

MINUTES OF THE METRO OPERATIONS COMMITTEE MEETING

Wednesday, April 7, 1999

Metro Council Chamber

Members Present: Ed Washington (Chair), Bill Atherton (Vice Chair),
Members Absent: Jon Kvistad
Others Present: Rod Park, Susan McLain

Chair Washington called the meeting to order at 3:38 PM.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS

Liz Callison, 6039 SW Knightsbridge Drive, Portland, OR, said she was glad to see a schedule of the cable broadcasts of Metro Council meetings on the agendas. She recommended that the process be improved so the public can view the last meeting before the next meeting takes place. She said right now sometimes the meetings are not broadcast for up to three weeks after the meeting has been held. She also suggested that the Council outreach staff try to get the meeting broadcast at night, when working people would be home to see it.

She requested that Metro try to purchase the Leadbetter Peninsula. According to her understanding of the Smith and Bybee Lakes Management Plan and acceptable uses of the trust fund, the 43.5 million in the trust fund could be used for that purchase. She objected to Multnomah County's plan to build a jail on the property. She thought the area could be a restorable green space. She requested that Metro insist the Port of Portland, which owns the property, reveal its negotiated price so Metro could meet the offer.

Councilor Atherton asked Ms. Callison if a cable system could be installed in the Metro building to allow live broadcasts through Portland Cable Access. Ms. Callison said Portland City Hall has that feature. The retrofit cost \$1 million. She said a retrofit in this building might not be as expensive, but Metro would need to check with those who do the installation for an accurate.

3. CONSIDERATION OF THE MINUTES OF FEBRUARY 9, 10, 17, 22, AND MARCH 17, 1999, METRO OPERATIONS COMMITTEE MEETINGS

Motion:

Councilor Atherton moved to recommend adoption of the minutes from the February 9, 10, 17, 22 and March 17, 1999, meetings of the Metro Operations Committee.

Vote:

Chair Washington and Councilor Atherton voted aye. Councilor Kvistad was absent. The vote was 2/0 in favor and the motion passed.

4. RESOLUTION NO. 99-2770, FOR THE PURPOSE OF CONFIRMING THE APPOINTMENT OF ALICE NORRIS TO THE METROPOLITAN EXPOSITION-RECREATION COMMISSION

Mike Burton, Metro Executive Officer, said these appointments were normally for four years, but this one would be for two. He said the term of office had inadvertently been left out of the ordinances, so individuals had served until someone else was appointed in their place. Under the charter, the Executive Officer would have the authority to appoint anyone anytime. He said that would not be a good way to do things, so in making this recommendation, he had specified a definite term limit. He said the code was still silent on the question of appointments. Furthermore, the entire relationship between MERC and

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Metro would be re-examined soon. Thus, the disposal of this resolution would not be particularly important. The committee need not act on it at this time.

On another topic, Mr. Burton said his staff had studied the cost of retrofitting the chamber for cable broadcast, and it would be about \$250,000.

Councilor Atherton said he felt the Council was distant from MERC's operations yet with responsible for them. He looked forward to discussing the relationship.

Chair Washington suggested that in light of the uncertainty of the relationship, no new appointments should be made at this stage. He said this committee would discuss the relationship soon. He took this item off the agenda, so no action was taken.

Councilor McLain added that she thought that the criteria for making appointments to all advisory committees needed to be addressed. She suggested that be done within the year.

Chair Washington promised he would do that even sooner.

5. RESOLUTION NO. 99-2763, FOR THE PURPOSE OF REALLOCATING MULTNOMAH COUNTY LOCAL SHARE FUNDS AMONG EXISTING PROJECTS

Charlie Ciecko, Director of Regional Parks and Greenspaces, introduced Heather Nelson Kent, Manager of the Planning and Education Division of the Regional Parks and Greenspaces, who would be present to answer questions. Mr. Ciecko said Measure 26-26 included \$25 million as a local share component. Multnomah County's identified allocation was about \$3.3 million. Multnomah County had identified various projects, which were submitted to Metro and included in the bond measure. Subsequently, Metro and Multnomah County parks merged, and Metro was authorized via an IGA to administer and implement those funds on those projects. A number of those projects had been done either below budget or by using other funds. That left some of the local share dollars to be re-allocated to new projects. Under the terms of the IGA, Metro may, after consultation with the county board, substitute feasible projects for some that might be considered infeasible for reasons such as cost or complexity. Metro sent a letter to the Multnomah County Commissioners outlining the proposal in this resolution, asking for a response if they had any objections. The County did not respond, indicating it was comfortable with the proposal.

The resolution proposed that some \$800 thousand to \$1 million be re-allocated to the significant capital needs at Oxbow Regional Park and Howell Territorial Park, both formerly belonging to Multnomah County. Both of these have had Master plans completed and adopted by the Council, establishing policies for development and future management needs at both of those facilities. The reason for the range in the resolution is because Metro is pursuing one potential land acquisition at Whitaker Ponds. It would make the purchase if the a willing seller can be found.

Councilor Atherton asked Mr. Ciecko where in the resolution the range was mentioned. Mr. Ciecko said it was in Exhibit A.

Mr. Ciecko said the regional Parks and Greenspaces advisory committee considered this issue at the meeting on March 2, and voted unanimously to recommend approval.

Chair Washington asked Mr. Ciecko to explain to the public how this situation came about.

Mr. Ciecko said the department had at first considered reallocating the money to purchase property in one of the 14 identified regional target areas but had decided against it because the bond funds contain enough money to achieve those goals. The department also considered establishing new target areas, but concluded that this would involve a policy decision that would be time-intensive. The most best use seemed to be allocating the money to execute existing policy on properties with master plans already completed and approved.

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Councilor McLain noted a memo (attached to the meeting record) that explains what Metro can do with the bond funds. Regional funds can only be used to acquire open space, whereas local share can be used either for acquisition or capital improvements. She asked how much of the Multnomah County share would be used for capital improvement, were this to be included.

Mr. Ciecko said all the money up to this point has been spent on acquisition. However, the split identified by Multnomah County was more heavily weighted toward capital improvement in recognition of the needs of the properties it had managed. The needs turned out to be even greater than the county had thought. Metro has been seeking sources outside of its general fund to do the improvements.

Councilor McLain said she thought the department was doing a good job of using its funds to make the greenspaces accessible to people.

Councilor Atherton asked what the balance would be in the local share if this \$800 thousand were removed to make capital improvements.

Mr. Ciecko said all remaining money in Multnomah local share dollars have been committed.

Councilor Atherton said he had recently received a communication noting that according to the Parr Lumber Company's outlook for construction costs, the cost of construction had peaked and would soon level off and drop. Mr. Ciecko said that would be welcome.

Councilor McLain said she had asked staff about the Leadbetter point issue in response to a citizen's inquiry about why Metro had not pursued purchasing that property for restoration as a greenspace. She asked Mr. Ciecko to summarize what he had told her in answer to that question.

Chair Washington asked Mr. Ciecko to hold his response until after the public had had a chance to speak to this issue. Chair Washington opened a public hearing on Resolution No. 99-2763 at 4:03 PM.

Mr. Kevin O'Sullivan, 7624 No. Kellogg St., Portland, OR 97203, called attention to written testimony submitted by him, the Eastside Democrats, and the North Portland Citizen's committee (attached to the meeting record) supporting the idea that Metro try to purchase Leadbetter Peninsula from the Port of Portland. He read his testimony and the letter from the East Side Democrats.

Ms. Eleanore Piltz, 7209 No. Buchanan Ave., Portland, OR 97203, read her written testimony (attached to the meeting record) urging Metro to purchase 75 acres of the Leadbetter Peninsula adjacent to Smith and Bybee Lake as an alternative to doing capital improvements at Oxbow Park.

Donna Babbitt, 9941 No. Willamette, Portland, OR 97203, read into the record a copy of her written testimony (attached to the meeting record). She also submitted into the record a letter from Ginny Rosenberg, who teaches science at George Middle School, and the latest edition of *The St. Johns Review*, dated April 2, 1999, which contains an article on the habitat at Smith and Bybee Lakes. She spoke in favor of Metro's purchasing the Leadbetter Peninsula.

Jim Robison, Chair, East Side Democratic Club, 6615 No. Princeton St., Portland, OR 97217, said his club had unanimously voted to request that Metro use some of the Multnomah County share funds or funds from the Smith and Bybee Foundation, to make an offer to purchase the Leadbetter Peninsula. He said he had seen the peninsula and it does not seem to him that it should have been zoned industrial, much less approved as a prison site. He thought a prison would conflict with the lakes as a wildlife preserve. He would like to see the property protected. Overall, he said he has been pleased with how the funds from Measure 26-26 have been used. He thought his neighborhood had benefited from several projects and purchases. He said one of the concepts of the measure he appreciated was that of "land banking." He thought that might be appropriate for the Leadbetter Peninsula. He said greenspaces need not necessarily be parks. He urged Metro to purchase the property.

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Councilor Atherton thanked those who had taken time out of their busy day to testify. He asked Mr. O'Sullivan about litigation he had mentioned concerning the property. He asked how that might affect the fair market price of the property.

Mr. O'Sullivan said not being an appraiser, he was not certain. He speculated that the lawsuit regarding the illegal nature of the landfill into Bybee Lake might be settled by turning the land over as a preserve or removing the fill. He suggested that under those circumstances, the value of the land would plummet. He said the current potential is minimal, because the property lacks infrastructure and it is prone to flooding. He said the price he had estimated in his testimony of \$750,000 was based on \$10,000 per acre for 75 acres. He said the other lawsuit involves the county. He thought the Port might be a reasonable partner in a proposal for Metro's purchase.

Councilor Atherton asked about the basis of the lawsuit involving the County. Mr. O'Sullivan said it involved a clean-water act and other federal laws. He said he thought other lawsuits might also arise, because state statutes prohibit filling Bybee Lake below the 11-foot level. He said before the peninsula was filled, the average elevation was 10 feet. He thought state statutes might have been violated, although no one has yet requested that the state attorney investigate the situation. He also thought that because some endangered or threatened species inhabit the lakes, more action might be taken by environmentalists.

Councilor Atherton asked Ms. Babbitt about the date of the Vanport Flood. Ms. Babbitt said it was in the spring, and Chair Washington added that it was May 30.

Councilor Atherton noted that floods had also happened in the winter in this area. Ms. Babbitt said the Leadbetter Road was often flooded out in winter. She said that had happened in the winter of 1996.

Councilor Atherton asked who appoints the Smith and Bybee Lakes Management Committee. Ms. Babbitt said it originates at Metro. She said different groups have seats on the Committee, as well as the Friends of Smith and Bybee Lakes. Councilor Atherton asked if this issue had been discussed at any recent meetings. Ms. Babbitt said it had been discussed some, and it was slated to be discussed more.

Mr. O'Sullivan said that with regard to who appoints Smith and Bybee Lakes Management Committee members, his understanding was that the authority to appoint resides with Metro. The trust fund manager is charged with forming the committee.

Councilor McLain verified that the committee was managed by Metro. She said there is \$3.5 million in the unappropriated balance of the trust fund. She said that might sound like a lot of money, but it doesn't end up being that much when the expenses related to the closure of that fund are taken into consideration. She said the appropriated part is much larger than that, but the only part that might be used is the \$3.5 million. That fund was set up as a closure fund, not an acquisition fund.

Dennis Keepes, 9622 No. Price Park Place, Portland OR 97203, requested that the period of public testimony be held open for a week. He said the Friends of Smith and Bybee Lakes had a meeting scheduled for that evening, and he would like the Friends to have an opportunity to discuss this. He read his testimony into the record (a copy of which is attached to the meeting record).

Sherry Dahlin, 6707 No. Syracuse, Portland, OR 97203, thanked Metro for opening the Peninsula Crossing Trail. She said she lives right next to it and really enjoys it. She said she originally became involved in this issue because she opposed siting the jail there, but as she has learned more about the peninsula as a habitat, she has come to think that aspect was most crucial. She said the educational opportunities in this area can offer something to students with learning and behavior problems that traditional classrooms cannot offer. She thought that option needed to be kept open. She said the 40-mile loop trail would go right by the Leadbetter Peninsula. She did not think a jail would be compatible

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with school and recreational use. She urged Metro to try to acquire the Leadbetter property as an investment in the future.

Liz Callison, 6039 SW Knightsbridge Drive, Portland, OR, said she had worked hard to pass the greenspaces bond measure. She opposed the staff recommendation on how to spend the Multnomah local share. She questioned the reallocation of funds from land acquisition to building construction. She thought the money should be used only to purchase more park land. She said the staff had stated that "all the goals had been accomplished in the Tryon Creek area regarding land acquisitions and that \$300,000 of Multnomah local share would be re-allocated for capital construction at Howell Territorial Park on Sauvie Island and/or Oxbow Regional Park." She said staff was apparently unaware that the Tryon Creek area had been designated by Metro staff as "linkages." She said the more important linkage area in the entire watershed is a 6.5-acre property at the mouth of Tryon Creek where it meets the Willamette River. She said the property is up for sale. She thought an offer should be made on that property. She said the owner insists he has not received an offer, although she understood that was in dispute. She reminded the committee that there are other priorities in North Portland and in the Terwilliger and southwest area. Both had been omitted from the regional share list by Metro's specially appointed blue ribbon committee. She supported buying the Leadbetter Peninsula instead of allowing the Port to sell it to Multnomah County for a jail. She thought Metro ought to insist that the Port release the price, so Metro can match it. She said the land is undeveloped, so the price should be quite low. She thought the staff ought to get that information and ought to get the information on the court cases. She asked that the committee recommend the Council direct the greenspaces staff to make a good faith offer on the Leadbetter Peninsula. The Port should, at its own expense, remove the fill it illegally dumped there. She said it was strange that Metro had received \$100,000 from the federal government to monitor the painted turtle, yet Metro had not tried to purchase habitat for it. She said that on page 50 of the trust fund, it stated the fund could be used to acquire land. She urged the money be used to purchase the land.

Doug Weir, Friends of Terwilliger, 342 SW Hamilton Court, Portland, OR 97201, said he worked on the openspaces campaign. He said he lobbied for \$1 million for Tryon Creek. He said the openspaces acquisition enabled the Tryon Creek project. He said land prices have increased considerably. He said \$3 million bought about 30 acres in Terwilliger, some from local share and some from option share. But more than 100 acres of threatened open spaces still remains; 50 acres is currently facing possible development. This property is steep and composed of unstable soils. It is not appropriate for development. He said he did not anticipate another bond measure being passed soon. He thought the capital improvements were important, but he thought protecting openspaces was more important. He closed with a thought attributed to Olmstead, who did the master plan for Portland parks, and who in 1903 warned against losing the opportunity to acquire lands.

Councilor Atherton asked if any of the people who had testified knew if there was a surface water management plan for the Leadbetter Peninsula area. He said he brought that up because he knows that runoff from industrial areas needs biofilters or swales to catch it. He said when he visited the peninsula, he thought part of it would serve that function nicely. He wondered if anyone else had seen that report.

Ms. Callison said she had not seen that report, but she knew the Metro Regional Functional Plan had no stormwater management plan as yet. She said that meant stormwater would need to be dealt with after the fact. She said she expected the same would be true of the jail—the engineers would need to create a plan.

Councilor Atherton said he expected the liability for closing the St. Johns Landfill would exceed \$3.5 million. He said he thought the Council had made a good move in recent solid waste management, which would save the region \$6 million a year. He suggested that Metro rethink some of its liabilities in closing some of its landfills. He was aware of one in Clackamas County—the old Rossman landfill—that affects water. He thought it might be premature to commit lands in sensitive areas where a liability might be inherited from the past. He thought perhaps the closure fund might need to be increased in the future.

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William Jones, 2716 No. Mason, Portland, OR 97211, said when an investment is made, the investment must be maintained. He said if funds have not been allocated to do that, the initial investment would be destroyed. He said he had canoed thought the Leadbetter Peninsula and across Hayden Island. He said he disagreed with Metro's past greenspaces purchases. This case was different. He had been thinking about public trust—a public trust different from the small print in ballot measures. He said one view of public trust is that the voters receive what they voted for. He probably would have voted for these improvements, but he didn't. He did not think anybody else did. Public trust also means lands that belong to everyone. He said the legal definition, unfortunately, was just title and submerged lands, and lots of those Metro had not yet purchased but could. He said Metro also took on another trust when it became the arbitrator in buying greenspaces. He said Metro promised to protect the future by buying greenspaces. He said if Metro proceeds with its proposed action, the maintenance costs will consume everything and Metro will violate the trust it took on to protect land for the future. He said considerable land remains unprotected. He said the parks that were purchased in 1903 are the only ones we have now. He said some people back then said they were not needed. He closed recommending that none of the local share be used for anything but land acquisition.

Bill Mayhar, (no address) gave his phone number as (503) 371-1661. He suggested Metro check federal wetlands rules. He said the state might be obligated to buy the Leadbetter Peninsula to leave it unimproved. He then addressed the issue of jails and the justice system as well as other items not on the meeting agenda. He offered personal assistance to anyone who believed their rights were being violated regardless of by whom, including the governor.

Chair Washington closed the public hearing at 4:50 PM.

Chair Washington asked Mr. Cieccko to return to answer questions.

Councilor McLain asked about the trust fund and its use. She also asked whether staff had investigated acquiring the peninsula.

Mr. Cieccko said that the Smith and Bybee Lakes Management Committee had discussed extensively the potential construction of a jail site. He said on February 5, 1999, the Committee jointly voted to send a letter to the Multnomah County Commissioners, which spelled out conditions under which Metro would work with the County to site and construct a jail on that site. The conditions would mitigate the impacts of development. The first phase of the project would construct a 2,000-bed jail on the site. The property is currently owned by the Port of Portland and zoned industrial. He said it is not in the flood plain. He said in the 1996 flood, the land was dry. He said a lawsuit is pending pertaining to alleged illegal fill. He said Mr. Jones, who had just testified, was the one who had filed the suit; Metro was not party to the suit.

Mr. Cieccko said the site had been filled to a depth of 28 feet with dredge from the Columbia River. Fill has low productivity. He said staff biologists who have had experience with Smith and Bybee Lakes would be available to testify as to the biological productivity of that peninsula. He said there are other parcels in the area that are biologically productive that Metro would like to purchase were the owners of those parcels willing sellers. Neither owner has been. He also addressed the issue of the jail siting. He said no one had ever suggested Leadbetter Peninsula be acquired from the Port of Portland. He said it was very unlikely the Port would be a willing seller to Metro. He said the reason is that if Multnomah County purchases the property as a jail site, it would bear the initial cost of bringing utilities into the site. That would promote the developability of the rest of the Rivergate site. He said he was not certain what kind of arrangement the county would have with the Port to recover any portion of their investment as the other sites are sold and developed. He said Metro could not provide the utilities nor the road that Multnomah County could and that the Port would expect from the purchaser of that site.

Councilor McLain asked about the willing seller aspect of the program. She asked for clarification of that. She said she understood that staff did not believe the Leadbetter Peninsula was as valuable biologically as other lands in the Smith and Bybee Lakes area, and that the owners of those other lands were not willing sellers. She asked if the Port had been contacted. Mr. Cieccko said no. She asked about the \$3.5

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million of unappropriated money in the public trust. She said she understood that money could be used for acquisition. She had said that because the fund was small and because other issues besides acquisition needed money, that money could and probably should be used for those other issues. She asked Mr. Ciecko if any of the \$25 million could be used for capital improvements. Mr. Ciecko said yes, that had been specified in the bond measure.

Mr. Ciecko said the Port sits on the Smith and Bybee Lakes Management Committee, so it has become aware that some interest exists in the community to acquire the peninsula for open space purpose. However, they had not as yet been formally approached.

Councilor McLain said she had reviewed the biological potential for the peninsula and found that it was not a top priority. She also said Metro cannot purchase land for open spaces unless it is from a willing seller. She said she had learned from the testimony today that citizens valued Smith and Bybee Lakes. She said advisory committees were formed to help protect that resource. She said the resolution on the table was not about Smith and Bybee Lakes, but rather about improving properties that already exist. She said she understood the immense importance of acquiring open spaces; however, given that \$25 million had been set aside for local jurisdictions to improve recreation lands already owned, she thought the resolution at hand should be passed. She thought the money would be well spent. She said the testimony today had brought up that perhaps something was being overlooked in management of Smith and Bybee Lakes. She suggested addressing that separately. She thought the two issues were unrelated and should be addressed separately.

Councilor Park reiterated that the Leadbetter Point issue and the resolution at hand were not linked. He said he would support the resolution when it comes to Council. He thought the policy issues at Leadbetter Point should be addressed at length and separately. He said it appeared as though the issue was between the Port of Portland and Multnomah County.

Councilor Atherton suggested this issue be discussed further at the Smith and Bybee Lakes Committee before taking action. He said he would like to know more about it as a habitat for the Western Painted turtle. He said he would also like to know more about the trust fund and how much it generates each year. He said he would like to investigate other sources that might be used to purchase the peninsula, such as putting up a bond for purchase. In general, he said he thought several issues needed to be addressed in the next couple of weeks.

Mr. Ciecko said he would do that.

Chair Washington recommended Councilor Atherton speak with greenspaces biologists on the habitat questions. He recommended postponing action on this item until the next regularly scheduled committee meeting, on April 21, 1999. In the interim, he asked that the issues brought up by the testifiers be addressed. He said he has a long record of supporting projects that benefited his district and he would do so in this case, also. He thanked the people for coming.

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6. COUNCILOR COMMUNICATIONS

There being no more business to come before the committee, Chair Washington adjourned the meeting at 5:17 PM.

Prepared by,

Pat Emmerson
Council Assistant

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ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF APRIL 7, 1999

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

TOPIC	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NUMBER
Resolution No. 99-2763	April 2, 1999	Memo from Charlie Ciecko to Susan McLain	040799mop-1
	April 7, 1999	Memo from Kevin O'Sullivan to Metro Ops Committee, with attachments	040799mop-2
	April 7, 1999	Memo from Eleanore Piltz to the Metro Operations Committee	040799mop-3
	April 5, 1999	Memo from Donna Babbitt to Ed Washington, with attachments	040799mop-4
	April 7, 1999	Testimony from Dennis Keepes	040799mop-5

Testimony Cards

Kevin O'Sullivan
Eleanore Pilz
Donna Babbitt
Jim Robison
Dennis Keepes
Sherry Dahlen
Liz Callison
Doug Weir
William Jones
Bill Mayhar