

## MINUTES OF THE METRO OPERATIONS COMMITTEE MEETING

Wednesday, February 17, 1999

Metro Council Chamber

Members Present: Ed Washington (Chair), Bill Atherton (Vice Chair), Jon Kvistad

Others Present: Susan McLain, Rod Park, Rod Monroe

Chair Washington called the meeting to order at 3:37 PM.

### 1. INTRODUCTIONS

None.

### 2. CITIZEN COMMUNICATIONS

None.

### 3. CONSIDERATION OF THE MINUTES OF FEBRUARY 3, 1999

#### **Motion to Adopt Minutes**

Councilor Kvistad moved to adopt the February 3, 1999, minutes of the Metro Operations Committee meeting.

#### **Vote:**

Chair Washington and Councilors Kvistad and Atherton voted aye. The vote was 3/0, and the motion passed unanimously.

### 4. ANNUAL REPORT TO COUNCIL SHOWING UTILIZATION OF MINORITY, WOMEN AND EMERGING SMALL BUSINESS WITH METRO FOR FY 1997-1998 AND OTHER CONTRACTING/PURCHASING ACTIVITIES

Scott Moss, Assistant Director of Administrative Services, introduced Jim Waki, Minority Outreach and Contract Analyst, who would give a summary of the report.

Mr. Waki presented highlights from the report. (These highlights are detailed in attachments A and B to the Staff Report associated with this agenda item and included in the meeting record.)

Mr. Moss said Metro contracts total about \$1 billion. He reviewed Metro's use of purchasing cards. (This review is contained in the body of the Staff Report.)

Councilor Kvistad asked if Metro had denied or discouraged low-bid contracts from non-women, non-minority businesses over the past year?

Mr. Moss said that might have happened among the contracts shown in Attachment B, although he is not aware of any specific cases. The contracts in Attachment B are construction contracts for under \$25,000 reserved for emerging small businesses or minority- or women-owned small businesses. A majority, large contractor might have been turned away, although most large contractors are not interested in contracts that small.

Councilor Kvistad said he had received one or two calls from standard vendors not in the construction business who claimed to have been discouraged from submitting an application because the spot had been reserved for women or minority positions. He asked if Metro does that or whether applications are accepted on a first-come, first-served basis.

Mr. Moss said Metro does not do that. He said on construction contracts for more than \$25,000, Metro has a good-faith program that encourages prime contractors to seek bids from emerging small businesses and minority- and women-owned small businesses. However, those contractors are free to solicit bids from anywhere.

## **Minutes of the Metro Operations Committee Meeting**

Wednesday, February 17, 1999

Page 2

Councilor Atherton asked what percentage of the 344 contracts minority firm bid on.

Mr. Moss said he was not sure. He said only successful bidders were tabulated, not all bidders.

Councilor Atherton thought that tabulating all bidders would provide a good indication of interest and participation.

Mr. Moss said that would be a good idea, but it would take quite a few resources.

### **5. RESOLUTION NO. 99-2753, FOR THE PURPOSE OF AUTHORIZING THE METRO EXECUTIVE OFFICER TO SIGN NEIGHBOR CITY INTERGOVERNMENTAL AGREEMENTS WITH THE CITIES OF SANDY AND CANBY, CLACKAMAS COUNTY AND OREGON DEPARTMENT OF TRANSPORTATION**

Mark Turpel, Manager of Long-Range Planning, said this intergovernmental agreement (IGA) would provide better coordination with these neighboring cities that are adjacent to the Metro Boundary. It would help to protect their community identity. The RUGGOs, the Functional Plan, and the Framework Plan call for these kinds of agreements. The agreements have three elements: providing for green corridors, maintaining rural reserves, and doing forecasts. Each of these cities has its own urban growth boundary, which could move closer to Metro's or vice versa. This addresses a concern about maintaining the separation between communities. The cities of Sandy, Canby, and Clackamas County have signed this IGA. Metro and ODOT have yet to sign.

Councilor Kvistad asked Mr. Turpel to read the RUGGO language relating to rural reserves.

Mr. Turpel said that language was in the packet (see Exhibit D to the resolution). He read from Section 1.11.

Councilor Kvistad said his concern was about the concept of "rural reserves" and who should be involved in documenting and deciding on those reserves. He said the first map made of the reserves showed the border at I-205, running by Tualatin. The new map clarifies the boundary and shows it on Stafford Road. He was concerned that those who live in current or potential rural reserve areas had not been notified that they were being put into a rural reserve and that Canby or Sandy and Metro and ODOT would be making decisions regarding their property.

Mr. Turpel said each of the rural reserves near Sandy and Canby had been designated in the Metro 2040 Concept plan, but no specific notices have been sent out expressly for that purpose.

Mr. Kvistad said he was also concerned about the provisions for upzoning, and that whereas the cities of Canby and Sandy had been included in this IGA, the cities of Wilsonville and West Linn had not.

Dan Cooper, Metro General Counsel, said that in the text of the agreement, there is a provision that specifically says that the County shall retain current zoning including resource lands within green corridor boundaries and agree not to expand rural commercial or rural industrial zones unless approved by the city. "City, here" refers to Canby, there is similar language that with regard to Sandy.

Councilor Kvistad asked about section 8, subsection B 1, which talks about the rural reserve boundaries being amended by the parties. The parties include neither the Cities of Wilsonville nor West Linn, both of which have city limits that border on this property. He asked if those cities had been contacted.

Mr. Turpel said they were not contacted when the IGA was drawn up, although they have been contacted recently. He said a letter from the city of Wilsonville received today had been submitted to Michael Morrissey, the committee analyst.

Councilor Kvistad said because this is in his district and because he has not had an opportunity to talk this over with the mayor, he did not want to support it. He said he had concerns about the fact that these IGAs had been in the works for a long time, yet the citizens did not know this had been going on and they did not know how this would affect their property. This has come before the committee on the fast track without any public hearings. The mayors of the cities nearby had not been notified.

## Minutes of the Metro Operations Committee Meeting

Wednesday, February 17, 1999

Page 3

Councilor Kvistad said this IGA has the effect of codifying particular rural reserves and puts people in charge of them who are not affected by their own decisions. He did not have a problem with green corridors nor with forecasting. But the maps of the reserves point out huge areas. He said the language states that those who live in rural reserves cannot be upzoned. He was concerned that no one had been notified when the implications seem important. He recommended that the committee send this issue to MPAC for review first, before voting on it. If MPAC has no problem with it, he will have fewer concerns about supporting it.

Chair Washington reiterated that this item is not before this committee for action. He asked Mr. Turpel to respond to Councilor Kvistad's concerns.

Mr. Turpel said the areas are already designated as rural reserves. He said that the language "... unless the city agrees to such a change..." was new to this agreement. However, the cities and the county have already signed this agreement with this language in it. He said this is an agreement to work with these cities as partners. If any one of the partners chooses not to work with this agreement, it simply must give notice, and within 60 days it is gone. He said in terms of any kind of action the Metro Council might contemplate, the worst case would be that a city would choose not to work with Metro. The idea was to encourage as much coordination as possible.

Councilor McLain explained that the history of this goes back to 1994 discussions about how to preserve livability and boundaries. One of the realizations at that time was that the Metropolitan area could not do it by itself--it needed to coordinate with the neighboring cities. This issue was before MPAC in 1994, 1995, 1996, and 1998 for re-endorsement of the general concept that coordination with neighboring cities is important. MPAC agreed each time. IGAs such as the one before the committee today are in response to a need expressed by cities that neighbor the Metro Boundary, such as Scappoose, Canby, North Plains, and Sandy, to build trust with the Metro area and the 24 cities that lie within the Metro Boundary. Among those 24 cities within the boundary are three mentioned today--West Linn, Wilsonville, and Tualatin. The neighboring cities wanted to be assured that their concerns would be taken into consideration. She said North Plains met recently to discuss building an IGA just like this with the hope of getting it passed by July of this year.

Councilor McLain distributed a recent memo from the mayor of Tualatin in which he states he has no problem with this IGA. He stated in his memo that Tualatin has not even considered encroaching into the rural reserves for development. Councilor McLain referred to another correspondence from Clackamas County, which indicates that board of commissioners' position on the key issues has not changed since the concept of these IGAs was originally adopted. She said she had also talked with Mayor Lehan of Wilsonville to reaffirm her support of these IGAs, and the mayor had also written recently to indicate that the Wilsonville has no objection to them.

She said the reason Wilsonville, West Linn, and Tualatin are not part of this IGA is because that this is an IGA among cities that neighbor the Metro boundary, Metro, and ODOT. Wilsonville, West Linn, and Tualatin are inside the Metro Boundary. She summarized three points: 1) this IGA has been supported by all of the parties; 2) all of the individuals who live close to these cities have said they have no objection; and 3) as two of the letters point out, the parties to the IGA feel there is enough flexibility in it that if a concern arises, they could go to Clackamas County and ask them to give a 60-day notice. As to MPAC, Mr. Ogden, Chair of MPAC, has said he has no interest in looking at this particular IGA, although he might like to revisit the general concept. But he has said he did not believe it was the job of MPAC to review individual IGAs--it should review the concept.

Councilor Atherton said his concern is that people might put too much stock in the rural reserve status. They might believe that the rural reserve designation will protect them from development. He recalled that in 1994, the Stafford area was designated as a rural reserve.

Councilor Kvistad said he felt Councilor McLain had overlooked Mr. Ogden's point that the whole issue of the rural reserves should be sent back to MPAC. He said he was present in 1994 when the ideas of rural reserves was first proposed. He said at that time the concept was a general statement toward preserving green corridors. He said that was different from codifying a specific rural reserve. Also, he said he has no problem with establishing green corridors or with forecasting; he has a problem with administratively drawing a line that excludes from the IGA the two cities that directly border the area. Canby can be considered as bordering the area only if you do not consider the river as a physical barrier. He again recommended sending this to MPAC for review, because it codifies a specific rural reserve with accompanying administrative powers.

**Minutes of the Metro Operations Committee Meeting**

Wednesday, February 17, 1999

Page 4

Councilor Atherton asked Mr. Turpel if Wilsonville and West Linn had been given the opportunity to be a part of this IGA.

Mr. Turpel said no, because this was crafted as an IGA between Metro and neighbor cities. Those are not neighbor cities, but within the Metro Boundary.

Councilor Park said he was concerned about the lack of notice. He was concerned about how this could be perceived by citizens who live close to the designated area. He had had a citizen of the area express concern to him about not having received notice about this. He said these kinds of things lead to ballot measures that arise out of being upset with administrative rules. He said he would prefer to back up and make certain the process was done right. He said he was one of three Councilors new to this process, and he would be more comfortable if he had a chance to back up a little.

Councilor Washington asked Mr. Cooper if this resolution would automatically go to Council tomorrow. He noted that it had been reviewed and approved by the Growth Management Committee, but put on this agenda for discussion only.

Mr. Cooper said the Council's published agenda contains this item; therefore, it would be at the disposal of the Council at that time.

McLain asked that those who have been involved with this IGA and those from MPAC who support it be present at Council tomorrow. She said as to notification, to send a notice out in this case would simply be confusing. She did not know what Metro would notice--that it has a coordinating IGA? The said this IGA does not change any zoning changes nor affect the value of any land. She said if any action were taken by Clackamas County that affected the value of land, then the county would notify people, and they would have an opportunity to comment

Chair Washington called discussion on this issue to a close, with the understanding that it would be taken up at the next meeting of the full Council.

**6. RESOLUTION NO. 99-2739, FOR THE PURPOSE OF APPROVING SOLE SOURCE AGREEMENT FOR AQUANETICS SYSTEMS, INC., AT THE OREGON ZOO**

Tony Vecchio, Director of the Oregon Zoo, said this resolution relates to building the water-quality filtration system for the coastal section of the Great Northwest exhibit. He said many firms could bid on pieces of this, but it is in the best interest of the job to have one vendor build the whole system rather than trying to integrate different pieces built by different firms later.

**Motion:**

Councilor Atherton moved to send Resolution No. 99-2739 to a meeting of the full Council with a do-pass recommendation..

**Vote:**

Chair Washington and Councilors Kvistad and Atherton voted aye. The vote was 3/0, and the motion passed unanimously.

Council Atherton will carry Resolution No. 99-2739 to a meeting of the full Council.

Chair Washington reversed the order of agenda items #7 and #8, to be sure item #8 would have time to be heard at this meeting.

**8. EXPO FINANCING**

Chair Washington called the committee's attention to a packet of information titled "Projected Financial Impacts of the Proposed Hall D at the Expo Center." He had asked Mr. Houser to prepare this packet for the committee members as a summary of this issue for study at their leisure. (This packet is attached to the meeting record.)

Mark Williams, General Manager, MERC, said he could not comment on the scenarios distributed by Mr. Houser as he had not had a chance to study them. He offered to answer any other questions on building operations.

## Minutes of the Metro Operations Committee Meeting

Wednesday, February 17, 1999

Page 5

Council Kvistad said he had hoped for a presentation of the status of funding packages.

Mr. Williams said the MERC commission had not yet adopted any position on any proposed funding package. He said it had a work session scheduled for February 26, at which there would be a discussion on this issue. He noted that the Commission is strongly committed to moving forward with phase 2. Mr. Williams said he would not support putting money into fixing the existing Hall D. He said the concern he has had, which has been expressed to this committee in the past, is that MERC operates facilities in a way it considers prudent. This includes maintaining sufficient operating reserves; budgeting for furniture, fixtures, and equipment; and providing for capital maintenance. The ongoing concern is for having a financing plan that draws exclusively on Expo's operating revenues to fund the project. All have agreed it would be prudent to run down Expo's fund balance to pay off debt so more construction could be funded; however, this leaves little to operate on. MERC was interested in any option that would help the facility build up its operating revenues to get itself in a safe position for dealing with contingencies. MERC also has other capital requirements at the other older building that won't be fixed right away. The issue was raised by MERC staff of whether the incremental excise tax the new building would help generate could be put back into the project to help Expo service the annual debt over time. That would provide a certain level of comfort, given the level of the long-term debt. He said this would be a prudent part of a funding package. It's a form of tax-increment financing, but one that at this scale might help this facility build out overtime.

Councilor Atherton asked about past practice with maintenance. He said Mr. Houser's figures show \$300,000 per year for maintenance. He noted that not nearly that much had been spent on maintenance in the past. He asked why there was such a big difference.

Mr. Williams said he could not provide a detailed answer, but in general the reason was because Metro had inherited a number of projects that needed to be done. Also, MERC has focused on getting the debt down. He said that is where any excess operating funds had gone.

Councilor Kvistad added that the Metro had inherited facilities that had been drained of their fund balances when the county owned them. Metro is in the process of trying to help the facility develop its fund balances.

Presiding Officer Monroe said this committee's job was to decide whether this project should be built. He said a detailed discussion of funding properly belonged in the budget and finance committee.

Chair Washington said it was not his intention to discuss the details of financing. He thought the committee had some basic question they needed answered.

Councilor Atherton asked what amount in incremental excise tax MERC expected to receive if the tax were capped.

Mr. Williams estimated it might be about \$30,000 the first year, which is not a huge amount. The idea is not to dip deeply and exclusively into operating funds for 30 years.

Councilor Kvistad recommended that this issue be brought back to this committee in two weeks for action, then plan to have it before the full Council the first week in March. In the meantime, he suggested working on the finance package.

Presiding Officer Monroe said he had instructed staff to prepare a resolution on whether to go forward with this proposal. That resolution would go before this committee in two weeks. After that would come a finance measure and a request for proposals from the executive, to be taken up at the budget and finance committee.

Councilor Kvistad said the finance package should come from the Council and should be determined by the Metro Operations Committee, then go to the finance committee. He said he has had strong disagreements with the executive's finance plan, although the current one is approaching something positive.

Presiding Officer Monroe said proposals have always come from the executive.

Councilor Kvistad said the Council also has the right to bring proposals forward. He said he thought the separation of powers needed to be clarified, and he hoped that would be forthcoming.

**Minutes of the Metro Operations Committee Meeting**

Wednesday, February 17, 1999

Page 6

Councilor Atherton asked if the MERC commission had reviewed the package.

Mr. Williams that would be done at its next meeting on February 26.

Chair Washington closed the discussion on this item. He called for a five-minute recess before resuming discussions of the ethics ordinance.

**7. ORDINANCE NO. 99-795, FOR THE PURPOSE OF ADOPTING A CODE OF ETHICS FOR METRO OFFICIALS AND REQUIRING REGISTRATION OF LOBBYISTS**

Chair Washington resumed the meeting by taking up a continuing consideration of Ordinance No. 99-795. He asked to begin by considering Presiding Officer Monroe's amendment to the section containing definitions.

Presiding Officer Monroe said his amendment, would define what "employer of a lobbyist" means. It would become, under the current code, section 2.17.020 (g), pursuant to 2.17.110 (a) (2). He said it had been drawn up at the suggestion of legal counsel as a means of preventing those who employ lobbyists from doing things the hired, registered lobbyist could not do. This definition responds to concerns that individuals who are members of associations might technically be considered employers of lobbyists. This amendment narrows the definition to mean only the officers of the organization who actually hired the lobbyist.

Councilor Kvistad said he would not support the amendment. He would prefer an ordinance that allowed Metro to draw up a specific list of people from whom you can or cannot accept invitations or gifts.

Councilor Atherton asked what the word "entity" meant in the definition.

Mr. Cooper said it meant a legal entity--an organization or a partnership or a corporation. It is not the individuals on the board; it is the corporation itself.

**Motion to Amend #12:**

Councilor Atherton moved to amend Code Section 2.17.020 9 (g) to confine the definition of an employer of a lobbyist to legal entities that employ lobbyists.

**Vote on Motion to Amend #12:**

Chair Washington and Councilor Atherton voted aye. Councilor Kvistad voted no. The vote was 2/1, and the motion passed.

Mr. Cooper suggested proceeding with other amendments that relate to this definition. He said if none of these related amendments pass, which contain substantive changes to the code, then this definition might as well be withdrawn as it would make no sense.

Presiding Officer Monroe explained that these amendments simply add "employer of" to amendments that relate to lobbyists.

**Motion to Amend #13:**

Councilor Atherton moved to amend Code Section 2.17.030, Subsections (a) (1) and (2) and (b); and Code Section 2.17.060, Subsections (a), (b), (d), (e), and (f) to add "employer of a lobbyist" to the existing language.

**Vote on Motion to Amend #13:**

Chair Washington and Councilor Atherton voted aye. Councilor Kvistad voted no. The vote was 2/1, and the motion passed.

Mr. Morrissey introduced two new amendments related to Statements of Lobbying Expenses for lobbyists and their employers, proposed by Councilor Park. He noted that these amendments, if adopted, would create two new code sections and change the numbering of subsequent sections.

**Minutes of the Metro Operations Committee Meeting**

Wednesday, February 17, 1999

Page 7

Councilor Park said these amendments were drafted out of consideration for lobbyists, who felt that the dollar amount specified in previous versions was too low and would make expenses too onerous to track. These amendments would remove the dollar amounts and simply require that events paid for by lobbyists be reported to the Oregon State Standards and Practices Commission. Officials would be allowed to attend, but lobbyists or their employers would need to report them. Councilor Park said he prefers this approach because it provides a measure of protection for everyone. It allows the public to judge its elected officials without prohibiting them from attending events.

Councilor Atherton asked if, for example, the Homebuilders Association invited him to a golf tournament put on as a fund-raiser but he did not have to pay. Everyone else had to pay to go. Would that be considered that a gift?

Councilor Park said the answer would depend on whether the fund-raiser benefited a nonprofit cause. If it was simply to take you for a round of golf, it would be a gift.

Presiding Officer Monroe reiterated his concern over whether the state commission would be willing to accept the responsibility for all the reporting. He said extraneous reporting requirements will increase costs and decrease the likelihood Metro will be able to negotiate a mutually acceptable fee. If the state commission does not do the tracking, the responsibility would then fall upon Metro staff to track what would be of questionable value. He said in other sections, activities that are permitted and prohibited have been identified. Adding that some permissible activities need to be reported seems like overkill.

Atherton asked for clarification on where in the ordinance this activity is permitted.

Mr. Cooper said the current version of Section 2.17.060 permits fundraising events to be paid for by lobbyists if they benefit a nonprofit organization. It prohibits events that do not have a nonprofit beneficiary.

Chair Washington called for a motion on this amendment. The committee asked for more time to discuss this before taking any kind of action.

**9. COUNCILOR COMMUNICATIONS**

There being no more business to come before the committee, Chair Washington adjourned the meeting at 5:27 PM.

Prepared by,

Pat Emmerson  
Council Assistant

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF FEBRUARY 10, 1999**

The following have been included as part of the official public record.

<b>ORDINANCE/RESOLUTION</b>	<b>DOCUMENT DATE</b>	<b>DOCUMENT DESCRIPTION</b>	<b>DOCUMENT NUMBER</b>
<b>Expo Financing</b>	2/17/1999	Memo from John Houser to the Committee, titled "Projected Financial Impacts of the Proposed Hall D at the Expo Center"	022299MOP-1
<b>Resolution No. 99-2739</b>	2/17/1999	Memo from Clackamas County Commissioner Michael Jordan to Susan Mclain	022299MOP-2

**Minutes of the Metro Operations Committee Meeting**

Wednesday, February 17, 1999

Page 8

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2/17/1999	Letter from Mayor Charlotte Lehan	022299MOP-3
2/17/1999	E-mail from Lou Ogden	022299MOP-4

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