

Minutes of the Metro Council
March 16, 1995
Council Chamber

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

Councilors Excused: Jon Kvistad

Presiding Officer McFarland called the meeting to order at 2:05 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS

Karen Upton praised Metro for multi-use development opportunities, specifically Fairview Village. Councilor McCaig suggested Ms. Upton contact John Fregonese, Urban Growth Manager, to learn about other projects.

Henry Kane, Beaverton, appeared to testify. He noted Washington County was proposing to eliminate certain traffic in on US 26 and Hwy 217. He expressed concerns about increased congestion in the area. He noted he would forward written statement to Metro.

3. EXECUTIVE OFFICER COMMUNICATIONS

Mike Burton, Executive Officer, stated the election budget was overextended and an amendment was forthcoming. He noted a supplemental budget for the FY 1994-95 would be coming forward to accommodate change in revenues at the PCPA. He discussed landuse issues at the Legislature.

Jennifer Sims, Finance and Management Information Director, presented the investment report for the quarter ending December 31, 1995, a copy of which is included in the record of this meeting.

4. CONSENT AGENDA

4.1 Consideration of Minutes of the March 9, 1995 Council Meeting

Motion: Councilor Washington moved, seconded by Councilor McLain, to approve the minutes.

Vote: Councilors McCaig, Morissette, Washington, McLain, and McFarland voted aye. Councilor Monroe was absent. The vote was 5/0 and the motion passed.

5. ORDINANCES SECOND READINGS

5.1 Ordinance No. 95-588, An Ordinance Amending The FY 1994-95 Budget And Appropriations Schedule To Reflect A Grant Received By Metro Washington Park Zoo, And Declaring An Emergency

Motion: Councilor Washington moved, seconded by Councilor McCaig to adopt the Ordinance.

Councilor Washington noted the Ordinance would accommodate funds to study the effects of noise, specifically blasting the light rail tunnel, on the animals at the Metro Washington Park Zoo. Kathy Kiaunis, Assistant Zoo Director, was present to respond to questions of the Council.

Vote: Councilors McCaig, Morisette, Washington, McLain, and McFarland voted aye. Councilor Monroe was absent. The vote was 5/0 and the motion passed.

5.2 Ordinance No. 95-594, An Ordinance For The Purpose Of Revising Metro Code Chapter 2.02, Personnel Rules For Non-Represented Employees.

Main Motion: Councilor Washington moved, seconded by Councilor McCaig to adopt the Ordinance.

Councilor Washington noted in response to testimony at the March 9, 1995 hearing, an amendment was being proposed to provide reimbursement at a maximum of the PSU tuition rate, not to exceed three credit hours per term, and \$1,000 per fiscal year, a copy of which is included in the record of this meeting.

Councilor Morisette questioned if fewer people would be provided educational benefits. Presiding Officer McFarland noted limitations were placed on any one individual, but that the funds would need to be budgetted in order to receive the benefit.

In response to Councilor Washington, John Houser, Senior Council Analyst, noted the total funds utilized for education was evaluated, but that the number of employees was not determined. Councilor Washington requested information from this point forward on employees participating in the education reimbursement. Paula Paris, Personnel Director, suggested examining the line item budget to determine the employees participating. She noted the budget account also included training and conferences.

Motion to Amend: Councilor Washington moved, seconded by Councilor McCaig to adopt the amendments.

Vote on Motion to Amend: Councilors McCaig, Morisette, Washington, McLain, and McFarland voted aye. Councilor Monroe was absent. The vote was 5/0 and the motion passed.

Vote on Main Motion: Councilors McCaig, Morisette, Washington, McLain, and McFarland voted aye. Councilor Monroe was absent. The vote was 5/0 and the motion passed.

Presiding Officer McFarland recessed the Council and convened the Contract Review Board.

6. CONTRACT REVIEW BOARD

6.1 Hearing: Appeal by Tri-State Construction, Inc. of Award to L & H Grading, Inc., of Contract for Closure of Sub-Areas 4 & 5 Contract Award Item

Tod Sadlo, Senior Assistant Counsel, introduced the Tri-State Construction representatives. He summarized his March 6, 1995 memorandum, a copy of which is included in the record of this meeting. He reviewed the process used in awarding the contract. He noted Tri-State Construction's bid did not conform to bid requirements and the contract was awarded to L & H Grading, Inc. He explained the appeal process. He noted he attended a meeting on March 14, 1995 with staff and Councilors overviewing the process used for award and appeal. Councilor Washington noted he greeted the Tri-State representatives today, but did not discuss the case.

Mr. Sadlo referred to the February 23, 1995 letter to Joseph Yazbeck, Jr., from the Executive Officer, a copy of which is included in the record of this meeting. He explained the bid was unbalanced due to significant differences in both the engineer's estimate and the average of all other bidders. He stated that if changes were made to specified, the contract cost could significantly change the cost of the contract.

Ron Odestino, Paul Noble, and Mark Casper were present for Tri-State Construction, Inc. Joseph Yazbeck, Jr., Counsel for Tri-State Construction, he distributed information, a copy of which is included in the record of this meeting. He noted Tri-State Construction, Inc., was the low bidder by \$253,000. He emphasized that Tri-State did not submit a conditioned bid and would provide the materials needed to complete the project. He noted unbalanced bids were frequently unbalanced and still accepted. He noted Metro estimated 67,500 cubic yards of imported sand would need to be imported, but that the bid documents called for 125,000 cubic yards of sand. He said the payment method was not actual yards of material, but estimated based on area. He noted the bid specifications called for using the existing sand on site. He noted the other materials were consequently bid higher. He noted if the full 125,000 cubic yards of sand were needed, they would provide it at \$.20 as bid. Referring to his handouts, Mr. Yazbeck noted most other contracts included a provision for 25% margins in costs. He stressed Tri-State was the low bidder even at 64.8% of the materials. He stated Metro should award bids based on the information provided in the bid documents. He said the bid schedule itself was unbalanced as a result. He said the contract should be awarded to Tri-State Construction, Inc. or thrown out entirely and re-bid. He said Tri-State was a qualified contractor.

****McLain - unbalanced, 125,000, respond to DEQ Sadlo yes....comptroller general for evaluation, any less than 97,000 cubic yards..**

In response to Councilor Morissette, Mr. Sadlo and Jim Watkins, Engineering and Analysis Manager, spoke to the line item and bid documents. Mr. Sadlo noted the reasons for including high quantities would allow for changes mandated by DEQ without change orders. He noted Metro had worked with both contractors in the past. Mr. Sadlo noted the owner of L & H Construction died today on the way to this hearing.

Presiding Officer McFarland allowed each party five minutes to close.

Mr. Yazbeck stated Tri-State used the information contained in the bid document to prepare the bid. He stated unbalanced bids were common in the industry. He said based on other industry standards the figure of 125,000 cubic yards was not reasonable. He stated the bid was unconditional and they would perform the contract.

Mr. Sadlo stated page four of the document contained information about rejection of bid based on unbalanced bid and page one requires any misunderstanding must be brought to the attention of Metro for interpretation. He said no questions were asked at the pre-bid conference and that Tri-State participated in the conference. He noted the materials were the largest cost in the contract and could change the amount by up to \$500,000. He noted if a bid like this were accepted fraud and collusion would be suspect. He requested support of the L & H bid.

Councilor McLain stated she did not support the appeal. She supported the finding that the bid was unbalanced.

Vote to approve the appeal: Councilors Washington, McLain, McCaig, Morissette, Monroe, and McFarland voted nay. The vote unanimously rejected the appeal.

Presiding Officer McFarland adjourned the contract review board and reconvened the Metro Council.

7. RESOLUTIONS

- 7.1 Resolution No. 95-21006, For the Purpose of Authorizing the Executive Officer to Enter into a Contract with L & H Grading, Inc., for Work Associated with the Closure of Sub-Areas 4 & 5 of the St. Johns Landfill**

Motion: Councilor McLain moved, seconded by Councilor McCaig, to adopt the resolution.

Councilor McLain noted the resolution would award the contract to L & H Grading, Inc., for closure of sub-areas 4 & 5 of the St. Johns Landfill.

Vote: All those present voted aye. The vote was unanimous and the motion passed.

7.7 Resolution No. 95-2114 For the Purpose of Amending Resolution No. 95-2070, Relating Meeting Times of the Metro Council

Presiding Officer McFarland requested action not be taken on the item today, allowing it to be heard at an evening meeting.

Ed Gronke, MCCI member, appeared to testify. He referred to written testimony distributed to the Council, copies of which are included in the record of this meeting. He summarized the activities of the MCCI. He opposed the cancellation of the evening Metro meetings. Bob Wiggins, Aleta Woodward, and Geoff Hyde members of the MCCI introduced themselves.

Councilor Monroe stated Metro prides itself in being accessible to citizens. He said the night meeting was scheduled with this effort in mind. He said no citizens attended the meetings and so night meetings were being proposed to be scheduled only when an issue of high public interest was before the Council.

Councilor McLain noted Jack Young had called to express opposition to the resolution. She noted she suggested a compromise of 4:00 p.m. for the fourth Thursday. She said many items were coming up that would interest the citizens. She stated she opposed the resolution.

Motion: Councilor Morissette moved, seconded by Councilor McCaig to adopt the resolution.

Councilor McCaig suggested that the time of the meeting did not keep people away. She suggested that the recent agenda items were not of particular interest to people.

Vote: All those present voted nay. The vote was unanimous rejected and the motion failed.

7.2 Resolution No. 95-2102, For the Purpose of Approving the FY 1996 Unified Work Program

Motion: Councilor Monroe moved, seconded by Councilor Washington to adopt the resolution.

Councilor Monroe noted Andy Cotugno, Planning Director, was present to address any questions.

Casey Short, Senior Council Analyst, noted Councilor Kvistad expressed concerns about the resolution.

Vote: All those present voted aye. The vote was unanimous and the motion passed.

7.3 Resolution No. 95-2103, For the Purpose of Certifying that the Portland Metropolitan Area is in Compliance with Federal Transportation Planning Requirements

Motion: Councilor Monroe moved, seconded by Councilor McCaig to adopt the resolution.

Councilor Monroe noted the item was a companion to Resolution 95-2102.

Vote: All those present voted aye RUTH ABSENT. The vote was unanimous and the motion passed.

7.4 Resolution No. 95-2109, For the Purpose of Authorizing the Release of a Request for Proposals (RFP) and the Execution of a Multi-Year Contract for Management of the Boat Concession at Blue Lake Park

7.5 Resolution No. 95-2108 For the Purpose of Authorizing the Release of a Request for Proposals (RFP) and the Execution of a Multi-Year Contract for Management of Food Concession at Blue Lake Park

Motion: Councilor McCaig moved, seconded by Councilor Morissette to adopt Resolution Nos. 95-2109 and 2108.

Vote: All those present voted aye. The vote was unanimous and the motion passed.

7.6 Resolution No. 95-2089 For the Purpose of Amending the Transportation Policy Alternatives Committee (TPAC) Bylaws

Motion: Councilor Monroe moved, seconded by Councilor Washington, to adopt the resolution.

Councilor Monroe reviewed the history of the resolution. He noted TPAC members requested the Council consider interest and geographic areas when appointing alternates.

Vote: All those present voted aye. The vote was unanimous and the motion passed.

8. INFORMATIONAL ITEMS

8.1 Report Regarding Envirocorp Work at Metro

Councilor Washington updated the Council on the Envirocorp projects. He introduced Jennifer Thompson, coordinator for Envirocorp projects. Ms. Thompson reviewed the participants in the project. She introduced Josh Spragen, participant. She spoke to the projects for Metro. She thanked the Council for their support.

Councilor Monroe suggested Metro Council resolution in support of the project to be forwarded to Congress. Councilor Washington noted the resolution would be before the Council next week. Councilor Washington thanked Ms. Thompson and the Envirocorp members for their hard work.

Elizabeth Moore, Naturalist, distributed materials on the program, copies of which are included in the record of this meeting. She stated the opportunity to work with Envirocorp was very rewarding.

Councilor Washington introduced Ms. Messer and Ms. ** of Portland State University

Ms. Thompson and Ms. Moore showed a five minutes video on the activities of the Envirocorp participants.

10. LEGISLATIVE ITEMS

Burton West, Western Advocates, updated the Council on the Legislative activity, particularly that of Light Rail, Land Use, Finance, Boundary Commission, and PERS issues.

9. COUNCILOR COMMUNICATIONS

Councilor Morissette noted he met regularly with Clackamas County Commissioners and requested he work on appointments with Clackamas County. He called for Councilor Kvistad's participation in the team building process. Presiding Officer McFarland stated she was moving all the meetings to allow full

participation of Council members. Councilor Morissette noted that Focus had more participants than MPAC and some activiteis might utilize Focus for increased participation. He said if Focus was not the right mechanism than one should be developed.

Councilor McCaig reviewed the budget hearing schedule. She requested moving the meeting to 12:30 p.m. to accomodate for participants to attend.

Molly O'Reilly, TPAC Member, appeared to address Resolution No. 95-2089. She spoke to the importance of citizen participation. She said it took time for citizens to gain an effective understanding of the issues. She spoke to the importance of having alternates, "talk the same talk". She encouraged selection of alternates in coordination with the member. She called for considerate treatment of all applicants.

With no further business before the Council, Presiding Officer adjourned the meeting at 5:00 p.m.

Prepared by,



Susan Lee, CMC
Council Assistant

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APPROVED
Date 03/23/1995