

MINUTES OF THE METRO COUNCIL MEETING

February 11, 1999

Council Chamber

Councilors Present: Rod Monroe (Presiding Officer), Susan McLain, Ed Washington, Rod Park, Bill Atherton, David Bragdon, Jon Kvistad

Councilors Absent:

Presiding Officer Monroe convened the Regular Council Meeting at 2:05 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Mike Burton, Executive Officer, presented an overview of the Metro budget for fiscal year (FY) 1999-2000. He noted that in the appendix of the Proposed Budget FY 1999-2000, there was a series of comments from citizen groups concerning their review of the budget. A copy of his presentation materials included information presented by Mr. Burton and is included in the meeting record.

Councilor McLain added that an MCCI subcommittee also reviewed the entire budget, as it did for the council budget last year.

Mr. Burton continued with his presentation of the proposed FY 1999-2000 budget. He added that Metro had been in existence for 20 years.

Councilor Atherton noted a presentation slide about \$500,000 in funding for water quality, restoration and salmon recovery efforts. He asked Mr. Burton what this would involve and how he had come up with the figure.

Mr. Burton said those funds come from a number of sources, not from the general fund. He said much of the proposed funding was unrealized funding, such as available federal and state grants. He said he designated a vacancy in his office as a salmon restoration coordinator.

Councilor Atherton said going back to the charter process of having a vision, a framework, and then functional plans. The Metro framework for water quality clearly says that Metro will plan by watersheds, support beneficial uses of water, and support enforcement in meeting state and federal water quality standards. He asked where those funds were in the proposed budget.

Mr. Burton said the dollars were hoped-for and anticipated. The only realized funding currently in the budget was the one position he converted within his office to coordinate. He said there was \$147,000 allocated for Goal 5 work, \$130,000 for watershed planning, the salmon coordinator position, and money in the Parks Department related to Sandy River. This was the first step, and as the federal listing with

National Institute of Marine Fisheries (NIMFs) was probably expanded next month, Metro's role would broaden further as local governments have asked Metro to play a larger coordinating role.

Councilor Bragdon welcomed Mr. Burton's suggestion for the tax study committee, and he wanted to ensure that it was not done in isolation from other jurisdictions that levy taxes in the region.

Mr. Burton agreed. He thanked Jennifer Sims, Senior Director/Chief Financial Officer of Administrative Services, and her staff for a job well done.

4. AUDITOR COMMUNICATIONS

None.

5. MPAC COMMUNICATION

Councilor McLain said MPAC determined its priorities at its last meeting, and the top priority was funding and infrastructure. She said proposed tax study committee came at an appropriate time. MPAC's second priority was listing strategies for the environmental and salmon issues, and the third priority was MPAC review of the urban growth boundary (UGB) process in 1999.

6. METRO LEGISLATIVE UPDATE

Ray Phelps, Pac/West Communications, updated the council on legislation in Salem that affects Metro. The Pac/West Communications 70th Legislative Session Update included information presented by Mr. Phelps and was included in the meeting record. He said he did not list Senate Bill (SB) 94 in his report, which required a public vote to change zoning for the purposes of creating public parks. He said HB 2512, which would increase the revenue threshold for Metro's Contractors Business License, passed out of committee with a due pass recommendation and was expected to go to the floor next week.

Doug Riggs, Pac/West Communications, reviewed the New Vision for Pacific Salmon document, which is included in the meeting record. He said while the salmon issue was a topic of much discussion in Salem, he and Mr. Phelps did not expect any concrete action in the next several days or weeks. He said there was a joint committee on salmon recovery and watershed enhancement, and he noted upcoming legislation. He said a key aspect in the legislative session would be the involvement of watershed councils. There was a map at the end of the information packet denoting Oregon Watershed Council Boundaries. He also noted SB 321.

Councilor Kvistad said he recalled that last session, Representative Brian had funding allocated through bonds to the regional parks program, but the governor decided unilaterally not to go forward with the bonds. He asked Mr. Phelps to research it, because the legislature could move forward with those bonds and have extra money without having the deficit that would be caused by SB 321.

Charlie Ciecko, Regional Parks and Greenspaces Director, said the previous legislature authorized use of lottery funds to support state parks bonds to address some of the backlog in capital maintenance. He understood that in the governor's budget proposal, that support was removed and backfilled with money from Measure 66.

Councilor Kvistad said in his opinion it was a problem in that when you can bond against existing revenue, you were doubly using the dollars you had rather than doubling the value you could get for dollars that you could get by combining the two proposals. He said the Council may wish to discuss this further because it was not good policy.

Mr. Riggs said another possible alternative to pursue was the president's proposal to federally fund coastal salmon recovery plans, which may free up state funding for other state-wide programs. He noted a number of recent studies which were gathering interest in Salem.

Councilor Atherton asked why Mr. Riggs included the Salmon Recovery Plan in the packet, because the vision statement in the report did not match federal law.

Mr. Riggs said the report was included in the package to point out that this was a major proposal in Salem, not to endorse, challenge or debate the principles in the plan. He said the federal law would be a significant debate especially with the upcoming endangered species listings in the Willamette River Basin. He said the legislative leadership was seeking information and input on salmon recovery, and was not rushing to judgment. He said they were interested in local coordinated solutions such as those being pursued by Metro with the watershed councils.

Councilor McLain asked if the legislative leadership had asked for more detailed overview of Metro's Goal 5 work.

Mr. Riggs said he believed that at the appropriate time, the legislature would be interested in hearing from Metro, especially as it moved to the Ways and Means process this spring. He said he would keep the Council informed.

Councilor Atherton asked if Mr. Riggs had anything to add about SB 87 other than a hearing was scheduled on February 16.

Mr. Phelps said the primary issue was whether or not land had been made available within the UGB for both residents and employment. He said the language used in the proposed legislation was "office, commercial and industrial buildings," and he was lobbying to amend it to "employment" because it would better reflect the goal of SB 87. He said he was scheduling meetings with the legislators, because while they were very aware that Metro expanded its UGB area by 5,000 acres, few understand much about the process used. Other concerns with SB 87 included a lack of specificity and the question of an unfunded mandate. It was unclear in SB 87 that the term "local government" was intended to include Metro and not the 24 cities within Metro's jurisdiction, and a number of groups were lobbying to have Metro specified. He said Dick Benner, Department of Land Conservation and Development (DLCD) indicated to him that as far as DLCD and LCDC were concerned, when Metro or any jurisdiction moved its UGB, they did reflect both residential and employment capacity on a 20-year horizon.

Councilor Atherton asked about the response to the discussion of an unfunded mandate.

Mr. Phelps said the committee was currently holding public hearings, then it will have funding discussions in its work sessions. He recommended that the Council make its mark with regard to the testimony provided so far.

Councilor Atherton asked if the Council needed to express its support, opposition, or neutrality to SB 87 as soon as possible.

Mr. Phelps said no, he needed the expression that the Council wanted to be proactive on SB 87 and work the bill so it reflected what the Council did.

Councilor Atherton asked how the Council could express its approval or disapproval of SB 87 as an intrusion by the state into local community affairs, whether warranted or unwarranted.

Mr. Phelps said that would be a policy decision for the Council to make.

Presiding Officer Monroe said the Council would have an opportunity in a moment to discuss its position on SB 87.

Councilor Washington asked Mr. Phelps if copies of the house and senate bills were available at Metro.

Dan Cooper, Legal Counsel, said he had a full set of all the printed bills in his office and they were also available on the internet.

Councilor McLain said the word “retail” was in SB 87; she asked if it was still included in the bill.

Mr. Phelps said as he recalled, the word “retail” was still there; nothing had been done to the bill since it was originally drafted. He said the concept of employment included all four terms.

Councilor McLain asked if he has defined the word “employment.”

Mr. Phelps said his team provided printed testimony to the committee which indicated that “employment” would be the alternate suggestion. He said the committee was not yet accepting specific language, it was only accepting information.

Councilor McLain asked if any information was given to the committee about the relationship of the employment numbers to the residential numbers.

Mr. Phelps said there was some information, but it was not easily recognized. He said they could provide that information to the legislature of how the Council worked that calculus.

Councilor McLain asked if the committee saw SB 87 as separate or in connection with HB 2709.

Mr. Phelps said the committee was creating a companion to the other legislation with the desire of accomplishing the same goal. He said it was not clear that the Council included employment in its decision process to expand the UGB.

Councilor McLain said SB 87 would affect the entire state. She asked if there had been any discussion about the differences between how HB 2709 was used in the rest of the state, and how the metro region used a combination of residential and employment factors.

Mr. Phelps said no, he provided all of the printed testimony that he had received that day, and Mr. Cooper and Council staff had that.

Presiding Officer Monroe said that Jeff Stone, Council Chief of Staff, had copies of any bills that remotely related to Metro.

Mr. Burton clarified that Metro had not taken a position on SB 87; it raised some questions and tried to indicate that the process used by the Council to move the UGB included employment. The people proposing SB 87 disagreed with the result of the Council’s UGB process and believed there should be more land available for specific types of employment.

Councilor Atherton asked Mr. Burton his opinion on the state planning local communities: the value of it, and whether it was appropriate.

Mr. Burton said the genius of the state's planning process was that it provided broad goals and allowed local communities to do their planning. If the state decided communities should do a particular analysis, he would like it to give jurisdictions the money to do it and the flexibility to let it fit the local need and design of the community.

Presiding Officer Monroe said the Council could state its approval or opposition, or it could state that it was very interested in this legislation because it would clearly affect Metro's work, and the Council had concerns about definitions and unfunded mandates. He asked for discussion from the Council.

Councilor Atherton asked if it was appropriate for the state to be involved to that depth in local planning, trying to force a community to provide a 20-year supply of land, and in effect, force a community to continue to grow. He said this issue needed to be settled first, and until it was settled, everything else was moot.

Councilor Kvistad agreed.

Councilor McLain said there were a number of issues which the Council needed to address. She said the Council should not be too gentle in asking for a basic understanding of what SB 87 meant, how it would be used, and how it was relevant to different circumstances.

Councilor Washington asked if the Presiding Officer requested a motion.

Presiding Officer Monroe clarified that he asked for discussion, and then he would accept motions.

Councilor Washington said he was unsure how the Council would make a non-gentle request.

Councilor McLain said she thought that at this time the Council was looking for comments and questions to direct to the senate committee. She said the Council's approval or opposition to SB 87 was a different conversation, and the Council needed to decide if that conversation would further the information or the work it could do with SB 87 in Salem.

Presiding Officer Monroe asked if any member of the Council felt the Council should take a position right now supporting SB 87 as written. There was none. He asked if any member of the Council felt the Council should take a position right now opposing SB 87 as written.

Councilors Atherton and Bragdon said yes.

Councilor Bragdon said the Council should oppose SB 87 with a certain way of explaining it and with making alliances with the agricultural community.

Councilor Park said as the token agricultural member of the Council, he had concerns with SB 87, the mandatory nature of the 20-year supply as it related to HB 2709, and the types of employment. He said he was not sure the Council should actively oppose SB 87 in its current form, because it was still unclear how the final bill would look.

Councilor McLain added that Councilors could discuss with the senate committee whether the language could be amended to make it optional. She said it was important for the Council to monitor SB 87 and try to insert the 4 or 5 elements to make it the best product possible, and then decide whether to support or oppose it.

Councilor Washington said he would like a report from Mr. Phelps on what happened in the public hearing, as there may be some sense of direction that came from the public hearing.

Mr. Phelps said the public hearing at the legislature was similar to public hearings held before the Metro Council. He said the general public had stated the same concerns as Councilor McLain: lack of specificity, funding, and whether the use of certain language precluded other.

Councilor Washington summarized that at this stage it would be premature for the Council to state its position.

Mr. Phelps said it was or it was not, because the Council needed be involved in the conversation before the committee went to work session.

Mr. Burton said Mr. Phelps had provided a summary of the comments made at the first hearing.

Presiding Officer Monroe said Council opinion appeared to range from total opposition to serious reservation with respect to SB 87 in its current form. He said if he was personally testifying on SB 87, he would say he had serious reservations about how it would be applied, the cost to local governments, preempting local governments' authority, et cetera.

Mr. Phelps said he would like to continue to encourage the senate committee to do as much as it could to meet the issues raised by the Council. He said whether the issue was SB 87 or HB 2709, the Council had the same concerns, and had a forum to register the shortcomings in the existing process. Once all that information had been made available, the Council may wish to decide its position.

Councilor Kvistad said he was neutral on SB 87.

Councilor Atherton said he thought that the Presiding Officer's words were appropriate. He suggested the Council vote on the following points: 1) there is a cost to this measure, it is potentially very significant and there is no provision in it for how the state would provide funding to the local jurisdictions, in other words, it is an unfunded mandate; 2) it preempts local interest and authority, and the Council has mixed reservations about the extent of that preemption, and the Council suggests that the committee consider making this an option to local jurisdictions, not a mandate.

Councilor Bragdon said the tone taken by the Council was very important, and he would not recommend focusing local control. He said he would like to focus on the fact that Metro had complied and the economy had been incorporated in its work. To have further statutory details on the DLCD goal was unworkable for financial and conceptual reasons. He said he would stress the practical aspects of the implementation problems and the fact that Metro had acted in good faith with the state's land use planning system, which included an element of economic prosperity.

Councilor Park said one the Council had not discussed one of the most onerous portions of SB 87, which was the mandatory portion of the timing.

Councilor Washington said he supported Councilor Bragdon's approach.

Mr. Burton said notwithstanding Councilor Atherton's view, which may be the real issue, the fact was that land use planning in Oregon generally worked. One of the positions that should be stated in Salem was that not only had Metro been successful in its actions, it was always looking for methods to improve the process by which it made those determinations. He said a number of legislators around the state admired the Council for taking on some tough issues and dealing with them, and Metro should play on

that. Building a good community depended on people having jobs in that community, so the problem with SB 87 in terms of planning was that it created a definition that was not very workable. For example, this region generated \$500 million worth of agricultural sales annually; how should that be counted? Mr. Burton said the question should be raised, if the bill was going to specify retail, commercial, and so on, Metro should ask for a definition of the measurement of agricultural employment as well.

Councilor Atherton agreed with Mr. Burton. He agreed with Councilor Bragdon that there were multiple goals in the state program that the Council supported, and the Council's job was to balance those goals, within the air, land and water carrying capacity of the state. He said the main issue on which he would clarification was why a community would not want to provide for its future, and why it could not be the best judge of it.

Mr. Phelps said he had received sufficient direction from the Council. He said his team would need an estimate of the fiscal impact of SB 87, and he invited the Council to be very clear that it was a five-year cycle, and that got very expensive.

Presiding Officer Monroe suggested that he talk with Elaine Wilkerson, Growth Management Services Director, and Ms. Sims.

Mr. Phelps said he needed the information by February 16. He said he also needed to have the goals with which Metro had complied.

Mr. Burton said he can provide information on Metro own code requirements, how it met state law regarding employment, and the process used to determine the measurement of land. He said complying with SB 87 would probably take the entire staff's time for the next two years.

Presiding Officer Monroe said he remembered the discussions last spring at MPAC, and at that time there seemed to be a strong movement toward asking for an extension on the first year of the HB 2709 requirements. Metro did not ask for an extension, it met the first year requirement, and that said a lot in terms of Metro's ability, willingness, and effort to comply with state requirements.

Councilor Park asked who were the chief sponsors of SB 87.

Mr. Phelps said the chief sponsors of SB 87 were Associated General Contractors, CREEC, and a number of development people.

Ms. Wilkerson said CREEC was a commercial real estate organization; it was an umbrella organization for retail and commercial groups.

Councilor McLain said there were four other items listed on pages 2 and 3 she would like to bring up: SB 329, which repealed the sunset of collaborative regional problem-solving process for local land use disputes; SB 409, which required local government to protect existing rights of access on publicly owned land and public easement; SB 522, which established alternative procedure for annexation of parcel of land to district when requested by owner of parcel.

Mr. Cooper said SB 522 had been identified as a possible vehicle for Metro's boundary change bill.

Councilor McLain said the last bill she wanted to discuss was HB 2281, requiring local governments to include certificate of mailing in notice to DLCD of adoption or amendment to comprehensive plan or land use regulations.

Mr. Cooper said at the review, those bills had been identified and comments had been drafted. Since those bills were related to land use, legal counsel could do a short presentation with Ms. Wilkerson to the Growth Management Committee about some of those bills. He said there were other bills the other Council committees may wish to review as well.

Councilor McLain said she would be happy to review those bills in Growth Management Committee.

Councilor Atherton said in regard to cost, it was clear the difficulty with which the Presiding Officer and expert staff had coming up with a number for this planning activity, but they did know it would be substantial. He pointed out, from extensive citizen and local government experience, that there was a huge cost in citizens' time and effort in these actions that was largely uncompensated.

Councilor Park asked about the bill pertaining to the watershed councils and their relationship with local governments, and how that would affect the coordination of salmon recovery. He asked if this would help of hurt Metro's efforts.

Mr. Riggs said that was yet to be determined, depending on which bill the legislature chose to be a vehicle to proceed with. The draft of the watershed council bill he saw last fall did not address Metro in any way; it appeared to exclude Metro. He said the legislature was interested in working with Metro and local government to devise solutions that worked.

Councilor Park said his concern was that watershed boundaries did not match city boundaries, and Metro may be uniquely suited to coordinate some of these efforts.

Mr. Riggs said there was an article in the Oregonian a few months ago about the involvement of the Metro Council with the Johnson Creek efforts. He said that article has been mentioned to him by people in Salem as an example of Metro providing a positive relationship with the watershed councils.

7. CONSENT AGENDA

7.1 Consideration meeting minutes of the February 4, 1999, Regular Council Meeting.

Motion: **Councilor Atherton** moved to adopt the meeting minutes of February 4, 1999, Regular Council Meeting.

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

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

8. ORDINANCES - FIRST READING

8.1 **Ordinance No. 99-793**, For the Purpose of Adopting the Annual Budget for Fiscal Year 1999-00, Making Appropriations, Levying Ad Valorem Taxes, and Declaring an Emergency

Presiding Officer Monroe assigned Ordinance No. 99-793 to the Council Budget work sessions and opened a public hearing. No one appeared to speak with regard to Ordinance No. 99-793. Presiding Officer Monroe closed the public hearing.

9. RESOLUTIONS

9.1 **Resolution No. 99-2753**, For the Purpose of Authorizing the Metro Executive Officer to Sign Neighbor City Intergovernmental Agreements with the City of Sandy and Canby, Clackamas County and Oregon Department of Transportation.

Councilor McLain announced that this resolution would be delayed one week in order for the Metro Operations Committee to review the resolution. This was done at the request of the Growth Management Committee chair.

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

10.1 **Resolution No. 99-2757**, For the Purpose of Authorizing the Executive Officer to Purchase Properties in the Forest Park Expansion Target Area.

Presiding Officer Monroe opened an Executive Session pursuant to ORS 192.660(1)(e).

Present: Jim Desmond, Senior Manager of Open Spaces Acquisition, Regional Parks and Greenspaces, Heather Nelson Kent, Senior Manager of Planning and Education, Regional Parks and Greenspaces, and members of the press.

Presiding Office Monroe closed the Executive Session.

Motion: **Councilor Washington** moved to adopt Resolution No. 99-2757.

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

Presiding Officer Monroe opened a public hearing on Resolution No. 99-2757.

Betsy Wright, President of Friends of Forest Park, thanked Metro for its work. She said this portion of Forest Park would be very important, and as a board, they strongly supported this purchase.

Presiding Officer Monroe closed the public hearing. He noted a potential conflict of interest, as he enjoyed running in Forest Park.

Mr. Cooper said if he thought there was a conflict of interest, he would declare it himself, but there was no financial gain involved.

Councilor Washington urged the council to support this excellent addition to Forest Park.

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

11. COUNCILOR COMMUNICATION

None.

12. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Monroe adjourned the meeting at 4:07 p.m.

Metro Council Meeting
February 11, 1999
Page 10
Prepared by,

Chris Billington
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
021199c-01	2/11/99	Metro Budget, Fiscal Year 1999-2000, presentation materials	TO Council/ FROM Mike Burton	
021199c-02	2/11/99	Metro Budget, Fiscal Year 1999-2000, presentation materials with speaker comments	TO Council/ FROM Mike Burton	
021199c-03	2/11/99	Pac/West Communications folder: 70th Legislative Session Update; A New Vision for Pacific Salmon; map of Oregon Watershed Council Boundaries	TO Council/ FROM Ray Phelps	
021199c-04	2/4/99	Minutes of the Metro Council Meeting, February 4, 1999	TO Council/ FROM Chris Billington	
021199c-05	2/9/99	Growth Management Committee Report on Resolution No. 99-2753	TO Council/ FROM Susan McLain	