 p.m. This was not possible the week following due to the Regional Facilities Committee just prior to the Budget Committee. Additional time could be added to the end of the meeting on April 8th. The Budget Committee had already agreed to start at 2:30 p.m. on April 15th because this was the day they hoped to complete most of their work. April 22nd was a free day, that was the day she had held open if they needed to schedule another meeting date. She was pretty confident that if a half hour was added on the end of one of the other meetings that the committee would be able to get through the other agenda items. She asked that councilors check their schedule for next week to see if they were available to come in early.

Councilor McFarland suggested that April 1st meeting be schedule at 2:30 p.m. and asked for consensus before today's adjournment.

Presiding Officer Kvistad said with the agreement of the majority of the council and the assent of the Chair, the Budget Committee would begin at 2:30 p.m. next week.

Councilor McCaig said notices would be sent out about the time change and unless council heard differently they would begin the meeting at 2:30 p.m. and would also do a reminder call.

11. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 2:35 p.m.

Prepared by,

Chris Billington
Clerk of the Council

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