

MINUTES OF THE METRO COUNCIL MEETING

Thursday, October 5, 1995

Council Chamber

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

Councilors Absent: None

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

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Mike Burton, Executive Officer, introduced Charles Ciecko, Director of Regional Parks and Greenspaces, and gave a report on Metro's open space acquisition plan. The components of the plan are included in a document entitled Metro Open Space Acquisition Program Draft Implementation Work Plan, a copy of which is included as part of the meeting record. He introduced Nancy Chase, Open Spaces Acquisition Manager, and Jim Desmond, Open Spaces Acquisition Program Manager.

Councilor McLain asked to receive a list of the local share agreements that have been signed, as well as a list of those that are in the process of being signed, and those that are problematic.

Councilor Morissette asked for assurance that in the acquisition process there is provision for appraisals and determination of hazardous materials on site. Executive Officer Burton said the due diligence section deals with these issues.

Executive Officer Burton reported that \$1.3 million of open spaces citizen bonds have been ordered.

6. RESOLUTIONS

The Council heard Resolution No. 95-2215 out of order.

6.2 Resolution No. 95-2215, For the Purpose of Authorizing Execution of 26 Intergovernmental Agreements with Local Park Providers for the Local Share of the Open Spaces Bond Measure

The Clerk read the resolution by title only.

Motion: Councilor McCaig moved, seconded by Councilor Washington for adoption of Resolution No. 95-2215.

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Councilor McCaig reported on Resolution No. 95-2215 which authorizes execution of 26 Intergovernmental Agreements (IGAs) with local jurisdictions for the local share of the open spaces bond measure. She said this resolution is a cornerstone in moving forward with Measure 26-26, and of furthering good working relations with local jurisdictions.

***Vote:** Councilors McCaig, Morissette, Monroe, Washington, McLain, Kvistad, and McFarland voted aye. The vote was 7/0 in favor and the motion passed unanimously.*

4. CONSENT AGENDA

4.1 Consideration of Minutes for the September 28, 1995 Metro Council Meeting

***Motion:** Councilor Monroe moved, seconded by Councilor Washington for adoption of the Consent Agenda.*

***Vote:** Councilors McCaig, Morissette, Monroe, Washington, McLain, Kvistad, and McFarland voted aye. The vote was 7/0 and the motion passed unanimously.*

5. INFORMATIONAL ITEMS

5.1 Report by the Auditor: Observations Relating to Loaned Employees and Metro's Code of Ethics

Alexis Dow, Metro Auditor, gave a report on a study relating to loaned employees and Metro's code of ethics. The study of the loaned employee program was undertaken in response to request by a citizen. A copy of this report, which includes the background, analysis, and recommendations, as well as other key elements, is included as part of the meeting record. As a result of the study, Ms. Dow found absolutely no improprieties had occurred. However, she did recommend Metro's code of ethics be reviewed and enhanced.

Executive Officer Burton presented his response to the audit. He supplied copies of his Executive Order 95-56 outlining his policy with regard to loaned executives to the council. A copy of this order is included as part of the meeting record.

Councilor McLain said a copy of the actual written complaint should be available. She asked if there was a process in place to require a formal written request. Ms. Dow referred Councilor McLain to the Objectives section of the report, where the citizen request is summarized. She said she had telephone conversations with the citizen, and some written correspondence.

Councilor McLain asked where the feedback from the loaned employee or the senior planner was found in the report. Ms. Dow said since there were no findings of impropriety, the subjects of the study were not notified that they were being audited. Councilor McLain asked if the Auditor's Office felt an obligation to inform people that they have been the subject of a published audit. Ms. Dow said as a courtesy she had notified the individuals involved that the audit had been produced. Councilor McLain stated that when there is a published report where individual's ethics and reputations have been scrutinized, whether or not there is a finding of wrongdoing, they should be notified of this situation. In the situation under discussion, the individuals did not know their actions had been audited until they were contacted by members of the media. Ms. Dow responded that a draft copy of the study was reviewed with the Executive Officer and Presiding Officer before it was distributed to the media, the public, and the individuals involved at the same time. Councilor McLain said work needs to take place to improve the notification process.

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Councilor McCaig asked what criteria are used to determine the merit of an individual's request for an investigation. Ms. Dow said there have been criteria developed for selection of audits, part of which were developed in conjunction with development of an annual plan. She said the initial audits were generated by citizen inquiry, and that the organizational annual plan was being developed when these requests came in. She said their brief, limited nature provided a good opportunity for the Auditor to familiarize herself with Metro and the audit process. Ms. Dow stated that she will look into any inquiry she receives to see if it has any merit. Councilor McCaig said it is important that the Council and the Executive know what criteria the Auditor uses to decide whether or not to undertake an audit. Ms. Dow responded that as long as time permits, she will respond to each request. Councilor McCaig said the availability of time is not necessarily a good basis for a decision to undertake an audit.

Councilor McCaig asked for an accounting of the time and cost of the audit. Ms. Dow responded that the audit in question took place before July 1, and professional staff were not on board until April. She indicated that time records were not maintained prior to July 1. Councilor McCaig asked for verification that the Auditor's Office had not kept track of time spent on audits until July 1. Ms. Dow confirmed that fact. Councilor McCaig asked why an audit performed prior to July 1 was not released until October.

Councilor Washington asked if there is a legal requirement to attach names to audit reports. Mr. Cooper responded that this is a judgment call for the auditor. He said the public records act does not require non-disclosure, it simply permits it. Councilor Washington asked that since there was no wrongdoing found, would a letter of that fact have been sufficient. Ms. Dow indicated she chose to prepare a report as her method of communicating with the Council.

Councilor McCaig said she feels this report is a poor example of what Metro hoped an elected auditor would do. She expressed discomfort with the procedure which allows any one individual to place a telephone call and have that call result in an investigation without any other criteria than time available. She said there were people who are associated with Metro and those who are no longer associated with Metro who feel their reputations have been damaged by this investigation. She said the individuals involved are not elected officials, but rather public servants, and that Metro owes it to them to appropriately protect them. She further said the publication of this document and involvement of almost everybody except the principals who were the subject of the report is damaging. She said those employees involved have an obligation and a right to respond to the audit prior to delivering of the report.

Executive Officer Burton pointed out that Metro does have code of ethics which mirrors state law. He said amplification may be needed. He further stated that he had incorrectly assumed that the principals had been notified of the study, and since discovering they were not, has contacted them to apologize for that assumption. He said he looks forward to working with the new Council Committee to find ways to involve the Council prior to final publication of these matters.

Councilor McLain reported that the next audit involves the Council, and the Council needs to be involved in the audit at the fact-finding stage. Ms. Dow responded that she will speak with Councilor McLain on this issue.

5.2 Informational Update of TGM Grants

Andy Cotugno, Transportation Director, and John Fregonese, Director of Growth Management, appeared to provide an update on the Transportation and Growth Management program. Mr. Cotugno introduced Ludwein Rahman, ODOT Project Manager. A copy of the staff report regarding Resolution No. 95-2219 which implements funding for the TGM program is included as part of the

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meeting record. The resolution has been reviewed by MTAC and TPAC. MTAC has not made a recommendation, however, TPAC has made a recommendation regarding the resolution. MPAC and JPACT will review the resolution next week.

Ms. Rahman spoke briefly to the TGM Grant program.

Mr. Cotugno reported that since Metro is an applicant for grant funds, during the staff review and recommendation process Metro did not review it's own grant application. ODOT and DLCD reviewed Metro's applications.

Councilors then asked questions about specific projects listed to receive grant funds.

6. RESOLUTIONS

6.1 Resolution No. 95-2216, For the Purpose of Amending the Council Organizing Resolution

The Clerk read the resolution by title only.

Motion: Councilor McLain moved, seconded by Councilor Monroe for adoption of Resolution No. 95-2216.

Councilor McLain reported on Resolution No. 95-2216 which would change the name of the Land Use Planning Committee to the Growth Management Committee in order to remain consistent with the name of the Growth Management department.

Vote: Councilors Morissette, Monroe, Washington, McLain, Kvistad, McCaig, and McFarland voted aye. The vote was 7/0 in favor and the motion passed unanimously.

6.3 Resolution No. 95-2197, For the Purpose of Appointing Monica D. Hardy to the Solid Waste Rate Review Committee

The Clerk read the resolution by title only.

Motion: Councilor Kvistad moved, seconded by Councilor McLain for adoption of Resolution No. 95-2197.

Councilor Kvistad gave a report on Resolution No. 95-2197 which appoints Monica D. Hardy to the Solid Waste Rate Review Committee. In addition, Councilor Kvistad recommended an amendment to the resolution which would reappoint Shirley Kauffman, whose term expires this evening.

Motion to Amend Main Motion: Councilor Kvistad moved, seconded by Councilor Washington to amend Resolution No. 95-2197 by adding language approving the reappointment of Shirley Kauffman to the Solid Waste Rate Review Committee.

Vote on Motion to Amend Main Motion: Councilors Monroe, Washington, McLain, Kvistad, McCaig, Morissette, and McFarland voted aye. The vote was 7/0 and the motion passed unanimously.

The resolution became Resolution No. 95-2197A.

Councilor Kvistad provided professional background information on the two nominees.

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***Vote on Main Motion as Amended:** Councilors Washington, McLain, Kvistad, McCaig, Morissette, Monroe, and McFarland voted aye. The vote was 7/0 in favor and the motion passed unanimously.*

7. ORDINANCES -- SECOND READINGS

7.1 Ordinance No. 95-614, Amending the FY 1995-96 Budget and Appropriations Schedule for the Purpose of Transferring Appropriations to Fund Back Ordered Capital Expenditures Related to the Regional Governmental Information Exchange (REGGIE) Network; and Declaring an Emergency

The Clerk read the ordinance for the second time by title only.

***Motion:** Councilor McCaig moved, seconded by Councilor Washington for adoption of Ordinance No. 95-614.*

Councilor McCaig reported on Ordinance No. 95-614 which would amend the FY 1995-96 budget to allow for the expenditure of \$22,000 that was not expended last year to purchase back-ordered computer network equipment.

***Vote:** Councilors McLain, Kvistad, McCaig, Morissette, Monroe, Washington, and McFarland voted aye. The vote was 7/0 in favor and the motion passed unanimously.*

8. ORDINANCES -- FIRST READINGS

8.1 Ordinance No. 95-616, Amending the FY 1995-96 Budget and Appropriations Schedule for the Purpose of Reorganizing the Staff of the Council Office, Creating New Positions, Reducing Staffing Levels for the Office of Citizen Involvement, and Declaring an Emergency

The Clerk read the ordinance for the first time by title only.

Councilor McLain gave an overview of the history leading up to the creation of this Ordinance. A copy of the staff report containing the key points of her remarks is included as part of the meeting record.

Presiding Officer McFarland opened a public hearing.

Ric Buhler, Chair of the Metro Committee for Citizen Involvement, appeared to express concern with the reduction in Personal Services in the amount of \$10,277 for support staff for the MCCI. He also said that the provision of temporary staff for minutes taking would provide inconsistent and inadequate coverage.

Councilor Monroe said he is aware that the ordinance does not permanently solve the staffing problems of the MCCI. He said that the Council is committed to addressing those needs in a permanent manner, however, this ordinance is an interim step.

Presiding Officer McFarland closed the public hearing.

Councilor Monroe said the office manager position replaces a position that had traditionally been on the Council staff until January 1995 at an annual salary of \$70,000, whereas the office manager will be hired at the rate of \$38,000 to \$42,000 per year.

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Councilor Morissette expressed concern that the reorganization not cost more money than originally budgeted. He asked if Councilor Monroe's comments were an indication of an intent to hire more staff. Councilor Monroe said the needs of MCCI can be met without increasing the budget. Councilor McLain said she has told Judy Shioishi, MCCI Council Analyst, and Mr. Buhler she will donate eight hours of her staff's time to staff MCCI if necessary.

Councilor McCaig asked if Presiding Officer McFarland intended to refer the ordinance to committee. Presiding Officer McFarland said she did not plan to do so. Councilor McCaig said there is no pressing need to move the item to Council agenda without thoughtful discussion. She expressed concern about the lack of adequate public notice for the work session that was held September 22. Therefore, she felt it was important to follow the normal process on this item. Councilor McLain said that the need to hire staff was immediate. She stated the work session was held in an appropriate manner.

Councilor Monroe referred to a councilor who had asked for a freeze on filling a Council staff vacancy; he went on to state that as a result the Council has been short-handed for some time now. Councilor McCaig said it was true she has pushed for a more thorough review of the reorganization process, and pointed out she had been affected the most by shortages in staff, having effectively worked without an analyst for most of her tenure. Councilor Kvistad suggested the issue be discussed at a Council work session. Councilor McCaig explained the situation with the change in dates of the last work session, and the conflict on her schedule with the revised date. She said she had not expected a decision to be made at that meeting. Councilor McLain said the Council has indicated its desire to accommodate Councilor McCaig. She said she has been unable to schedule a meeting when both she and Councilor McCaig would be available to discuss the matter, and would therefore support an additional work session.

It was agreed to hold an additional work session prior to Thursday's Council meeting. Councilor McCaig asked if would be appropriate for former and current Council staff to attend. Councilor McLain responded that the structure should be determined by the Council, and after that decision, the work flow discussion should involve staff input. Councilor McCaig thought it would be beneficial to interview the seven individuals who have left the Council to determine if there are flaws in the office structure.

9. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660 (1)(e) TO CONDUCT DELIBERATIONS WITH PERSONS DESIGNATED BY GOVERNING BODY TO NEGOTIATE REAL PROPERTY TRANSACTIONS

Present: Councilor McFarland, Councilor Monroe, Councilor Kvistad, Councilor McCaig, Councilor McLain, Councilor Morissette, Councilor Washington, Nancy Chase, Senior Regional Planner, Daniel Cooper, General Counsel, John Houser, Council Analyst, Lindsey Ray, Council Assistant, Cora Mason, Council Assistant, Greg Nokes, The Oregonian

Presiding Officer McFarland opened an Executive Session pursuant to ORS 192-660 (1)(e) at 3:45 PM. Presiding Officer McFarland closed the Executive Session at 3:52 PM.

10 RESOLUTION NO. 95-2209, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO ACCEPT AN ASSIGNMENT OF OPTION AND TO PURCHASE PROPERTY IN THE SANDY RIVER TARGET AREA

The Clerk read the resolution by title only.

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Motion: Councilor Washington moved, seconded by Councilor Kvistad for adoption of Resolution No. 95-2209.

Presiding Officer McFarland asked for assurance of "no hazardous material."

Vote: Councilors Kvistad, McCaig, Morissette, Monroe, Washington, McLain, and McFarland voted aye. The vote was 7/0 in favor and the motion passed unanimously.

11. COUNCILOR COMMUNICATIONS

Councilor McCaig stated that after reconsideration of the matter, scheduling an additional work session on the Council staff reorganization would not change the conclusions of the rest of the Council. She said she will instead make her case at the second reading of the ordinance at the next Council meeting. She expressed her desire not to burden Councilor's already full schedules, and asked that the work session be canceled.

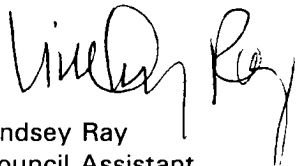
Councilor McLain wished to notify the Council that the map amendments are in Councilor mail boxes for next Tuesday's meeting. She requested that as many Councilors as possible attend the Growth Management meetings on October 10 and 17. At those meetings, the RUGGOs will be completed, and amendments to the maps will be discussed.

Councilor Kvistad reported that Bern Shanks, Director of the Regional Environmental Management Department, and staff are attending Solid Waste Rate Review and SWAC at the onset to discuss budget early in the process. He invited Councilors to attend these meetings and be proactive in the budget process.

Presiding Officer McFarland reported that she and Councilor Washington had attended another meeting of the City/Metro Consolidation Committee where a presentation by the arts groups was heard.

There being no further business before the Council, Presiding Officer McFarland adjourned the meeting at 3:58 PM.

Prepared by,



Lindsey Ray
Council Assistant

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