

MINUTES OF THE METRO COUNCIL MEETING

September 10, 1998

Council Chamber

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

Councilors Absent:

Presiding Officer Kvistad convened the Regular Council Meeting at 2:09 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. AUDITOR COMMUNICATIONS

None.

5. MPAC COMMUNICATION

None.

6. CONSENT AGENDA

6.1 Consideration meeting minutes of the September 3, 1998 Regular Council Meeting.

Motion: **Councilor McFarland** moved to adopt the meeting minutes of September 3, 1998 Regular Council Meeting.

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

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

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 98-772A**, For the Purpose of Amending First Tier and Urban Reserve Planning Requirements for Urban Growth Boundary Amendments and Establishing Priorities for Including Land in the Urban Growth Boundary.

Motion: **Councilor McLain** moved to adopt Ordinance No. 98-772A as amended.

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

Councilor McLain brought to Council's attention an MTAC action dated September 9, 1998, which was an amendment to Title 11 (found in Section 3.07.11.020). She asked Ms. Hammerstad to comment about the Ordinance.

Judie Hammerstad, MPAC Chair and Clackamas County Commissioner, said MTAC had recommended that MPAC adopt the Title 11 language, which they did. They then passed the entire amendment unanimously with one abstention. She commented that they were very pleased with what happened with the amendment and recommended to Council that they pass the amendments as submitted.

Councilor Morissette clarified that MPAC supported 98-772A as amended and asked what affect she believed it would have.

Commissioner Hammerstad replied that it allowed cities and counties to adopt their comprehensive plans prior to the time Metro Council adopted the urban reserve planning. It also allowed property to come into the urban growth boundary prior to the completion of master planning, but only if there was a commitment from the governing jurisdiction that master planning would be completed and that they had a timeline and a funding source. She said they were looking at satisfying the statutory requirements and giving some flexibility to local governments. She felt the amended version's language was acceptable and workable for local governments.

Councilor Morissette asked Mr. Cooper if that was how he understood the new amendment.

Mr. Dan Cooper, Legal Counsel, clarified that the second motion was a grammatical correction to make it consistent with the rest of the document. He said it was purely technical and made the document read better. The first motion changed wording from "city and county adoptions" to "city or county adoptions" which clarified Council's expectations regarding how the land would be urbanized. It also put a timing sequence into this section of the Functional Plan by putting the order of the adoptions. He felt that was of importance to local governments. He said it may have some consequences on land use appeal orders that may take some technical corrections, but they could be worked out before anything happened. He said it did not substantively change any of the other provisions in the current ordinance. He said the motions did not deal with land coming into the urban growth boundary.

Councilor Morissette was concerned about what would happen if the parcels discussed did not add up to the 50% need.

Mr. Cooper said there was no easy answer to that but the proposal before Council did not deal with that issue.

Councilor Morissette said he thought there was going to be some discussion regarding whether there would be work done on that "what if" next year.

Mr. Cooper said it would be his job to help whoever wanted to do that work.

Councilor McLain said those questions had been asked at the MPAC and MTAC meetings. The answer was that Council had not said this was all the work there was to do. They believed the code would make a commitment to ensure urban reserve planning and give consistency and opportunity to complete the planning Council wanted done. Secondly, if the 50% was not reached, Council would have more choices and code changes to make. There would be a need for further dialogue. She said MPAC and MTAC wanted to gather the most information they could before January so they could make those choices. She said the Urban Growth Report and the Productivity Study that were before council would help answer that question but they had all made a commitment to continue the conversation in January and it was possible there would be more Metro Code amendments. She pledged today as she had last week that they would not forget the rest of the conversation.

Councilor Morissette reiterated that if there was not agreement among the partners for the need to be fulfilled, then there was a commitment by Councilor McLain that sometime next year Metro would be taking up that issue to find a way to make sure the need was provided as designated.

Councilor McLain responded that was correct with the additional important information from the Productivity study and the update on the Urban Growth Report.

Commissioner Hammerstad said there was also the hierarchy of lands coming in: First Tier lands would be considered first, then other lands could be considered; that first tier lands that were almost ready could then be considered. She said it looked like it would reach the 50%. She agreed with Councilor McLain's comments that next year's work would be difficult and they needed to commit themselves to doing it.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-772A.

Greg Leo, Rosemont Property Owners Association, 11938 SW 25th Portland OR 97219 testified against Ordinance No. 98-772A. He said the ordinance changed the rules concerning addition of lands to the UGB (a copy of his written testimony is part of the permanent record of this ordinance).

Tasha Harmon, 802 SE 27th, Portland, OR 97216 representing the Coalition for a Livable Future, said affordable housing advocates had concerns about allowing land to come into the urban growth boundary without concept planning being completed. She said their concern was regarding existing code language about housing diversity and affordability, specifically the language that read "demonstration of how residential developments will include without public subsidy housing affordable to households with income at or below area median for home ownership and at or below 80% of area median income for rentals". They were concerned about the vagueness of the language. She feared land prices would skyrocket without more specifics and felt it would be a shame to lose this opportunity to ensure that at least the upper end of the affordable housing need was provided without using the precious and few public subsidy dollars. She felt that nothing she would say today would stop the process and that it was already a done deal. She strongly urged Council to move quickly to clarify and improve on the vague language so developers would have clear expectations and local jurisdictions would not be put in a position where they would have to make decisions to pay for housing at 100% of area median income which the development community should be able to provide if they did not pay too much for the land.

Kelly Ross, Portland Home Builders Association, said they were supportive of this process and appreciated all of the work done by Councilors McLain, Morissette and Monroe as well as the

MPAC members. He again expressed a concern he had brought up before about a possible worst case scenario. He said the amendment basically created two doors by which land could come into the urban growth boundary, first if it satisfied all of the planning requirements of the Metro Code and second, if the local government committed to do those planning requirements eventually. He said it was indeed possible that both of those doors could be closed if it should happen that the commitment from the local government didn't come.

Councilor Monroe said he understood there were 3 possible ways for land to come into the urban growth boundary: a) if an adjacent city agreed to take it in and presented an appropriate plan, b) if the county the land was in had sufficient entities to provide the urban services and they presented a plan, and c) if there was a group within the urbanizable region that decided they wanted to incorporate and form a new city which would then provide the services. He thought this was the best they could do. He said that while it was true there was a possibility that a), b) or c) wouldn't or couldn't happen for some reason he did not see how that could be dealt with here.

Mr. Ross agreed but said, even so, state law allowed for an additional option which was to bring land into the urban growth boundary without some of the preplanning worked out.

Presiding Officer Kvistad closed the public hearing.

Motion to Amend: **Councilor McLain** moved to amend Ordinance No. 98-772A to include the two additional amendments: 1) To amend Title 11, Section 3.07.11.020 first sentence as follows: "All territory that is added to the Metro region Urban Growth Boundary as either a major amendment or a legislative amendment pursuant to Metro Code Chapter 3.01 shall be subject to an Urban Growth Boundary urban reserve plan adopted by the city or county which will exercise urban land use planning authority over the territory and subsequently approved by the Metro Council as consistent with the applicable requirements of Section 3.01 of the Metro Code ~~and adopted by all cities and counties having jurisdiction over the territory prior to any urban development occurring in the territory.~~" and 2) To revise the first sentence of proposed Section 3.07.11.030 from: "Cities and counties shall adopt Urban Growth Boundary amendment urban reserve plans as a component of their adopted comprehensive plans" to: "Urban Growth Boundary urban reserve plans shall be adopted as components of city or county comprehensive plans."

Seconded the

Amendment: **Councilor Monroe** seconded the amendment.

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

Amendment: Presiding Officer Kvistad indicated that this would become a "B" version of Ordinance No. 98-772A.

Councilor Morissette said there were solutions to deal with that but this vote today was for a simplified code process to allowed Council to meet the 50% commitment for bringing land into the urban growth boundary and making sure it had a good chance to be developed at a better use than before it was brought in. He said he still had a problem with inclusionary zoning and replacement ordinances and the high expectation of redevelopment as well as the "without subsidy" comments. He felt there were much better ways to solve the problem. He felt the regulations were the real cause of the affordable housing crisis and that they needed to be addressed. He said this ordinance was a much improved process for bringing land into the urban growth boundary and still protecting it than the current one. He said he intended to support the ordinance.

Presiding Officer Kvistad thanked MPAC and MTAC for their work. He said his biggest concern was that they hadn't restricted their ability to work together. He thought this was a better document and he would also support the ordinance.

Councilor McLain said she appreciated all the work that had been done. She specifically mentioned the work by Elaine Wilkerson and Dan Cooper. She responded to some items from the public testimony. First, to Greg Leo from the Rosemont Property Owners Association. She said she did not believe the Council had disenfranchised anyone in the process with this code. She said they had followed their own RUGGOs and the 2040 Concept as well as their Functional Plan. She said they had tried very strongly to make it understandable to developers, local jurisdictions and other partners and service providers regarding what Council expected of the master planning. She said they had to follow state goals #14 and #2 and the code allowed for that. To Ms. Harmon's comments on affordable housing she responded that they could not make more specific language until the task force was ready to go to work so it was 7.2 they needed to deal with. She said she would support getting that done. Her final comment was to Kelly Ross from the Homebuilder's Association. She said there was a commitment today to come back to that question when the review of the urban growth report was finished. She felt this was one of the best pieces of work Council and MTAC had done together and felt they were ready to start working on the decisions they needed to make by the end of the year. She urged support.

**Vote on
the Main**

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

7.2 **Ordinance No. 98-769**, For the Purpose of Amending the Regional Framework Plan Section 1.3 Regarding Housing and Affordable Housing, Adding a Chapter to the Metro Code Creating an Affordable Housing Technical Advisory Committee and Confirming the Appointment of Members.

Motion: **Councilor Washington** moved to adopt Ordinance No. 98-769.

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

Councilor Washington said the purpose of this was to have a discussion before Council and he was prepared to do that.

Councilor McCaig admitted she left the dais last Thursday and was surprised to see this on the agenda today. She understood there was a motion to pull it out of committee and put it on Council's agenda today. She wondered if there were other motions that surfaced today, what would be the process.

Presiding Officer Kvistad said the process today was for discussion. It would be available for amendment, change, or moving forward.

Councilor McCaig concluded it could rise or fall based on what happened here today.

Councilor Monroe said there had been on going negotiations relative to this and asked Mr. Cooper if he had resolved the issues with the concerned individuals or did he need more time.

Mr. Cooper said the issues had been resolved premised on the adoption of this ordinance as presented to council today. He said if the Council did not pass this version of the ordinance, there would be a limited opportunity to go back to the parties to perhaps find an alternative solution. He said if this version was not accepted, he would recommend sending him back to the table to find an alternative acceptable to Council and the 3 petitioners. He said if this version was accepted and adopted, the matter ended here.

Councilor Monroe asked for a one week continuance on this ordinance. He believed that while it would not be perfect, with that additional week an accommodation could be worked out that would meet the serious concerns of a number of people relative to this ordinance so they could get the task force in place and working. He said he would like to have it happen as soon as possible but if the additional week would make others more comfortable, he would move the continuance.

Motion: **Councilor Monroe** moved for a one week continuance of Ordinance No. 98-769.

Presiding Officer Kvistad asked the maker of the motion if he would allow comments and public testimony on this item even though he was asking for a continuance. Councilor Monroe agreed to allow that.

Councilor McCaig said she had been a party to the ongoing debate about the size of the committee and referring it to different committees to debate the size. She understood that last week there had been 4 votes to bring the measure to the full council. She said she thought weeks ago when they had referred it back that the directions were very clear. She now assumed that the ensuing negotiations had not produced a different product so those 4 people had moved in a rather aggressive way to bring it to the full council. She asked Councilor Monroe for clarification.

Councilor Monroe responded that there had been 4 votes to get the ordinance moving by bringing it to full council, and that he was one of them. He said that didn't mean some fine tuning could make it better and some of the serious concerns he had heard regarding membership could not be resolved with a little additional work. He said he had hoped the work could be completed today but Mr. Cooper had asked for some additional time and he wanted to give it to him. He said if Mr. Cooper was unable to resolve those concerns by next week, Council would vote it up or down as it was or there could be amendments offered and it could be voted up or down on those amendments, and something would happen.

Councilor McCaig said that 7 months ago the Growth Management Committee had had that same discussion and it had gone through many evolutions. She said at some point she would have to acknowledge that her position was not reflected at the negotiating table nor a majority of members of the Council and concede that she was not going to win on this one. She said it was time to take a vote. She said if she believed Councilor Monroe had new information that would add to the discussion she would be more comfortable, but that she probably agreed with him. She said the dilemma was they had been dragging it on for so long it had become a bit of a public embarrassment. She said it was not that she was not interested in hearing from the citizens but that she would be nervous about going forward.

Councilor McLain said she was ready to listen to the public testimony and vote.

Councilor McFarland said she been under the impression that if this version was voted today Council could still go back later and make some changes.

Presiding Officer Kvistad said once the Council voted on the motion it was in place. The criteria for and the addendum to the ordinance before the Council would then go forward. He said as a general rule, an ordinance would come out of committee with the final amendments attached but that was not the case in this instance.

Mr. Cooper said the Presiding Officer was correct. A vote today would finish the ordinance. He said if Councilor McFarland was asking if by adopting this ordinance were they forever tying their hands from adopting another one that made changes to this one, the answer was no, you could legislate over and over and over again.

Presiding Officer Kvistad opened a public hearing on Ordinance No. 98-769.

Commissioner Hammerstad, Chair of MPAC and Clackamas County Commissioner, said MPAC had recommended that the Council adopt the changes to the Regional Framework Plan on affordable housing as before Council today. She said they had discussed linking transportation and affordable housing and that discussion would continue, but the motion passed unanimously on July 22, 1998.

She noted this legislation had been under mediation for the last 8 months and many meetings had been held. She said there had been some troubling aspects regarding the affordable housing ordinance as it was presented to them, mainly where they felt the charter did not give Metro some of the authority the ordinance purported to give them. She said after extensive negotiations they had come up with the package that was before Council. She felt since everyone gave on some points it was important to keep it intact, including the committee. She understood there was a desire on the part of some of the Councilors to amend the committee and they felt they should have the power to appoint that committee. She thought that was true under normal circumstances. She also understood that Metro was afraid it would set a precedent. She said they would stipulate it would not because it was uniquely the outcome of legal action which came about as a result of compromise. She asked Council to adopt the ordinance based on the mediation and negotiation that they all had participated in because the willingness to ever enter into a mediation situation again would be severely compromised if they did not. She supported the substance of the ordinance and the process by which it was developed. She said they would all like to have the affordable housing issues discussed further. She urged passage of the ordinance.

Gussie McRobert, Mayor of Gresham, 1333 SW Eastman Pkwy Gresham, OR 97070 said mediation was a grinding, grueling process and the end product was something that everybody hated just a little. She said if any one of them were ecstatic, then you would know it was a bad product, but if everybody was a little bit mad, then you knew it was fair. She commented that there was something about this deal that everybody didn't like. She felt the important thing was getting the non-land-use issues out of their comprehensive plan. They specifically did not want a lobbyist because it had been their experience that lobbyists sometimes postured instead of problem solved. She said the committee was critical and did not set a precedent unless every other thing that ever came before council ended up in mediation. She said Council had had equal access to appointing people to the committee and that would have been the time to say they didn't want that, they wanted this. She said this was not the time.

Councilor Morissette said he did not remember that opportunity and asked Mr. Cooper to refresh his memory.

Presiding Officer Kvistad said that may be a discussion to have following the public testimony.

Mayor McRobert said if there was a problem with any jurisdiction's internal process and how they dealt with this, that was another issue where maybe there was a problem and Council didn't get their choice. She said they all believed Council had the option to get people on the committee.

Presiding Officer Kvistad said that was where they may have a difference on the issue.

Tasha Harmon, urged the council to pass this ordinance. She reiterated that there were pieces that each one did not like and they could debate the make-up of the committee forever. She said they were 8 months late getting the committee started and there was an unbelievable amount of work that needed to be done. She said the urban reserves issue she raised in the last round of testimony was just one of those many issues to be resolved quickly because they were losing opportunities daily to solve the affordable housing problem. She urged moving it forward knowing that they could renegotiate it later with another ordinance.

Mary Kyle McCurdy, Coalition for Livable Future and 1000 Friends of Oregon, 534 SW 3th Portland OR said those involved in the appeal, including Metro, had spent hours and hours over the last 8 months and every element of the settlement was carefully negotiated and woven together. She said Metro should act on this now because unraveling any thread of it threatened to unravel the entire agreement and that would be a shame for a number of reasons. Most importantly, because they now had a regional strategy agreed to by all of the diverse entities at the table which represented a shared commitment to move forward on affordable housing at a regional level. She asked Metro to move forward to get the work done and pass the ordinance today.

Tim Sercombe, Preston, Gates and Ellis, 111 SW 5th Portland OR 97204 representing the City of Hillsboro, spoke also for Mayor Faber. He said he had worked with a number of local governments that were involved in the mediations and negotiations besides the petitioners in the LUBA appeal. They included the Cities of Beaverton, Tualatin, West Linn, Tigard, Washington County and Fairview. He thought everyone involved in the process believed the adoption of the proposal was very much in the public interest. They had a number of concerns about the affordable housing policy that the Council adopted last year. They were concerned about Metro's authority to compel non-planning solutions to problems in the region and the efficacy of some of the solutions which were proposed to make housing more affordable. He said the solution that emerged satisfied a number of objectives of local governments as well as the affordable housing community. It clearly distinguished between Metro's land use regulatory authority over local governments and other activities which did not create local mandates. It required that the policy that came out of this committee be based on factual information, the evaluation of alternatives and the evaluation of the consequences of both action and inaction. It required that this process be funded by the Metro Council so that the outcome would be credible and good. He said there were no outcomes that were mandated in the committee process as they moved forward. The draft policy explicitly reserved to local governments and others the ability to challenge the adoption of future policies and functional plans. Finally, the committee was required to coordinate its work with MPAC. He said all four of these principles were important to local governments that participated in the process. He said any one of them would have preferred a different solution, a different wording, a different appointment to the committee. He said all of that had been put on the table and discussed. He said the committee was important to the participants because there was an investment into it. He said those that were involved in the mediation and negotiation process wanted to make sure the committee was composed of credible, hard working people who represented themselves and nobody else, and who were able to speak from their own personal experience to bring to the committee that kind of vantage. He respectfully suggested that if there

were changes to the text of the policy or the committee desired by the Council at this point, they should send that back to the negotiation table because it was something that had been worked out among all the parties. He said it was the city of Hillsboro's strong preference that the package be adopted as presented. He thought all of the petitioners in the LUBA case shared this view as did the affordable housing community and the City of Portland. He said this was one Metro process where the views of local governments had been heard and respected and it was a win for all parties to that extent. He said there was no question that the outcome could be changed and adjusted but there was no question further tinkering at this point came with some risk. He expressed his thanks to Dan Cooper and his staff as well as to the Coalition for a Livable Future and Mary Kyle McCurdy for the way they conducted the negotiations and the mediation. He said it had been a very fine process and all of the participants had reason to be proud of the policy outcome and the compromise. He supported adoption of the ordinance without changes.

Presiding Officer Kvistad closed the public hearing.

Seconded: **Councilor Morissette** seconded the motion to continue the ordinance for one week.

Councilor McLain asked for clarification. She noted there were now 2 motions on the floor and asked which was to be discussed.

Presiding Officer Kvistad clarified that the motion to continue superseded the motion on the table, therefore that was the one they would speak to. He said if the motion to continue was not passed, they would return to the main motion. He said it was open for discussion because the maker of the motion had allowed it.

Councilor McLain said she had heard testimony today that supported her desire to vote the issue forward. She said they should honor the mediation and the mediators. She said the people who came to mediate on Metro's behalf did so in good faith and she believed they had come up with a product that all could live with and benefit from. She said delaying this group work meant Council would be going forward on the Metro Code and urban reserve planning without specific language. She said the task force work was needed for responsible urban reserve planning to be done on affordable housing. Even though the council might only have an issue or 2, sending it back meant the whole process would be opened again, and that would allow others to bring it back in full force. She respected the fact that it was an important issue and everyone wanted to do it right, but she believed this package, and Councilor Washington's motion, was a good product and needed to go forward. She suggested if someone wanted to change the size of the committee or add technical expertise, they should let the committee help after they got started to see what they were lacking. She urged Council to go forward with the committee and vote on it today.

Councilor Washington noted that this issue had been before council for a long time and everyone had had the opportunity to air and express their concerns. He felt there were compelling reasons given today regarding why the issue should not be tampered with. With all due respect to Mr. Cooper, he said there was no guarantee that Mr. Cooper would be able to renegotiate. Councilor Washington said he appreciated the work council had done as well as their concerns, but that it was time to move on. He urged Council to not continue this but get it out so the committee could do the work asked of them. He urged Council's support today.

Councilor Morissette pointed out that in the 8 months this ordinance had been in mediation it had only been before Council a very small amount of time. He said the need those 4 Councilors felt to move behind the scenes last week was very frustrating to him and continued to be. He said

he was not as angry as he was, he was more disappointed and frustrated now. He said his concerns about the affordable housing task force stemmed from his experience as a homebuilder. He felt he had a good idea of what made housing expensive since he had spent most of his career trying to provide affordable housing for people. He firmly believed the responsibility for the affordable housing crisis was at the doorstep of the very vision of 2040. He said that vision drove up land prices with the overly restrictive urban growth boundary and that would ultimately end up in high cost housing. He said they were part of the problem. He felt that getting a group of people together was a good logical process to solving it but that the regulations had caused a lot of the affordable housing problem. He felt the way to solve the affordable housing problem was to allow the free market to operate. He said this was one of the consequences of the overly restrictive land use planning processes. He reiterated that he felt inclusionary zoning was a constitutional issue and the replacement ordinance was one of the biggest impediments to the ability for redevelopment and infill to happen. He found the language "without subsidy" difficult because as a homebuilder it said to him there was a class of people who were responsible for the problem. As a citizen we all share equally in the solutions for affordable housing, a very important problem, as a home builder he didn't cause the affordable housing problem and share any disproportionate responsibility, he did not believe he was responsible for affordable housing problems but that as a citizen of the region he owed his fair share to help solve the problem. He said it was offensive to him that a governmental process would make a certain segment of the population primarily responsible for the solution. The markets could work but the leadership in the region would have to decide a little more freedom was needed to allow it to work. He said having a task force was great but there was a need for more people who build housing and less people who regulate it. He said he found this task force doomed for failure. He felt it was an important issue and it needed to be solved. He felt that although land prices were not the only reason for the affordable housing problem in this region, it was a major impact. He said they needed more land because there was an over demand for an under supply which caused prices to go up. He thanked Council for the opportunity to speak and commented that the process used last week was terrible.

Councilor McFarland said she found herself on the horns of a dilemma because at first it had seemed reasonable to wait another week since it had been around for so long, but as she listened to the people who had been involved in the negotiations and the mediation she heard them imply that the whole thing could be lost if changes were made. She agreed with Councilor Morissette that there were people who had been left off the committee. She said on the other hand, Councilor Washington felt he had worked on it for a long time and that if they could not accept it, they would go back almost to square one. She said she had changed her mind several times during this meeting and understood that the people involved wanted to go forward because that was what they had agreed to. She commented that the committee names bothered her, and she suspected they bothered some of her colleagues as well. She felt she would have to vote to go forward today unless she heard something else to change her mind. She apologized for sounding indecisive and said it was a difficult decision for her.

Councilor McCaig said she had been very clear throughout this process that she had objected to the size of the committee. She said what happened last week was a procedural move which was appropriately used in extreme circumstances although she had never seen it used in the 4 years she had been there. She said she had not been involved but that 4 members of the Council had felt it appropriate to take the matter out of a continuing agreed upon negotiation process and move it to the full Council for a vote. She said that was a pretty serious act from her perspective. She felt they should vote on it because they had made the decision to do that. She said she had hoped there would be continuing negotiations on some of the points that had come from the last executive session but felt that had been ruled as less likely by the action of the Council last week. She felt that none of the parts she disliked about the ordinance were significant or substantial

enough to undermine the long and hard work people had put into attempting to move this issue forward. She said although she didn't like it all, she planned to vote against the motion to continue and for the motion to accept the recommendation.

Councilor Monroe said when he faced crisis in his life he found that snap decisions were often wrong but when he backed up a bit and gave it time, he was more likely to make the right decision. He didn't want to see the issue unravel at all and he absolutely supported the creation of an appropriate task force but said he had serious concerns about this one. He felt those concerns could easily be resolved within a week's time with Mr. Cooper's help. He said this was not the proper way for a task force to be created. He was concerned that there were 2 bankers on the task force but not a representative from manufactured housing when that was the only kind of housing affordable to some people. He added with another week, they could make those kinds of minor changes. He said if the Council did not want to take the time and wanted to ramrod it through today after 8 months, that would happen but he felt it could be improved and that another week, after 8 months time already, was certainly in order. He did not agree that small changes would unravel the whole thing.

Vote to delay

one week: The vote was 3 aye/ 4 nay/ 0 abstain. The motion failed with Councilors McCaig, Washington, McFarland and McLain voting nay.

Motion to

Amend #1: **Councilor Monroe** moved to amend the committee members to delete a banker position and add a manufacturing home representative.

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

Councilor McFarland asked legal counsel if this was amended at this time did that mean it then had to go back to the negotiating and mediating groups that had worked so hard and long on it.

Mr. Cooper said yes, it did.

Presiding Officer Kvistad supported the measure.

Vote to

Amend #1: The vote was 4 aye/ 3 nay/ abstain. The motion passed with Councilors McCaig, Washington and McLain voting no.

Motion to

Amend #2: **Councilor Monroe** moved to amend the ordinance by deleting all names and replacing them with language that said the appointments would be made by Executive Officer Mike Burton with consultation and approval by the Council.

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

Presiding Officer Kvistad clarified that would not mean those individuals would not be appointed, it just meant the names would be removed from Section C of the attachment.

Councilor Monroe said yes, that was correct. He said that in his discussions with the Presiding Officer and the Council he believed most all of the people on the list would in fact be appointed. He said this was a procedural motion because it was unprecedented to have an ordinance, that

created a task force, name the people. He said he had never see it happen in the more than 20 years he had been in government. Those kinds of task forces always involved an appointment process. He said the Executive Officer would certainly give high consideration to those people that the negotiations recommended to be on the task force.

Councilor McCaig said she had the feeling they were running amok and she wanted to mention that she did not support the final product in its entirety, but to step in now and rearrange this undermined the Council's credibility with the people who had worked so hard and so long on it. She felt winning the issue was not worth it at the expense of that relationship. She said she agreed with the amendments in principle but this was not the time nor the place to do it. She said she was sorry this came to the table the way it did but it was not the problem of the people in the audience that Council could not figure out the right way to do it. She hoped they would leave it intact as the people had worked on it, negotiated an agreement and put it before council. She thought it had been acknowledged already that they could look at other elements after it had been adopted. She felt it was really dangerous to alter it now.

Councilor McLain agreed with Councilor McCaig's issues. She said she had never indicated she agreed with everything on the table. The motion for the amendment just passed basically sent this back to negotiations. She agreed that a manufactured home representative was an issue that the task force should take up but that it was not the whole issue. She said the issue was that the composition of the task force was being changed. She said she would vote no to any more amendments. She said she was going to ask legal counsel what she could do to amend the amendment that just passed because if it was sent back to negotiation the vote on delaying one more week on this issue was undone. She said they had 4 votes to not delay but to go forward for a vote. She wanted to make sure the amendments followed the spirit of the motion in front of Council. She said Ordinance No. 98-769 was a "whole cloth" ordinance that she thought Council was going to vote on next week since they had just defeated the request to carry the discussion on for one more week. She said the manufactured home representative could be added later by the task force and it was inappropriate for Council to do it.

Councilor Morissette said they had just done that.

Councilor McLain said they had not voted on it as a whole, what they voted on was just an amendment.

Presiding Officer Kvistad said the earlier motion was to hold it over to one week. That did not happen, therefore the ordinance was on the table to be amended or not be amended, there was no precondition on full or partial. He said, as any ordinance that came before the council, it could be amended. He felt they could have dealt with it differently but they had not, so now they were going to go through their process as they would with any ordinance as amended or not amended by the body.

Councilor McLain said her point was that if one of the councilors that voted for the amendment to add the manufactured home slot moved to amend it because they were on the winning side, they could then vote again on that issue by parliamentary procedure. Her plea was a move to reconsider.

Councilor Monroe said he felt that Councilor McLain was out of order, she was not speaking to the motion.

Presiding Officer Kvistad agreed.

Councilor McLain said she believed it was to the motion and her comments were germane to taking the names off. She said whether it passed or failed they would still have an opportunity to vote again at this meeting because, as the presiding officer indicated, this was where they were doing the work. She said she would be happy to vote no on the amendment and then she would like to consider the other amendment.

Presiding Officer Kvistad said it had been his intention at the committee level to make only a couple of minor changes and vote it forward. He said he talked to Commissioner Kaffoury and Sam Chase regarding general housing issues as well as to members of the council. He felt very strongly that they could not at any time allow a list of nominees or de facto members to come forward on any of the committees they put forward without it going through a process. He said he would vote in favor of this. He said the changes being made, while he didn't believe they were overly controversial, were important and positive. He urged the Council to vote aye.

Councilor McCaig called for a five minute recess.

Vote to amend #2: The vote was 3 aye/ 4 nay/ 0 abstain. The motion failed with Councilors McCaig, McLain, McFarland and Washington voting nay.

Motion to reconsider the amendment: Councilor McFarland moved to reconsider Amendment #1 (deleting a banker position and adding a manufactured housing representative).

Seconded: Councilor Washington seconded the motion.

Councilor McFarland said she had been reassured that they would have an opportunity to put a representative of manufactured housing on this list. She believed it could and would be done which was the reason she asked for this reconsideration of the vote.

Vote to reconsider Amendment #1: The vote was 4 aye/ 3 nay/ 0 abstain. The motion to reconsider passed with Councilors Monroe and Morissette and Presiding Officer Kvistad voting no.

Discussion of Main Motion:

Councilor Morissette felt it was important that more people participate and applauded Councilor Monroe's effort. He urged Council not to support the reconsideration of this appointment.

Councilor Monroe said it seemed to him it would have been easier to go ahead and take care of the matter now but if it was taken back out, he would actively pursue a second ordinance to add a manufactured housing slot to this task force. He felt it was a major faux pas that it was left out.

Reconsideration Vote on Amendment #1: The vote was 3 aye/ 4 nay/ 0 abstain. The amendment failed with Councilors McLain, McFarland, Washington, McCaig voting no.

Presiding Officer Kvistad commented that he had rarely watched anything as offensive as what had occurred over the last month with this item. He said he would not back away from his

commitment to affordable housing. He said he had watched people pander and had watched processes go to hell in a hand basket which he found personally offensive. He said they had not received it before his committee until 2-3 weeks ago and they had only talked about it once. He said he knew it had been before the committee previously, but not since he became chair. He said there had been 2 executive sessions to talk about the legal ramifications and the changes they asked for were minor, procedurally well thought out, and needed. He said he was angry about how they had gotten to this point and said what had happened and how it was accomplished was wrong. He said he did not agree with it and did not believe any special interest group had a reason or the ability to tell this committee or the council who would be on their committees, ever. He said in order to put this forward in the best light possible, and with the understanding that he would vote for further changes, he said he would vote this forward. He wanted people to understand that it had not been pleasant to be put in this position and he was not very happy about it. He said he could not have allowed what just happened to go forward without comment. He would vote in favor of this, but reminded the Councilors that what happened here was caused to happen by some very selfish special interest groups.

Vote : The vote was 6 aye/ 1 nay/ 0 abstain. Ordinance No. 98-769 passed with Councilor Morissette voting nay.

8. RESOLUTIONS

8.1 **Resolution No. 98-2696**, For the Purpose of Confirming the Selection of Pac/West Communications to Represent Metro Before the 1999 Session of the Oregon Legislature.

Motion: **Councilor Kvistad** moved to adopt Resolution No. 98-2696.

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

Discussion: **Presiding Officer Kvistad** reviewed that this was the time of year Metro Council selected someone to represent their interests in Salem. He said over the past few months they had gone through the process and had come up with 5 finalists. He said he, Mr. Burton and Mr. Cooper had met with and heard the presentations from those 5 applicants. They agreed their final selection was Pac/West Communications who had the clearest and most concise presentation. He presented this item with the understanding that it was the first time Council had had a chance to discuss it. He recommended Council accept this nomination.

Councilor McCaig understood this came directly to Council due to time constraints. She said she had some questions and, although she assumed they had already been asked, she was concerned about them.

Presiding Officer Kvistad asked Mr. Burton to report to the Council Chamber to discuss their nominee if he was within earshot.

Councilor McCaig said she was concerned about the message it sent to other contractors with Metro.

Mike Burton, Executive Officer, said questions and concerns were raised regarding Mr. Phillips' relationship with Waste Management, which no longer existed as a company due to the merger with USA Waste. He believed their contract would terminate there simply because the company no longer existed. He said that issue would be taken up by Council at a later date. He said he spoke with Ken Allen regarding any difficulties he could foresee if they got into the

questions of representing Metro in Salem vs. the questions of how Metro dealt with the unions. He didn't think there was a conflict there because they didn't represent Metro regarding anything with Metro's contract with the unions. He said at the state level where there was lobbying going on regarding what unions were able to do or not to do was a separate question. He said they discussed what would happen if it came to a conflict. They came to the conclusion that if there was a position taken by council on a matter dealing with code revisions or legal changes in the legislature, then that would have to be faced at that time. He said they didn't foresee any conflict there. He said they did have multiple contracts with other contractors who represented us in these agencies. He said that Pac/West did not currently have any contracts with Metro.

Councilor McCaig said she was not concerned about having different contracts, she was concerned specifically because of the 2 contracts that they did have with other interests. She clarified that, understanding Waste Management no longer existed, they would have no ongoing contracts in the waste arena that they represented in addition to representing Metro.

Paul Phillips, Pac/West, said they had gone through the interview process and presented their case. He did not believe they had any existing client conflicts. He noted that the client contract they had in waste management terminated at the end of October. He saw no conflict at all between Waste Management or USA Waste or any other waste hauler with Pac/West representing Metro before the legislature.

Councilor McCaig asked if they had addressed the perception issue during the interview process because there might be issues raised about that. She asked in what manner Mr. Phillips would respond to questions about the propriety of Metro hiring a firm who represented its labor union and represented Waste Management, even though that part of it would end soon. She said she was trying to be practical about this because she thought it would come up.

Mr. Phillips reassured her that it had been discussed at the interview. He said the question to ask was what were the qualifications of a firm being considered. He said his firm had over a dozen people whose relationships went back with some of the Councilors for 20-27 years. He said they had worked together and knew each other. He said if someone said they had known these guys for this long, what would be the point when they were a professional firm with a wide array of clients. He said they wanted someone who could represent them well in Salem and articulate their views. He said any firm that applied could possibly come before you on behalf of another client at another time. He thought Oregon, and the Northwest for that matter, was small enough that overlaps could occur. He said they discussed it and decided the best way to deal with it was to be forthright and honest with one another and tell what was going on. He said they didn't perceive any conflicts, legally, perceived or any other way. He said if someone were to ask how can they do this he would answer they went through an open public interview process and disclosed everything at that time. He said again he saw no conflict in what they were doing. He said they would strongly advocate for Metro.

Councilor McCaig asked in what capacity he represented the AFSCME unit.

Mr. Phillips said they did not do any of their labor relations but they assisted them with government affairs, image and specifically, ballot initiatives.

Mr. Burton commented that the other businesses they had interviewed, with the exception of one who didn't have any clients, would probably also have that potential for perception conflicts. He said they had specifically asked in the interview process what if there were issues where Metro found themselves in front of the legislative arena where the position taken by Metro on a matter

would conflict with another client. Each of those prospective groups indicated they would sit down, clear that matter and either separate themselves from that issue or separate the issue if they had the resources within their company to do so, so there would not be conflicts going into lobby efforts. He said unless Metro had an in-house lobbyist, those potentials would exist with anybody.

Councilor McCaig said while she did not intend to be combative about the matter, she did not want to be addressed as if she were making it up. She said there were lots of lobbyists with lots of clients, many of whom did business with Metro. She thought it was unusual to conspire to hire a lobbyist who was currently, and had in the past, represented the 800 pound gorilla Council dealt with, Waste Management, as well as our labor union. She said those were 2 of the pretty big elements Metro dealt with as well as having some notoriety over the past year in the press in their dealings with us. She thought those issues should be raised so they were very clear as a Council that they were comfortable with it and willing to proceed because of the quality of work they did.

Mr. Burton said the recommendation was not his alone, the decision was made with the Presiding Officer. He said the basis for his decision was that he wanted a company with depth, resources and contacts. He also wanted a company to whom Metro would be a major client and who would understand how Metro would work with them, both representing specific interests of individual councilors and elected officials as well as specifically representing Metro as a body in the legislature. He said it was his feeling that Mr. Phillips' company was clearly the best choice. He reiterated that he did not feel they would find themselves in conflict.

Councilor McFarland related that the first time she had met Mr. Phillips was in eastern Oregon when she was running statewide. She said one of the cars had broken down and Mr. Phillips had, with true bi-partisan ability, put both candidates in the same car. She felt that kind of problem solving ability would be an asset.

Councilor McCaig said she thought it was a mistake to do this. She said it had nothing to do with the work Mr. Phillips did, it had to do with the way people were going to perceive it. She was uncomfortable with it because of some of the press some of the Councilors had received over the last year. She felt it would heighten the ability of some people to take unfair shots at the Council. She was sorry that she could not support the resolution.

Vote: The vote was 5 aye/ 2 nay/ 0 abstain. The motion passed with Councilors Washington and McCaig voting no.

9. CONTRACT REVIEW BOARD

9.1 **Resolution No. 98-2682**, For the Purpose of Authorizing the Exemption to Metro Code Chapter 2.04.044, Personal Services Contracts Selection Process, and Authorizing a Sole-Source Contract with Stop Oregon Litter and Vandalism (SOLV) for Sponsorship of the Annual "Solv-It" and "Washington Clean and Green" Event.

Motion: **Councilor Morissette** moved to adopt Resolution No. 98-2682.

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

Discussion: **Councilor Morissette** reviewed the SOLV work. He said it met the budget with no deviation. He urged passage of this item.

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

10. COUNCILOR COMMUNICATION

None.

11. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 4:25 p.m.

Prepared by,

Chris Billington
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
091098c-01	9/8/98	Memo concerning MTAC Action taken on Ordinance No. 98-722A with amendments	TO: MPAC Chair Judie Hammerstad FROM: Elaine Wilkerson GM Director	Ordinance No. 98-722A
091098c-02	9/10/98	Memo concerning Affordable Housing Ordinance No. 98-769	TO: Metro Council FROM: Judie Hammerstad Clackamas County Commissioner	Ordinance No. 98-769
091098c-03	9/10/98	Written Testimony on Ordinance No. 98-772A	TO: Metro Council FROM: Greg Leo, Rosemont Property Owner Association	Ordinance No. 98-772A