

## MINUTES OF METRO COUNCIL REGULAR MEETING

Council Chamber

January 26, 1995

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

Presiding Officer McFarland called the January 26, 1995 Metro Council Regular Meeting to order at 7:01 p.m.

### 1. INTRODUCTIONS

None.

### 2. CITIZEN COMMUNICATIONS

Romeo Bisorca, a student from Reynolds High School, addressed the Council and indicated he was in attendance as part of his school work. He felt there was paper waste in producing the documents for the Council meeting, and suggested using a board to write on instead. Presiding Officer McFarland noted there were other citizens who felt they did not receive enough information on paper nor did they receive it often enough. She noted information was also advertised in the local newspapers. Councilor McLain remarked that an electronic bulletin board was being activated for those who would be interested, which would also help eliminate the need for so much paper. She noted also that Metro had an effective recycling program within the agency. Presiding Officer McFarland thanked Mr. Bisorca for taking an interest in his government.

### 3. EXECUTIVE OFFICER COMMUNICATIONS

Carol Kelsey, Executive Assistant, addressed the Council and distributed a letter dated January 26, 1995 from Mike Burton, Executive Officer, in which he urged the Council to pass Ordinance No. 95-574, an ordinance repealing the Construction Excise Tax. This document has been made a part of the permanent meeting record.

### 4. CONSENT AGENDA

4.1 Consideration of Minutes for the January 5, 1995, January 12, 1995, and January 19, 1995 Metro Council Regular Meetings; and the Minutes for the January 10, 1995 and January 17, 1995 Metro Council Work Sessions.

Motion: Councilor Monroe moved to approve the minutes for the January 5, 1995, January 12, 1995, and January 19, 1995 Metro Council regular meetings; and the minutes for the January 10, 1995 and January 17, 1995 Metro Council Work Sessions as submitted.

Vote: Councilors Kvistad, McCaig, McLain, Monroe, Morissette, Washington and McFarland voted aye.

The vote was unanimous and the motion passed.

### 5. ORDINANCES SECOND READINGS

5.1 Ordinance No. 95-574, An Ordinance Repealing Ordinance No. 94-556C Relating to Taxation

Motion: Councilor Kvistad moved to adopt Ordinance No. 95-574. Councilor Washington seconded the motion.

Councilor Monroe said he would support the proposed ordinance to repeal the Construction Excise Tax, and he emphasized that should this ordinance pass it would be anticipated that the Metro excise tax would remain at 7.5% in the Executive Officer's proposed budget FY 1995-96. He added it would also be anticipated there would be no reduction in the solid waste disposal tipping fee of \$75 per ton. Councilor Monroe felt that it would not be possible to attempt to change those budget structures in the FY 1995-96 budget without the Construction Excise Tax in place.

Councilor McLain indicated she intended to support the repeal of the construction excise tax, and said her reasons included support of the new Executive Officer, particularly in his work in the budget and his confidence that the necessary savings could be found. Councilor McLain noted agency priorities had changed since she had voted for the construction excise tax, and felt it was necessary balance how many types of measures Metro could place on the ballot in May and be successful.

Councilor Morissette indicated he was pleased to have the opportunity to repeal the construction excise tax, and said he hoped Metro would be very careful about establishing similar taxes in the future.

Presiding Officer McFarland opened a public hearing. No citizens appeared before the Committee to testify. Presiding Officer McFarland closed the public hearing.

Councilor Monroe said he had received contacts from several groups and individuals who had an interest in the proposed ordinance asking whether or not they should appear to testify again. He said he had let them know that he understood the vote would be in favor of the proposed repeal, and he added that the fact that no one was present to testify should not be taken to mean that there was no further interest in the matter.

Presiding Officer McFarland recalled there had been numerous constituents who had come to testify previously. Councilor Kvistad thanked Councilor Monroe for all of his hard work to put forward what he felt was important as a means to fund this agency. Councilor Kvistad emphasized the need to recognize that Metro required a long term source of funding in order to be successful and effective. He said his vote to repeal the construction excise tax committed him to continue forth in the endeavor to find a broad based source for funding the work of Metro.

Vote: Councilors Kvistad, McCaig, McLain, Monroe, Morissette, Washington and McFarland voted aye.

The vote was unanimous and the motion passed.

Motion to Suspend the Rules: Councilor Kvistad moved to suspend the rules to consider Resolution No. 95-2030, For the Purpose of Withdrawing the Referral of Ordinance No. 94-556C Relating to Taxation to the Voters. Councilor McCaig seconded the motion.

Resolution No. 95-2030 was distributed to the Council. This document has been made a part of the permanent meeting record.

Vote on Motion to Suspend the Rules: Councilors McCaig, McLain, Monroe, Morissette, Washington, Kvistad and McFarland voted aye.

The vote was unanimous and the motion passed.

Motion: Councilor Kvistad moved to adopt Resolution No. 95-2030. Councilor Washington seconded the motion.

Councilor Kvistad said adoption of the proposed resolution would have the effect of removing the construction excise tax from the ballot and that the County Clerk would be notified.

Vote: Councilors McLain, Monroe, Morissette, Washington, Kvistad, McCaig and McFarland voted aye.

The vote was unanimous and the motion passed.

5.2 Ordinance No. 95-583A, Amending Chapter 2.01 of the Metro Code Relating to Council Organization and Procedures: and Declaring an Emergency

Motion: Councilor Monroe moved to adopt Ordinance No. 95-583A. Councilor Washington seconded the motion.

Casey Short, Council Analyst, presented the staff report, and referenced three memorandums distributed to the Council including: 1) a memorandum dated January 26, 1995 to the Presiding Officer from Daniel B. Cooper, General Counsel; 2) a memorandum dated January 25, 1995 to the Presiding Officer from Donald E. Carlson, Council Analyst; and, 3) his memorandum dated January 25, 1995 to the Metro Councilors from Mr. Short which contained two options regarding the office of Presiding Officer should the office become vacated. These documents have been made a part of the permanent meeting record. Mr. Short noted the proposed ordinance had been heard previously, and the options before the body represented the work of Staff to address questions that had been raised. Mr. Short noted Option No. 1 stated that the Deputy Presiding Officer would automatically become the Presiding Officer in the event that the office became vacated, and he said Option No. 2 stated that the Deputy Presiding Officer would serve as the Acting Presiding Officer until the Council elected a new Presiding Officer for the remainder of the term. Mr. Short noted the other memorandums referenced dealt with who had the authority to introduce legislation to the Council.

Presiding Officer McFarland opened a public hearing.

Jack Polans, King City resident, referenced pages 34, 35, and 36 of the proposed ordinance and suggested an amendment that qualifications for membership on the Boundary Commission include language that he or she must not be either for or against annexation, but rather be neutral.

Presiding Officer McFarland noted further discussion regarding the Boundary Commission would occur in a scheduled work session to take place January 27, 1995 from 12:00 p.m. to 3:00 p.m. Presiding Officer McFarland closed the public hearing.

Motion No. 1 to Amend: Councilor Morissette moved that Ordinance No. 95-583A include language reflected by Option No. 2; i.e. stating that the Deputy Presiding Officer would serve as the Acting Presiding Officer until the Council elected a new Presiding Officer for the remainder of the term, should the office of Presiding Officer become vacated during the term. Councilor McCaig seconded the motion.

In response to Councilor McLain, Mr. Short said an Acting Presiding Officer would not receive the salary due the Presiding Officer, and he said no one would until a new Presiding Officer was elected by the Council. Councilor Monroe said he favored Option 2 as well, but felt it should be noted that should the Presiding Officer's office be vacated there would also be a vacant seat on the Council.

With permission of the Presiding Officer, Councilor Washington indicated he preferred Option 1. He indicated if such an event were to occur, he felt it would be a time to demonstrate unity and dispel contentiousness, and felt Option 1 met those requirements in a better fashion.

Councilor Monroe said he agreed that Option 1 provided certainty in a time of crisis, and he noted there was a provision for removing a Presiding Officer with five votes. Mr. Cooper concurred. He said he felt, however, that Option 2 was more democratic.

Vote on Motion No. 1 to Amend: Councilors Monroe, Morissette, Washington, Kvistad, McCaig, McLain and McFarland voted aye.

The vote was unanimous and the motion passed.

Motion No. 2 to Amend: Councilor McCaig moved to amend Ordinance No. 95-583A, Section 2.01.070<sup>o</sup> to insert the words "the Auditor" after the reference to "a Committee of the Council," and before the reference "or the Executive Officer" as outlined in the January 26<sup>th</sup> memorandum from Mr. Cooper. Councilor McLain seconded the motion.

Councilor McCaig said she felt the proposed amendment would serve to expedite the process by allowing the Auditor to come directly before the Council for such matters, noting doing so would alter neither the ensuing discussion nor the votes.

Presiding Officer McFarland opened a public hearing. No citizens appeared before the Committee to testify. Presiding Officer McFarland closed the public hearing.

Councilor Kvistad did not support the amendment giving the auditor the authority to introduce legislation. He said that Charter language intended that it was the role of the Council and the Executive Officer of Metro to formulate public policy and develop ordinances and resolutions and referenced Mr. Carlson's January 25<sup>th</sup> memorandum.

In response to Councilor McLain, Mr. Cooper said case law supported that if there was an irregularity in having the Auditor lay an item before the body, a remedy would occur by following the Charter process of public notice, first reading, second reading, and sufficient votes of the Council.

In response to Councilor McLain, Councilor McCaig said the Secretary of State had such authority.

In response to Councilor Monroe, Mr. Short said he was aware that the City of Portland had such authority. Alexis Dow, Metro Auditor, indicated she was not aware whether or not the Multnomah County Auditor had such authority. Ms. Dow read from the Metro Charter regarding the responsibilities and duties of the Metro Auditor. She said it was her opinion that in order to fulfill the duties of the Office of Auditor it was incumbent upon the Office to have the privilege of bringing proposed actions before the Council.

The Council discussed the benefits and drawbacks of the proposed amendment further.

Vote on Motion No. 2 to Amend: Councilors Morissette, Washington, McCaig, McLain, Monroe and McFarland voted aye. Councilor Kvistad voted no.

The vote was 6 to 1 in favor, and the motion passed.

Main Motion as Amended: Councilor Monroe moved to adopt Ordinance No. 95-583B as amended.

In response to Councilor Morissette, Mr. Cooper explained that a 2/3 vote of the Council was 5, not 4. He said 4 would be less than 2/3 of the body of seven Councilors and that a 2/3 vote would need to be at least 2/3, or 5 votes. He added that 4 votes would equal 2/3 of the vote if only 6 Councilors were present, however.

Vote on Main Motion as Amended: Councilors Washington, Kvistad, McCaig, McLain, Monroe, Morissette and McFarland voted aye.

The vote was unanimous and the motion passed.

6.1 Resolution No. 95-2078. For the Purpose of Adopting Rules Establishing Procedures Relating to the Conduct of Council Business

Mr. Short presented the staff report, and described the rules of procedure for the conduct of Council business that would be implemented by adoption of the proposed resolution.

Councilor Morissette indicated he supported the proposed resolution, and noted that, following a conversation with the Presiding Officer, he was satisfied regarding placement of issues of interest on agendas for Work Sessions.

Presiding Officer McFarland opened a public hearing.

Mr. Polans addressed the Council, and said that the three minute time frame allotted to citizens for addressing the Council was not long enough. He asked whether written testimony would be acceptable. Presiding Officer McFarland said written testimony was always acceptable.

Presiding Officer McFarland closed the public hearing.

Motion: Councilor Monroe moved to adopt Resolution No. 95-2078. Councilor Washington seconded the motion.

Vote: Councilors Kvistad, McCaig, McLain, Monroe, Morissette, Washington and McFarland voted aye.

The vote was unanimous and the motion passed.

6.2 Resolution No. 95-2079. For the Purpose of Revising Guidelines for Councilor Expense and General Council Materials & Services Accounts

Main Motion: Councilor Kvistad moved to adopt Resolution No. 95-2079. Councilor Morissette seconded the motion.

Mr. Short presented the staff report, and said the proposed resolution would provide revision of guidelines for Councilor expenses, authorizing each Councilor to receive up to \$4,000 each fiscal year as reimbursement with the Presiding Officer authorized to receive an additional \$500 for each six months of service.

Councilor Kvistad said a resolution similar to the proposed resolution came before the Council periodically, and he added that needs of each Councilor had been analyzed based on a new and expanded Council districts while the number of Councilors reduced from 13 to 7. Councilor Kvistad said the budget guidelines included four 1,000 piece newsletters at approximately \$.35 each for citizen outreach, and he noted two travel items were included at approximately \$1,000 each. Councilor Kvistad supported the resolution adding that he encouraged Councilors to underspend.

The Council discussed the proposed resolution further.

Councilor Kvistad responded to questions raised by Councilor McCaig. Councilor McCaig recommended waiting to consider the proposed resolution until after the budget process.

Motion to Amend: Councilor McCaig moved to amend Resolution No. 95-2079 to change language in Exhibit A, Councilor Expense Accounts, section 1. to read:

“Each Councilor is authorized to receive up to \$1,800 each fiscal year as reimbursement...” rather than \$4,000; and, that the language in the next sentence be changed to read: “up to \$900 for authorized expenses for that fiscal year.” rather than \$2,000.

Councilor Morissette seconded the motion.

Councilor Monroe felt that since the number of citizens in each Councilors' district was greater it was prudent to consider increasing the amount to be reimbursed for expenses incurred for Council related activities. Councilor McLain discussed expenses that would be incurred in the process of producing citizen outreach newsletters, and indicated she felt the newsletters were a priority.

Councilor Washington suggested the proposed resolution be carried over for further discussion and in Work Session.

Vote on Motion to Amend: Councilors McCaig and Morissette voted aye. Councilors McLain, Monroe, Washington, Kvistad and McFarland voted no.

The vote was 5 to 2 opposed and the motion failed.

Motion: Councilor Washington moved to send Resolution No. 95-2079 back to staff for revision. There was no second, and the motion died.

Vote on Main Motion: Councilors Monroe, Washington, Kvistad and McFarland voted aye. Councilors McLain, Morissette and McCaig voted no.

The vote was 4 to 3 in favor, and the motion passed.

### 6.3 Resolution No. 95-2077, For the Purpose of Authorizing the Auditor to Release a Request for Proposals (RFP) and Execute a Contract for Independent Audit Services

Ms. Dow presented the staff report, and said the proposed resolution would authorize the Auditor to release an RFP for independent audit services, noting the current contract was due to expire March 31, 1995.

In response to Councilor McCaig, Ms. Dow noted that in addition to the four reports required as detailed in the Proposed Scope of Work, a fifth report scheduled for before March 31, 1998 could likely be accomplished within the \$75,000 per year estimated cost.

Main Motion: Councilor McCaig moved to adopt Resolution No. 95-2077. Councilor Kvistad seconded the motion.

Mr. Carlson referenced his memorandum dated January 26, 1995 regarding possible amendments to the RFP. This document has been made a part of the permanent meeting record. He referenced page 83 of the agenda packet, page 5 of the RFP, and suggested a bullet heading stating General Revenue Bond Covenant Certification Letter be inserted at the bottom of the page followed by language to the effect, “After January 1, 1998 review Metro’s method of determining department assessments under General Revenue Bond Covenants as required by Ordinance No. 91-439, Section 5.01(c) and provide a report of that review before March 1, 1998 including any recommendations for improvement.”

Motion No. 1 to Amend: Councilor McCaig moved to amend Resolution No. 95-2077 with language as suggested by Council Staff. Councilor Kvistad seconded the motion.

Vote on Motion No. 1 to Amend: Councilors Monroe, Morissette, Washington, Kvistad, McCaig, McLain and McFarland voted aye.

Mr. Carlson referenced his memorandum dated January 24, 1995 regarding the proposed resolution and detailed a second amendment which was suggested. This document has been made a part of the permanent meeting record. In response to Councilor McCaig, Ms. Dow noted an extra piece of work had just been added with the passage of the amendment. Ms. Dow felt setting a maximum amount at \$237,000 would be appropriate.

Mr. Carlson suggested the RFP state the current budget had been set at \$65,000, thus encouraging respondents to validate reasons for increased costs over that figure.

Motion No. 2 to Amend: Councilor McCaig moved to amend Resolution No. 95-2077 to include language as follows:

“That the Metro Council hereby authorizes the Auditor to release a Request for Proposals (RFP) for Independent Audit Services in substantial compliance with the attached document. [and subsequently] The Metro Council authorizes the Auditor to execute a contract with the most advantageous proposer subject to the following conditions:

a) the contract Scope of Work is not materially different than the Scope of Work included in the RFP; and,

b) the total amount of the contract does not exceed \$237,000.”

Vote on Motion No. 2 to Amend: Councilors Morissette, Washington, Kvistad, McCaig, McLain, Monroe and McFarland voted aye.

The vote was unanimous and the motion passed.

Councilor McLain recommended continuing discussion regarding criteria and needs for the Office of the Auditor. Presiding Officer McFarland said she had given out questionnaires to the Councilors requesting input for Work Session discussions, and said she agreed the matter warranted further discussion. Councilor McCaig and Ms. Dow noted there were matters involved which were required by law.

Main Motion as Amended: Councilors Washington, Kvistad, McCaig, McLain, Monroe, Morissette and McFarland voted aye.

The vote was unanimous and the motion passed.

#### 6.4 Resolution No. 95-2080A. For the Purpose of Accepting Nominees to the Metro Committee for Citizen Involvement (Metro CCI) (Action Requested: Motion to Adopt Resolution)

Councilor McLain presented the proposed resolution, and referenced a Staff Report by Judy Shioishi dated January 19, 1995 containing a proposed amendment, which would add Mr. Kenneth W. Buelt's name to the membership of the Metro Committee for Citizen Involvement (MCCI).

Councilor Kvistad commended the work of the MCCI, staff and Councilor McLain in reaching a good resolution.

Main Motion as Amended: Councilor McLain moved to adopt Resolution 95-2080A as amended.  
Councilor Kvistad seconded the motion.

Vote on Main Motion as Amended: Councilors Kvistad, McCaig, McLain, Monroe, Morissette,  
Washington and McFarland voted aye.

The vote was unanimous and the motion passed.

#### 7. COUNCILOR COMMUNICATIONS

Councilor Morissette commented the voters felt it was a time to try to find ways to deliver the services of this agency more affordably, and added he was pleased with the cooperation exhibited among the Councilors and staff to save money within the Metro budget. He said he was pleased with the outcome of Ordinance No. 95-574, and felt such matter should be referred to the voters. He added he would continue to be opposed to any future proposals for what he termed niche taxes.

Councilor McLain noted copies of information from the Neighboring City Grant meeting had been distributed to the Councilors, and that she would entertain any questions. She said she would provide information regarding the recent WARPAC meeting if requested, and said sewer and water providers were in attendance with representatives from the three counties. She said connections with the 2040 work were discussed, and said a special Task Force to meet monthly with Metro Staff had been set up.

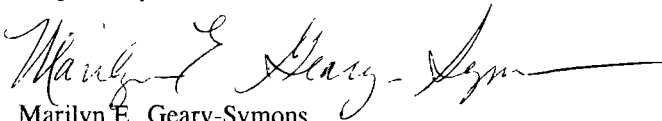
Councilor Monroe said the action taken by the Council repealing the construction excise tax had the effect of denying the voters the right to vote on the tax.

Councilor Kvistad, liaison to the Friends of the Zoo, invited the Councilors to participate in a behind the scenes Zoo tour, date to be determined, either Wednesday or Friday. He noted that a tour of the light rail tunnel operation could also be arranged according to Andy Cotugno, Planning Director.

Councilor Washington noted seven visitors from the country of Bulgaria had toured Metro and had been given an overview of Metro's responsibilities. He said if any Councilors planned to visit Bulgaria in the future he would be able to put them in touch.

There being no further business, the meeting adjourned at 9:14 p.m.

Respectfully submitted,



Marilyn E. Geary-Symons  
Council Assistant

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**APPROVED**  
Date 02/09/1995 AS REVISED