

MINUTES OF THE METRO COUNCIL MEETING

September 17, 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 2:04 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 10, 1998 Regular Council Meeting.

Motion: **Councilor McFarland** moved to adopt the meeting minutes of September 10, 1998 Regular Council Meeting.

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

Councilor Morissette requested amendments to the minutes as follows: On page 10 change 1) "he said he did not believe he was responsible for affordable housing problems" adding at the beginning of the sentence "As a citizen we all share equally in the solutions for affordable housing, a very important problem, as a home builder I don't cause the affordable housing problem and share any disproportionate responsibility." 2) "He said having task force was great

but that there was need for more people who ~~actually do it~~ replace with "build housing". 3) "And less people ~~to regulate it~~" replace with "who regulate it."

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

7. ORDINANCES - FIRST READING

7.1 **Ordinance No. 98-771**, For the Purpose of Granting a Yard Debris Processing Facility License to Northwest Environmental and Recycling, Inc. to Operate a Yard Debris Processing Facility and Declaring an Emergency.

Presiding Officer Kvistad assigned Ordinance No. 98-771 to the Regional Environmental Management Committee.

8. RESOLUTIONS

8.1 **Resolution No. 98-2686**, For the Purpose of Approving the Air Quality Conformity Determination for the 1995 Regional Transportation Plan.

Motion: **Councilor Washington** moved to adopt Resolution No. 98-2686.

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

Discussion: **Councilor Washington** deferred to Mr. Andy Cotugno, Transportation Planning Director, to explain this complex issue.

Andy Cotugno said that we were required to demonstration both a short range plan, in the form of the funding that we allocate, and a long range plan, in the form of the Regional Transportation Plan to meet the air quality standards. This was done through modeling the traffic levels and the emissions from that traffic, assuming the various transportation improvements that were in the plans. In both cases it was limited to the set of improvements that Metro thought we could afford, not the set that we thought we would want, so the plan was referred to as a fiscally constrained transportation plan. Metro's current transportation plan conformity determination had lapsed, since it lapsed Metro was in fact holding up highway construction until the plan was reconfirmed. The Transportation Planning Department had completed a new estimate of vehicle emissions that was included as part of this conformity and had demonstrated that it continued to meet those federal standards. This would now go to federal highways and be approved by the Federal Transit and EPA.

Councilor Morissette asked if this resolution focused on our region, the situations we faced and what we hoped to be able to solve. Was it correct that this was not a regulatory situation or Metro was not requiring anything more than what the law already required?

Mr. Cotugno said that was correct. This demonstrated that if Metro implemented all of the plans we had already adopted in terms of transportation projects, the air actions, industrial regulations and vehicle emissions regulations, that the result was a level of emission that met the standard.

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

8.2 **Resolution No. 98-2691**, For the Purpose of Supporting State Funding for Modernization of Civic Stadium.

Motion: **Councilor Monroe** moved to adopt Resolution No. 98-2691.

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

Discussion: **Councilor Monroe** said this resolution asked the state to help fund the plan to upgrade and improve Civic Stadium. It had been suggested to the Council that if they took this action that there was good likelihood that the governor would include this request in his budget. The study group found that the best solution available to Metro was to upgrade the Stadium to the tune of about \$45 million. This would allow the Stadium to continue to be used by Portland State University for their football program. For Portland State University to build a stadium would be much more costly. It would also allow the Stadium to continue to be used by high school football games and playoffs, helpful in the greater Portland area, because there is no other large stadium in this area. It would also allow for major league soccer to come to Portland. And perhaps Mark and Sammy would even be hitting home runs in Portland in the future. This would be wonderful. Councilor Monroe urged the council's support for this resolution.

Councilor McFarland reviewed an amendment that she was considering bringing forward to Council. She requested Mr. Cooper's presence. She distributed the proposed amendment to the council. She said the amendment would be inserting another paragraph after the third whereas because there had been some question as to whether Metro were advocating the Civic Stadium over all of the other considerations of money that the state had. This amendment would clarify that this concern was not true. She read "whereas Metro supports the concept of state funding for education at an appropriate level consistent with needs of Oregonian as we enter the twenty-first century." She felt this clarified that Metro was not advocating for funding for the stadium over other kinds of legitimate concerns that the state had.

Councilor Morissette said he thought part of the genesis for bringing this amendment forward was his concern over the other priorities that Metro had in the state budget. He had never felt that it was his position to say that someone could not ask for funding. However, he could not support a resolution that said we 'recommend' the use of state funds. Even with the amendment there was still a statement in the resolution which said "be it resolved that the Metro Council hereby supports state funding for modernization of the Civic Stadium in accordance with recommendations from Civic Stadium Advisory Committee." He suggested that without deleting that phrase from the resolution, he would have difficulty supporting the legislation. He was not suggesting that this amendment would in fact do that, he felt that this amendment made a good point but did not resolve his concern when this resolution was brought forward. There was an issue as we move forward on the Civic Stadium, not that he would represent himself as an expert on the stadium or how to use it but he did consider himself an expert on the private markets throughout this region, and he believed that there was some opportunities with the Civic Stadium where if Metro gave up control that some people may be willing to take the stadium over with some assurance as to what the requirements may be. They might not need any funding or much more limited funding. Schools could still use the Stadium and he had no problem, as stated earlier, giving someone the authority to ask for funding but he did have a problem with recommending funding because he clearing understood the demands that would be on the state budget this session. He could not support, in any form, the request for funding.

Councilor McCaig added that she voted against this in committee for exactly those reasons. She felt very strongly that the competition for lottery dollars was unbelievable and it was not appropriate. She said she would not support a measure to dedicate those funds but she would support an amendment, if there was one, to send a resolution to the state regarding the importance

of the Civic Stadium and how they would like to have it reviewed for possible consideration of funding. She would not be comfortable with the resolution as drafted.

Councilor McLain said she read the “be it resolved” clause to mean they were doing exactly that. She felt it said the Metro Council supported state funding for modernization of Civic Stadium in accordance with the recommendations of the Civic Stadium Advisory. She felt they were suggesting support while understanding there were competitions out there that had to be won. She said she could support the resolve clause because they had already supported the Civic Stadium concept as being workable and efficient and also because they had agreed to the lightrail and supported the housing and mixed use community being built around it. She said she had ridden lightrail in 4 days this week and saw that community as being anchored by the stadium in many ways. She felt it was appropriate for the Council to support that type of funding as the case was made. She did not feel they were trying to prioritize in any way, but that they recognized that they had a salesmanship job to do to convince the public, not just the legislature, that this was something that needed to happen in the short term this year out of this budget. She felt the “whereas” clause meant they were suggesting that this was a good project or a good conversation to have.

Presiding Officer Kvistad asked if Councilor McFarland would like to introduce her amendment at this time.

Councilor McFarland thanked him for the opportunity and said she did not want to introduce it if some councilors had trouble with it. She wanted to hear what other councilors had to say before she introduced it to see if there was enough support for it.

Councilor Washington asked if Councilor McFarland’s amendment was saying they supported education and were not trying to do anything at the expense of education.

Councilor McFarland responded she had tried to convey with the amendment that they were not recommending this kind of funding over all others, but were recommending it be one of the ways considered. She said perhaps the language in the amendment was not totally pleasing to everyone.

Councilor Morissette said he understood what the amendment did. He asked Mr. Cooper if they were asking the state to consider funding the renovation of Civic Stadium. It was his position that he didn’t want to recommend that the state fund the renovation.

Mr. Dan Cooper, Legal Counsel, said it was a policy matter not a legal matter and the councilors should vote the way they were most comfortable with.

Councilor Morissette did not feel his was a policy question. He said that even with the proposed amendment, as he understood Mr. Cooper’s review, this resolution was requesting that the state fund the improvements to the Civic Stadium.

Mr. Cooper responded the amendment did not change the “be it resolved” portion of the resolution.

Councilor McLain said the last whereas clause said “Metro encourages all stakeholders to participate in a mixed funding plan” to see what opportunities were out there and to review what would be appropriate for the state to partner in the stakeholder’s group. She thought that was a conversation that was needed. She said for those reasons, the resolution and the “be it resolved” clause didn’t bother her. She said they all recognized there was a limited amount of dollars

available and they would have to have the full debate on where those dollars would be used during this budget season. She said it did not say they recommended, rather that they supported state funding and if the money was available for this type of a mixed funding plan they believed Civic Stadium would be a good facility.

Councilor Washington clarified with Mark Williams that there was no guarantee of receiving the funding they were asking for, that they were saying they wanted money like everyone else and they hoped they would get it.

Mr. Mark Williams, MERC General Manager, responded yes.

Presiding Officer Kvistad commented that this request was at the direction of the City of Portland who owned the facility and Metro was concurring with direction from MERC who was asking to do this.

Mr. Williams said the City of Portland owned the facility which was managed by Metro through MERC pursuant to the consolidation agreement between the city and Metro.

Presiding Officer Kvistad said he fully supported the City of Portland going forward with whatever funding package they cared to and he would never criticize them for doing that. He said while he had some pretty harsh words for it when Metro was discussing taking over and possibly owning the facility. He was not sure he was comfortable asking the state for funding when Metro did not own the facility. He said he would not stand in the way of the City of Portland asking but that he would probably not vote in favor here.

Councilor McCaig added that in her brief experience Metro had never found a crisis they didn't want to fund and every time they got appointed to a task force they got a request for money. She asked for the record to be very clear that Metro was not a dream or a hope residing among any of the commission or task members to be asked for any money to contribute to this project.

Mr. Williams confirmed that Metro was neither a dream nor a hope with respect to this particular funding plan. The contemplation of the plan was that \$15 million would be sought from the state, \$15 million from the City of Portland, and the remaining \$15 million to be made up of other stakeholders. His view of what that meant was primarily private money. He was not contemplating asking Metro for any money.

Presiding Officer Kvistad said Metro needed to focus on their own facility needs and they were looking at a seismic problem at Expo that would need attention in pretty short order and could cost up to \$8 million to fix.

Councilor McFarland responded to Councilor McCaig that she had chaired the committee and had not heard anyone say Metro would be funding the Civic Stadium. She thought it was pretty clear to them that Metro would not provide funding. She said MERC had operated the stadium in the black over the past three years since they had taken over the operation of it. She felt it was a facility worth keeping and fixing. She recommended it as a good business move.

Councilor Washington said he would like to go ahead and vote.

Presiding Officer Kvistad said his vote today would not reflect his disapproval for the city going forward on this. What they chose to do was fine with him. His vote was to whether or not Metro participated.

Councilor Monroe said there seemed to be quite a bit of misunderstanding. He said no Metro dollars were being asked for, there was a \$45 million plan asking for \$15 million from the city, \$15 million from the state, and \$15 million from private developers and other sources. He said some people had eluded to the fact that this may reduce funding for public education. He said if that were the case he certainly would not be supporting it having been a public school teacher for 20 years and a strong supporter of school funding. He said education funding was a critical and most important need for the state and this measure would not change that in any way. He said there also seemed to be an attitude by some that they could just keep on going the way they were and do nothing. He said that was not an option. The stadium had to be fixed or torn down and replaced by something else. He thought it would be tragic to lose it as a sports site at a time when the rest of the nation had for the last 20-30 years been moving sports facilities out onto good farmland at the fringe, creating miles and miles of parking lot and increasing traffic congestion out of the city to the sports facilities and back in. Now we were seeing for the first time a movement in some cities to reverse that and to go back to building sports facilities in an inner city area where there were people that lived around them and where transit could take them to the sports facility. We had a facility like that right downtown and we just built a lightrail line right by it. This was completely consistent with 2040 development. This would allow for some housing and some commercial activity in the area, it was not just about the stadium itself but about a redevelopment of this entire area. A redevelopment that he thought was extremely exciting. He was very pleased to offer his support to this measure, it simply requested that the state consider this as an important issue in economic development and consider that \$15 million in lottery dollars would certainly be well spent as their share. He urged the council to vote aye.

Vote: The vote was 4 aye/ 3 nay/ 0 abstain. The motion passed with Councilors Morissette, McCaig and Presiding Officer Kvistad voting no.

Presiding Officer Kvistad thanked Mark Williams, Manager of MERC and Maria Rojo de Steffey, Manager of the Civic Stadium, for being available to answer questions on this matter.

8.3 **Resolution No. 98-2700**, For the Purpose of Accepting Nominee Phil Dreyer to the Metro Committee for Citizen Involvement (MCCI).

Motion: **Councilor McLain** moved to adopt Resolution No. 98-2700.

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

Discussion: **Councilor McLain** said this was for accepting a nominee, Phil Dreyer, to the Metro Committee for Citizen Involvement (MCCI). She said MCCI had gone through the appropriate process and there were MCCI representatives present if there were questions.

Councilor McFarland commented that Phil Dreyer had been a long-time activist interested in a lot of things. She noted his strong background and said she thought he would bring much to MCCI and to Councilors in the way of helping them understand some of the issues important to him. She felt he would be a good addition to the committee.

Councilor Monroe said he had known Phil Dreyer for at least 20 years. He said Mr. Dreyer would be a positive addition to MCCI and urged Council's support of the nomination.

Councilor McLain said his application had indicated his interests were water issues as well as the no sales tax issue. She thought Metro had a lot of watershed planning programs that he would be very interested in reviewing as part of the citizen participation.

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

Aleta Woodruff noted that Mr. Dreyer was unavailable due to jury duty.

9. CONTRACT REVIEW BOARD

9.1 **Resolution No. 98-2693A**, For the Purpose of Authorizing the Issuance of a Request for Proposals for Parking Management Services for the Grand and Irving Parking Garage.

Motion: **Councilor McCaig** moved to adopt Resolution No. 98-2693A.

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

Discussion: **Councilor McCaig** said this item had passed out of the Regional Facilities Committee unanimously. She said since Metro had been managing the parking garage since about 1991 they had contracted with a firm who did the day to day management. That contract would expire October 31. She explained this was the authorization to go forward with the request for proposal. In the context of the RFP a person showed up to testify. As a result of his thoughtful comments, the RFP was amended to make it easier for some competition. The cumulative operating expense was changed from \$250,000 to \$200,000 and the 5 years operating experience originally requested was changed to 4 years which he felt would allow greater ability for other people to apply for the contracts. She said the contract would be roughly \$35-40,000 when it was finally approved and be for 3 years.

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

10. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e). DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE REAL PROPERTY TRANSACTIONS.

10.1 **Resolution No. 98-2702**, For the Purpose of Authorizing the Executive Officer to Purchase Property in the East Buttes/Boring Lava Domes Target Area.
Members Present: Jim Desmond, Charles Ciecko, Tim O'Neil, members of the media, Joel Morton, William Edy, Amy Chestnut.

Motion: **Councilor McFarland** moved to adopt Resolution No. 98-2702.

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

Discussion: **Councilor McFarland** said a research report on birds she had just read said it was more important than we had realized to have contiguous pieces of habitat for various and sundry kinds of animals. She said one might not think that would be so important for birds as for ground animals, but it was so that the animals could move unimpeded from one place to another and have the population open to more production.

Councilor Morissette felt the reason this was before the Council as opposed to just going through the normal channels was that in the due diligence process the staff had found there was a landfill there. He said he been satisfied in the Executive Session that Metro would be held harmless and any potential or continuing liability this property would generate would be minimal. He said he did not have any problems with acquiring the property.

Councilor McCaig said she was impressed with the book list and said she would support the resolution.

Councilor McFarland to clarify for Councilor McCaig that when she was dealing in politics her games and fun were science and when she was being a scientist, her games and fun were politics. Somehow they balanced.

Mike Burton, Executive Officer, asked to have the DEQ representative on record with the department's position.

Alan Kiphut, 811 SW 6th Ave., Portland, Coordinator of Voluntary Clean up Program, DEQ, said he was here to answer questions about the purchase agreement program which had been in existence for about 3 years. He said it was basically to limit the liability of innocent parties buying property that had some contamination on it.

Presiding Officer Kvistad said it was his understanding that Mr. Kiphut had looked at the property and Metro would be held harmless in perpetuity.

Mr. Kiphut said that was correct.

Presiding Officer Kvistad said Metro would do monitoring for a 5 year period.

Mr. Kiphut clarified that the negotiations between DEQ and the Council specified a 3 year period of monitoring of the surface water with some additional sampling of the sediments in the creek.

Councilor Washington asked about construction in the area. He asked if the land could be farmed in the future.

Mr. Kiphut said one of the conditions being discussed was if Metro did any kind of excavation work or development of the property, which would probably be paths or hiking trails and nothing major, it could kick in some responsibility to deal with whatever was found during that construction.

Councilor McFarland insisted the land would be purchased for human and animal habitat as well as plant life, and not to dig up and cash in on in the future. She urged an aye vote.

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

11. COUNCILOR COMMUNICATION

Councilor Morissette asked the Presiding Officer to have a discussion about the proposed public hearings for the movement of the UGB.

Presiding Officer Kvistad said determinations for notice requirements and hearings would be met at the Metro Growth Management Committee at next Tuesday's meeting.

Councilor Morissette reiterated that the things to be discussed at the Growth Management Committee were the process to move the UGB, the review of the Urban Reserves Productivity Study and Peer Review, specific Urban Reserves including what the Executive had recommended, dates for public hearings and final decisions. He said his goal would be to move the tentative schedule for the final decision from December 17, which was the last meeting of the year, and use December 3 as the target date due to the enormous amount of work involved in the process.

Presiding Officer Kvistad said they would shoot for December 3 for finalizing and making the determination and if there was further work to do the other dates would be the fall backs. He said the productivity analysis and peer review were not necessarily scheduled for the Growth Management Committee as they were going to have a pretty good sized discussion already, but they could discuss it. He said he wanted to discuss generally the things to come and then move forward as quickly as possible. He thought the Council had general agreement that the public hearings should be done in a timely manner. He said it was his intention following the Growth Management meeting to get the finalized meeting schedule to Council so everyone knew exactly what was coming and where they were.

Councilor Morissette said this was the final decision on where the boundary would be moved.

Presiding Officer Kvistad said they all realized this was to facilitate the 50% move they were required to make this year, and not to facilitate 100% of the need. He said the other 50% need would be considered in a process next year.

Councilor Morissette wanted to make sure the 45 day notifications would be in compliance so meeting the December 3 goal date actually had an opportunity to happen. He thanked the Presiding Officer for his reassurances.

Councilor McLain said it was her understanding that, in the past, i.e. in Wilsonville, they had a resolution from the full Council to go ahead with that 45 day notice. She asked if this schedule accommodated that council decision so it would be a council notice and not a singular committee notice.

Presiding Officer Kvistad said the notice would come from the decision made at the committee meeting next Tuesday. He said it did not necessarily need to come from the Council as a whole. He did not foresee any problems because they were already mostly in agreement. He said he wanted it to be very open and everyone was welcome to sit through it. He said once the decision was made about the timeline it would be noticed almost immediately.

Councilor McLain asked Mr. Cooper if what the Presiding Officer just said, that the notice would be let after the committee meeting next Tuesday, did that mean it would be a council sanctioned notice or simply some committee members making a decision.

Mr. Cooper said the giving of the notice was an administrative act and did not in any way bind the council to make any particular decision. He said it gave notice that they could potentially be making a decision. He said under council rules, the Presiding Officer administered the council department and could take whatever guidance he wanted to in putting the notice out and how he would do that.

Presiding Officer Kvistad said rather than make the notice decision himself, he was going to make sure it happened in committee.

Councilor McLain asked Mr. Cooper and Presiding Officer Kvistad if the notice itself was generic and would not specifically name out sites but simply say a decision would be made that could potentially include the following material.

Mr. Cooper said the notice would have to specify all of the properties that would potentially be considered for being included inside the urban growth boundary. He said it did need to be property specific.

Councilor McLain said her understanding then, was the notice they would be giving would simply be a wide net of the possible decisions that might be before Council in the next 3 months.

Presiding Officer Kvistad they would try to give a range of what they felt would be discussed so the sites would be noticed.

Councilor McLain was concerned about the specificity of this particular process because they had given every indication to their MPAC partners that it would be a review of a particular set of first tier, or productivity results on particular urban reserves. She wanted to make sure they did not give a mixed message and that it was very clear this was simply giving notice that there were potential decisions to be made, and that it did not in itself make a decision.

Presiding Officer Kvistad said it would give notice that a decision would be moving forward and which sites could potentially be included, but beyond that there were no proposals from the Council on the table at MPAC. He said the Executive had moved forward a proposal but it was just a recommendation and was not before council as an action item. He said they could look at that as well.

Mr. Cooper said there were two relevant notice requirements, first notice had to be published in the newspaper 45 days before the hearings as to which properties were potentially being considered. He said it needed to give property description so someone reading it could know where it was. Secondly, 20 days before the hearing, individual mailed notice to all property owners in the area being considered plus anybody who lived within 500' of those boundaries needed to be sent. He said those were the 2 turning points for making decisions on how much notice to give on what land. He said the printed notice in the paper was just one step.

Presiding Officer Kvistad said the determination would be made at Growth Management Committee and everyone was free to come and participate. He said the dates for the Council public hearings had been set for November 10th, 12th, 16th, and 19th.

Councilor Morissette hoped that they would have an opportunity to discuss the final conclusions and still meet the notice requirements. He assumed the dates would work but said it made him nervous with the site specific notification of 20 days that it would not lead to a December 3 decision. He wanted to know if the dates could be reviewed so between now and next Tuesday.

Mr. Cooper responded yes they could.

Presiding Officer Kvistad introduced the new intern, Wendy Kirkpatrick, a PSU graduate student, who had been previously working for Bev Stein at the Multnomah County Commission. He noted the council meeting on September 24th would be held at the Hillsboro School District's administrative building west, in the board room.

Councilor McLain invited the council for dinner before that meeting, her treat. She encouraged the councilors to use the new lightrail line as it stopped right next to the building where the meeting was to be held. She asked Mr. Cooper to remind council of the process for the upcoming public hearing officer's first report on one of the urban growth boundary locational adjustments. She asked if it was for the information to be presented.

Mr. Cooper said it was a first reading of the ordinance and did not go to committee. He said people could testify in favor or against the hearing officer's report and then the council would continue it. He said if there was a problem and it needed to be sent back to the hearing officer a tentative vote on that could occur, otherwise it would be passed over for second reading and a final vote the following week. He said he would send a memo to the councilors explaining the quasi-judicial process and procedures for locational adjustments.

Councilor Monroe noted why he could not attend the next council meeting.

Presiding Officer Kvistad urged attendance at the Growth Management Committee meeting Tuesday, September 22nd.

12. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Kvistad adjourned the meeting at 3:25 p.m.

Prepared by,

Chris Billington
Clerk of the Council