

MINUTES OF THE METRO COUNCIL MEETING

May 27, 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 2:06 p.m.

1. INTRODUCTIONS

Presiding Officer Monroe introduced Gilliam County Judge Pryor and welcomed her.

Councilor Bragdon introduced Jerod Pruitt, a Reed College history student who will be doing internship work at Metro this summer.

2. CITIZEN COMMUNICATION

Art Lewellan, 3205 SE 32nd, Portland OR LOTI designer, said he supported quite a bit of the transportation work that Metro did in the region. He recently presented his opposition to the north Light Rail proposal but was now reversing his opposition to that project due to the congestion problem. He thought that there was work needed on the rest of the south north light rail project.

He was opposed to ODOT's upcoming plan to resurface the Ross Island Bridge. He felt they should delay the Ross Island Bridge resurfacing in order to widen it first. The widening would rebuild the access ramps on both sides of the bridge. He noted a map of the regional highway system. He felt the Ross Island Bridge improvements would allow a lot of clean up of the cut through traffic including the Sellwood Bridge. He felt the Ross Island Bridge should be handling more traffic. JPACT had judged that fixing the Ross wouldn't fix the Sellwood Bridge problem. He disagreed with this assessment. He encouraged delaying the Ross Island Bridge project until there was a good traffic management plan. He proposed a ramp that ran from Water Avenue, up to the Morrison Bridge and onto I-5 so that you could get to I-5 off that ramp. He also noted the need to include the Grand Avenue viaduct in the plan and made suggestions for improvements. He opposed widening McLoughlin between Tacoma and Southeast 17th. Widening would not help traffic through that corridor. He proposed interchanges at Ochaco and 17th to allow the traffic to go through without stop lights.

Presiding Office Monroe said some of those on the council had been advocating some of those suggestions for a long time.

Councilor Bragdon commented on the Ross Island Bridge work. He had been at a Brooklyn neighborhood association meeting where ODOT gave a presentation about the work. The Department of Transportation assured the association that during construction it would be a mess but that they would do what they could to eliminate that cut through traffic in the Brooklyn neighborhood. It was clear that there was need for work on the bridge.

Mr. Lewellan felt that if it were done right the first time everyone would be better off.

Councilor Bragdon said he had raised Mr. Lewellan concern about widening. ODOT assured him that there was no way to do that without enormous cost. He shared Mr. Lewellan's concerns but noted that the money was just not there to do this project as he had suggested.

Mr. Lewellan said he disagreed.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. AUDITOR COMMUNICATIONS

None.

5. MPAC COMMUNICATION

Councilor McLain said there were three issues on the agenda that related to the Council. These were: 1) issues on the Growth Report factors. Most factors had gone through the committee, had been embraced as far as suggestions from either staff or the MTAC group. There was one issue that was outstanding and that was the issue of the placeholder for the environmentally constrained lands and what that would mean in the area of Goal 5 or ESA. They thought that was an important placeholder even though that was a factor that had a great deal of swing to it, the 200 foot buffers or the Title 3 which was about half of that area being projected. She noted that legal staff had advised, that what can actually be counted was that which was protected by regulation. 2) Metro Code dealing with changes in how we were looking at Urban Growth Boundary changes. One of the area of interest was when was an actual decision done on the Urban Reserve plan. There was a lawyers group, headed by Mr. Dan Cooper, General Counsel, which will be meeting again and reporting back to MPAC and to the Growth Management Committee. 3) An outreach subcommittee reported some outreach ideas that they would like to see the Metro Council, MPAC and others be involved in. This will be brought forward to the appropriate council for additional information and budget issues.

6. METRO LEGISLATIVE UPDATE

Presiding Officer Monroe announced that Mr. Paul Phillips was detained by the President of the Senate, he asked Mr. Cooper to review legislation.

Mr. Dan Cooper, General Counsel, said he could not update the council on the gas tax. Mr. Phelps had urged all councilors to make as many contacts as they could to urge passage of the \$.06 gas tax. The Metro bill score card included 1062, the conservation easement bill and 1031, the boundary change bill, these bills had now passed both houses and were on their way to the governor for signature. 838, the ability to partition EFU land for parks acquisition was still waiting for a vote on the house floor but was out of the house committee, had a minor amendment that the State parks people wanted that they considered to be supportive of Metro purposes. They anticipated that this bill would pass the house and the senate. There was no known opposition to this bill. SB 964, the pool chlorine bill, had not fared as well. The pesticide folks thought that that bill had a potential conflict with a bill that the legislature passed several sessions ago preempting all local regulation of sale or use of pesticides. They had not been able to reach a compromise with that industry. The chair of the committee had put a hold on that bill until a compromise had been reached. The bill probably won't go anywhere in this session. SB 1187, the

bill which would repeal Goal 14 as it applied to exception land, was the subject of a public hearing yesterday in front of the House Water and Land Use Committee. Metro was one of many entities testifying in opposition. The bill did not come out of committee. They thought that they did a pretty good job of explaining Metro's opposition to the bill. Others also had significant opposition to it. They were continuing to keep an eye on that bill. SB 87, the 20 year land supply for economic development purposes was still in committee, still the subject of work groups that they were monitoring between the governor's office, the sponsors of the bill, 1000 Friends and state agencies. There were a continuing series of proposed amendments which Metro was watching. He would anticipate that bill would probably be coming out of committee sometime next week. He noted that many of the committees had already closed and they were trying to limit the items on the floor.

Councilor Park asked about SB 964, the pool chlorine bill. He asked why chlorine would be considered a pesticide.

Mr. Cooper said pool chlorine had calcium hypochloride in it, the chemical in pool chlorine was considered a chemical that killed things. Because it was a chemical used to kill things there were those who thought that made it a pesticide. It was not a classic pesticide. Metro's position was that they were not regulating sale or use, simply disposal. The national organization opposing the bill was not willing to agree to that and in the absence of that agreement, the chair had said no.

Councilor Park asked for clarification, was one of the chemicals registered by the Department of Agriculture a pesticide.

Mr. Marv Fjordbeck, Legal Counsel, said yes that was the case. General Counsel had described the opposition accurately because the Oregonian's believe that it may be covered by this pesticide preemption, an opinion that the Metro's Office of General Counsel, did not share.

Councilor Park indicated he may be asking more questions later.

Councilor Kvistad asked if they realized that when the chlorine got into the waste stream that it ended up killing employees, that this was a toxic gas.

Presiding Officer Monroe indicated that Councilor McLain told them this when she testified on the hill.

Mr. Cooper said that another person who almost died testified concerning this bill.

Presiding Officer Monroe asked about prison siting, was it still sitting with Lynn Snodgrass.

Mr. Cooper said as far as he knew.

7. CONSENT AGENDA

7.1 Consideration meeting minutes of hew May 20, 1999 Regular Council Meeting.

Motion: **Councilor McLain** moved to adopt the meeting minutes of May 20, 1999 Regular Council Meeting.

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

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

8. ORDINANCES - FIRST READING

8.1 **Ordinance No. 99-806**, For the Purpose of Granting a Composting Facility License to the Relocated City of Portland Leaf Composting Facility.

Presiding Officer Monroe assigned Ordinance No. 99-806 to the Regional Environmental Management Committee.

Presiding Officer Monroe indicated that Resolution No. 99-2786 would be taken out of order. He recessed the Council and convened the Contract Review Board, which was item 11.1 on the agenda.

11. CONTRACT REVIEW BOARD

11.2 **Resolution No. 99-2786**, For the Purpose of Approving Change Order No. 24 to the Waste Transport Services Contract.

Motion: **Councilor Washington** moved to adopt Resolution No. 99-2786.

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

Councilor Washington said this resolution dealt with the Change Order No. 24 with the STS. He asked Mr. Terry Pederson to review this resolution.

Terry Pederson, Interim Director of the REM Department, said this resolution would authorize the executive officer to enter into a change order with Metro's transportation contractor, Specialty Transportation Services. This was a transportation contract that the Council entered into on January 1, 1990. It was a 20 year contract that would expire in 2009. The annual payments to the contract were about \$9.9 million. Metro began discussions with STS regarding their transportation contract at about the same time they were discussing the disposal contract with Waste Management. Metro had three objectives that they were trying to accomplish during the discussions. First, they hoped to reduce the transportation cost. Second, they park a number of their trailers at Metro South Transfer Station property, Metro hoped to address some space problems there. Third, Metro hoped to maintain as much as possible its flexibility regarding future transportation modes.

The key elements in the change order were: 1) Metro would prepay the fixed portion of the contract, we currently had both a fixed and a variable payment in the contract, the prepayment would be \$6.6 million. 2) Metro would release \$2.5 million in retainage that Metro was withholding from payment to the contractor in order to have a retainage in the event of a default, in return, STS would reduce the per load price by \$30 per load with 30 tons per load that was about \$1 per ton reduction in the transport price, 3) they would eliminate the shuttle price so that Metro paid them each month for shuttling trailers at the Metro South Transfer Station between the parking area and the compactor. That payment was \$96,000 annually, and they would continue to do that work without the payment from Metro. 4) they would move most of their trailers off of the lot at the station in Oregon City, Metro would only be required to provide them with 10 storage spots for their trailers.

In terms of the financial benefits of that package, the future payments to STS would be reduced by \$18 million over the remainder of the contract. When you consider the prepayment and the lost interest from that prepayment of about \$9 million the net savings to Metro would be about \$9 million. One of the issues the REM department discussed in Councilor Washington's committee was the risk of prepayment in the event of contractor default. The contractor would provide Metro with a \$4.1 million letter of credit in the event of default. They would also provide a corporate guarantee from the parent company, Ashy Transportation, and Metro could also withhold payments from them in the future. Those things together reduced the risk that Metro faced in the event of default. In terms of Metro's objectives, the reduction in the transportation costs was a \$9 million savings. If you wanted to look at it in terms of return on investment, that was a 21% rate of return on \$6.6 million investment. In terms of addressing the space problems at Metro South, they would move the trailers off of that area, that would free up space that Metro could use for more waste recovery and for queuing space for the public, which would help Metro eliminate some of the problems they had with queuing there. Finally, in terms of future transportation options, Mr. Pederson highlighted that there was no extension in this change order of the contract, it still expired under the original time frame, and the council at that time would have choices regarding future transportation modes.

Councilor Washington said that the Council had been informed about this all along the way, but he felt that today, since there would be a vote on it, that there should be the opportunity for the Councilors to hear the figures again and make sure everyone understood how this was working, what the risk was, and what we had done to minimize that. He thanked Mr. Pederson.

Councilor Park asked Mr. Pederson about the analysis, in that there were several changes other than maintaining the ability to withhold payment from STS. We also had access to STS's equipment, which was worth about \$600,000, and in terms of avoiding about \$1 million in costs in relocating the parking, so as we went through the numbers, we were prepaying \$6.6 million, and receiving back in value \$6.7, was that correct?

Mr. Pederson said Councilor Park was correct when you consider those additional factors, the total protection exceeded the risk of \$6.6 million.

Councilor Bragdon noted his conclusions after reviewing this resolution. He had had concerns. First, was this a chronic structural problem with a company that may be in trouble, or was it a transitional step, something to do with their corporate circumstances at the time, and then they were in for smooth sailing. The question was was it like a Penn-Central situation where there was structural problems, or was it like a Chrysler situation where there was just some temporary changes they needed to go through. REM's presentations in committee and elsewhere assured him that this was just a transitional step, this was a sound company, there were no chronic problem. Second, was the risk to Metro of this prepayment—Mr. Pederson had mentioned a letter of credit, it was worth noting that the letter was from a first-class bank—if there were a default, and there was no indication that there ever would be, Metro wouldn't be dealing with a bankruptcy court, we wouldn't be dealing with a company, we would be dealing with a first-class bank. On those two points this seemed to be a very sound deal for Metro. His final conclusion was that when we had a contractor who was performing and had shown that they could perform, we negotiate the best deal that we could for the rate-payers and the taxpayers, and then go ahead with them in partnership. This was a case where Metro had done that.

Councilor Kvistad said his only concerns had been that when you get into a situation where you were dealing with a public/private sector relationship in contract you had to be very careful about the ways in which you approached your private sector partner, because the relationship was not

an equal one, the government and the regulating agency always had the upper hand, that had been one of his big concerns, because the savings were terrific. He thought they dealt with STS in a positive way, but we put pressure on them to come back to the table to renegotiate a contract that they in good faith had available to them for X duration. As a private sector person, it was one of the things that he was concerned about. He did talk to the contractor, they felt comfortable, he didn't know if one was ever comfortable about renegotiations, but they felt as comfortable as they could with what was on the table. Also, and up-front payment on a contract by a government to a private sector in order to facilitate the renegotiation was sometimes disconcerting. He thought staff had done a good job and thanked STS for being willing to come back to the table as a partner and work with Metro. It was something for us to be mindful of when we were in a relationship with a private sector contractor or the private sector. Metro was the ones that had the upper hand and we had a responsibility to understand that in our negotiations and make sure that not only now, but in the future, that we handled them understanding that power imbalance.

Presiding Officer Monroe asked if it was the council or STS who asked for the renegotiation.

Mr. Pederson said that Metro initiated discussions with STS at the time we were considering termination of the disposal contract. There was a clause in the disposal contract that said that if we terminated the disposal contract we could also terminate the transportation contract. We chose not to do that, so that was off of the table at that point, there was no threat of termination of the contract as part of these negotiations. Metro continued discussions and actually the contractor initiated the final discussions with Metro. Mr. Pederson viewed this as win-win for both Metro and the contractor. The representative of the company was here and may want to address that.

Councilor McLain said that two other elements she felt were important, particularly in the conversation the Council had so far with the Director of Solid Waste. One was that we needed more space at the South Transfer Station area, and by having more space we would be able to improve our efficiency and our service to the public. She thought that long-term contracts had their own, special management problems, but there should also be some benefits, and that was that we tried as much and as long as we could to continue to refine those contracts to do a good job with our service provision. She thought they had gotten an important element there in getting more out of our site and our space in Oregon City. The second element was the flexibility for transportation options, again with a long-term contract, like this one, we might want to revisit or revise the way we transport or dispose of our waste in this region, and this gave us more opportunity to actually further that conversation. Finally, she thought staff had done an excellent job of making sure that when you were dealing with a public and private entity that Metro was being fair to both, trying to protect public dollars and protect the public with their investment and also allowing the private industry to flourish and be able to do a good service and a good business for Metro. She appreciated the work of the Solid Waste Director and others who had worked on this contract negotiation.

Presiding Officer Monroe said they would vote on Resolution No. 99-2786 and immediately after they would deal with the companion Ordinance No. 99-798 which allocated the funds. He opened a public hearing on both the Resolution and the Ordinance.

Warren Stenhouse, 7820 SE 112th, Portland OR spoke on the Change Order regarding STS. He worked for neither STS nor Metro, nor did he have any direct, indirect, or potential interest in either. He was here today speaking as a Metro ratepayer. It sounded like Metro and STS had reached an agreement which both sides were satisfied with. He was not there to address whether one side benefited more than the other, although the agreement sounded even-handed and fair. He was there because he thought it was in his and Metro's best interest to keep STS or any other

of its contractors healthy for the remainder of their contracts if it could reasonably do so. He thought Mr. Goldberg and his company were ethical and prudent in their business affairs and would fulfill this contract as agreed upon, to echo Terry Pederson's comment, he believed that the change order was a win-win for both sides, and he urged the Council to approve the change order as it was read.

The Honorable Laura Pryor, Gilliam County Judge, shared some of her memories of the process. People really had short memories. She remembered when Metro was in the old building and made the decisions that started this whole process and the night that there were so many people in the Council Chamber that they spilled over not only into the lobby, but they were outside. She remembered that the two choices before the Council was the Gilliam County site or Becona Road. The Becona Road folks were knee-deep with their attorneys. It was not going to be a pleasant situation. What brought the Council to that night was almost ten years or better of searching for an answer to a terrible problem. For some reason the federal government thought that St. Johns had too much water too close to it, and it was a very bad, tough issue. She thought the Oregon Legislature stepped away from it and handed it to Metro. Another thing she remembered was that everyone was a hero for about an hour and a half after that solution, and then all of the fault-finding started again. She thought she personally spent the first five years of this process almost daily dealing with solid waste. She never thought she would spend five years of her life after that decision dealing with issues, none of which had very much to do with the physical operation of either the site or the transportation piece. It was a lot of peripheral perceptions more than did this operate within the law, within the requirements, did it work.

Having said that, she needed to share with them that from her perspective Gilliam County and she got complacent after the first five years. It got to be a pretty good operation running smoothly, getting the kinks worked out of it. She thought she was complacent, and she woke up last November and realized she didn't know anyone any more, she knew the people with the companies, but she didn't know anyone on this end of it. They had lost the connection that we had in the beginning that brought us to the table in the first place that gave her community the comfort level dealing with the second largest legislative body in the state after the legislature. That was not an easy thing for a county her size to do, but they had a feeling of comfort because of the people that were involved, Metro had great staff, and they still did. The Councilors all were thoughtful, reasonable people, that approached public policy from a very sound standpoint, that gave Gilliam County the security that they could do this, because the buzzword nowadays was partnership, that's what they believed they were entering into. When she realized in November that she didn't even know who to speak to, because she let that happen, they became so complacent with what had been created, and that shouldn't happen again, it's not good for either end of the system.

Gilliam County believed that the transportation link was what connected the two ends of this and made it work. She came to tell them that from her daily experience, ten years, with this particular contractor had been absolutely excellent. They were the only trucking contract in the gorge that had to go before the review of the communities that they passed through. There were a lot of contracts out there that should be reviewed and there was no way for a governing body to do that. They were a good neighbor along their route. If you asked the Oregon State Police in any of those offices, whether it was Hood River, Cascade Locks, Arlington, or Wasco County what trucking companies were the good neighbors out there they would tell you this was number one by far. That was a comforting feeling for her as she drove to and from Salem, 9000 miles since February. STS had driven over 60 million miles and they had an excellent record. When we first started putting trash in trucks and hauling it up the gorge, the thinking was—she felt good to sit there and say that the contract worked very well. From their point of view, her reporting to the

Council, as the jurisdiction on the receiving end for these tons of trash, it worked very well. The piece that could go wrong the fastest was the tons that moved every day, and that was the piece that could bring us more problems so fast that you didn't even want to think about it. She was grateful to the company that they had been so willing to stand up to the scrutiny, stay the course, and do such a good job, because it could have been very ugly, and it hadn't been.

Councilor Atherton asked Judge Pryor about the trucking operation. He indicated that they had discussed trucking aggregate, rocks, back in the empty trucks. The region used quite a bit of aggregate for concrete. Clackamas County was pretty concerned about the impact of gravel mining in the rivers, and if this was curtailed Gilliam County was another source. They had talked about this with Gilliam County because there were 50 trucks daily coming back to the region empty, was there anything in this contract that would preclude the benefit of hauling rock back to the Metro region.

Judge Pryor said she didn't know of anything. She had discussed this with Gary Goldberg in the past two months extensively, and they had talked to the Metro staff about this. Gilliam County had been treading water while Metro to work through this process. They were then going to sit down and get very serious about that issue. One of the things that Metro's major capital investment created was a transportation system, and it was coming back from the east side of the state empty and aggregate was the only thing that could come back.

Presiding Officer Monroe closed the public hearing.

Councilor Washington urged an aye vote.

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

Presiding Officer Monroe adjourned the Contract Review Board and reconvened the Metro Council.

9. ORDINANCES - SECOND READING

9.1 **Ordinance No. 99-798**, Amending the FY 1998-99 Budget and Appropriations Schedule in the Solid Waste Revenue Fund by Transferring \$6,592,000 from Contingency to Materials and Services in the Regional Environmental Management Department for Prepayment of Fixed Payments as Set Forth in Change Order No. 24 to the Waste Transport Services Contract; and Declaring an Emergency.

Motion: **Councilor Washington** moved to adopt Ordinance No. 99-798.

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

Councilor Washington reviewed this ordinance. This was the budget amendment, there was currently \$14,447,729 in the Solid Waste Revenue Fund. After this contract took out the \$6,592,000 there would be a balance left in that contingency of \$7,855,729. This payment was not to exceed \$6,592,000 the actual amount would be calculated by the Solid Waste Department after this council took action on this ordinance. He again urged an aye vote.

Presiding Officer Monroe opened a public hearing. No one came forward. Presiding Officer Monroe closed the public hearing.

Councilor Washington thanked both the Metro staff, STS staff and Judge Pryor.

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

9.2 **Ordinance No. 99-802**, For the Purpose of Amending the FY 1998-99 Budget and Appropriations Schedule in the Planning Fund Transferring Appropriations from Capital Outlay to Materials and Services for the Transit Oriented Development Program; and Declaring an Emergency.

Motion: **Councilor Bragdon** moved to adopt Ordinance No. 99-802.

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

Councilor Bragdon said the transportation planning budget included a line-item for the Transit Oriented Development Fund. Currently that had been shown as a capital outlay; when the outside financial auditor came through and reviewed they found that it would be more appropriate to have that not as a capital outlay but as materials and services because the land being acquired didn't remain in Metro's inventory as most capital assets would, because Metro was just holding it as a transitional step. This was basically a matter of the nomenclature in the bookkeeping, it was not an increase or decrease in the fund itself.

Presiding Officer Monroe indicated that when he was in the legislature they called this a housekeeping measure.

Councilor Bragdon said that this change was approved unanimously by the Transportation Committee and he hoped the Council would do the same.

Presiding Officer Monroe opened a public hearing on Ordinance No. 99-802. No one came forward. Presiding Officer Monroe closed the public hearing.

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

9.3 **Ordinance No. 99-804**, Amending Metro Code Section 4.01.050, and Revising Admissions Fees and Policies at the Oregon Zoo.

Motion: **Councilor Washington** moved to adopt Ordinance No. 99-804.

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

Councilor Washington said in the past admission charges at the zoo were increased on a fairly regular basis to cover the increase in operating costs at the zoo. He meant pre-1994 as the past. The last fee increase was January of 1994 and after that time it was decided that admission increases would be on hold during the construction of the Tri-Met station, the new parking, and new entry facilities at the zoo. These three constructions projects had been completed, and although construction of the Great Northwest Project continued at the Oregon Zoo, it had been determined that an increase in the cost of admission was needed. Several factors had influenced this decision, the passage of Measure 47 and 50, which reduced the property tax received by the zoo to support their operating costs as with all departments at Metro that were impacted by those measures. Even with the fee increase at the Oregon Zoo, the admission fee would still remain among the lowest among comparable zoos on the west coast. The fees that were being proposed to change were as follows:

	Current Admission Fee	Proposed Admission Fee
Adults	\$5.50	\$6.50
Children	\$3.50	\$4.99
Seniors	\$4.00	\$5.00

These would be effective October 1, 1999. Also, if this was passed by the council it would update the admission fee and policy section of the Metro Code for one which was recommended. He asked if the zoo director, Mr. Vecchio would like to say anything. He thought this was a straightforward fee increase. Fee increases were never made lightly, they understood the impact that it had on families and the public, but you still had to operate the zoo, keep it open, pay the bills; after careful consideration, this was where we were.

Councilor McLain said there was only one section which she was concerned about, she was unable to attend the committee meeting, but after reading through the language today she felt the special admission days had been considered and there was still an adequate amount of special admission days. Her understanding was that under the old system there would have only been nine special days, six days with rates established by the code, and three additional special admission days that would be allowed every year by the director if designated for certain groups. Under the new one there would be at least one special admission day per month. Her understanding was that that would be twelve. With that understanding she felt comfortable going forward with that. The ordinance said that “admission to the zoo shall be free for all portions during a portion of a day each month to be designated by the director.” The director got to choose what that day would be. She found that to be adequate for taking care of the parts of our community that don’t have the ability to deal with the old or the new type of fees that we would be charging. She thanked the staff at the zoo for doing a good job of looking at the Washington and California rates and other facilities, of which there weren’t too many in the state of Oregon that would compare to the zoo. She thought there was something else to consider, and that was that as they raised the rates we had also improved the service and the facility. There was more restaurant facilities, banquet facilities and new exhibits, so they were getting more for their dollar.

Councilor Kvistad said that he brought up the children’s admission policy two or three budget cycles ago. He was still concerned about the increases in children’s admission fees, he preferred them to start looking at a slightly higher increase in adult prices to either keep the amount we charged for children’s admission either at or lower than it was currently. We didn’t have that discussion this year in part because he didn’t have a proposal that was specific enough to bring before the committee. He understood the need for the increases, for a lot of families this was the one place that people can bring their families, it was fairly reasonable, and for a family everything seemed to be getting more and more expensive. Our costs go up, therefore we do have a responsibility to make sure there our facilities were funded. What he wanted to put back on the table at this time—he would support this ordinance, but he would like them, possibly in the operations committee, over the next six months, he would bring forward a proposal to mitigate children’s admissions and see if they could reduce them. He thought that would be a healthy thing to do, but it wasn’t something that he wanted to go to the wall over here.

Presiding Officer Monroe asked Tony Vecchio, Oregon Zoo director, to outline briefly some of the special programs that we had for children at a reduced rate, whether that be schoolchildren or groups or free days that might go along the line of allaying some of the concerns expressed by Councilor Kvistad. He was sure that they all had those concerns.

Mr. Tony Vecchio said there were several things. First, as Councilor McLain pointed out, we did have a free day for everybody, not just children, but anybody on that day. Certainly folks that couldn't afford the zoo normally could take advantage of that day. We did have group rates for children coming on field trips. One thing that would be addressed by this change in policy was a little more flexibility in how we operated. Because of the way the code was written now it was very difficult to do special things for students, and as the deputy director pointed out to you last time with this change in ordinance, we would be able to be more flexible if there were students that were working on a school project, or a group that for whatever reason couldn't afford to come to the zoo. The zoo director would have the ability to waive admission or even give a special rate to get those kids in. It was a high priority to him and the staff that they reached out more to the community, and that was one of the reasons that they were asking for this change in policy, in order to give the Zoo more flexibility to do those kinds of things.

Councilor Washington asked how we broadcast that free day to the public and what were the exact times on that particular day they could come in?

Mr. Vecchio said they hadn't had to market it because everybody knew that the first Tuesday afternoon of the month was free. We didn't advertise it, he didn't think they needed to, he thought people knew.

Ms. Kathy Kiaunis said they also had special free days for disabled groups, we had a Hispanic free day in the past, we advertised in those cases to bring special groups in for that. These days always very well attended, and one of the things they're talking about was that they cause traffic jams on the highway in the summer, so they were going to look at that to see what they could do to make sure everyone got in.

Councilor Washington urged an aye vote and he appreciated the information. It was hard sometimes to remember all of these dates. He felt comfortable that even though we had to ask for some additional funds to operate the zoo we were really making a tremendous effort to make sure that those who might be in a little more need than some other people had the opportunity to attend.

Presiding Officer Monroe opened a public hearing on Ordinance No. 99-804. No one came forward. Presiding Officer Monroe closed the public hearing.

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

10. RESOLUTIONS

10.1 **Resolution No. 99-2791**, For the Purpose of Approving the FY 2000 MTIP Modernization Program Developed Through the Priorities 2000 Process.

Motion: **Councilor Kvistad** moved to adopt Resolution No. 99-2791.

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

Councilor Kvistad said Metro, over the last year, had been going through the update of the state transportation improvement plan, or the MTIP, which was the regional transportation improvement plan. A TIP was a transportation improvement program, the bundle of projects that made up the package of roads, bridges, all of the different things that were on the list. The state then had the STIP, part of that was broken into regions around the state, we were in region 1, so

the MTIP, or Metropolitan Transportation Improvement Program was the State/ODOT/region 1 area. In the last round of the STIP package the federal government hadn't yet finished the reauthorization of what was called IS-TEA, the intermodal service transportation efficiency act. The federal government was reauthorizing all of the federal transportation money across the country, so they developed a new package. The new package was T21, transportation improvement package for the 21st century. In T21 the federal government allocated additional moneys, more than we were expecting and the country was expecting, therefore Oregon's share was increased, therefore our portion of the moneys we had available came in at about \$75.8 million that we had to allocate that we didn't have when we first put together our transportation package. That was the beginning. We had a \$4-5 billion unmet need, we had \$300 million in critical need or important programs and projects that people from around the region wanted in jurisdictions, wanted us to fund, but we only had \$75 million. The joint policy advisory committee on transportation, JPACT, in coordination with this committee and this council held a series of public hearings. He thanked everyone for taking the time to come and sit through some difficult hearings on how to allocate this money. The federal money was what was known as flexible funds, which meant they could be used for a variety of different things, not simply pavement. According to the federal guidelines 100% could have been used for alternative modes, other than roads, but a maximum of 52-53% could go to roads. We came to a balance over a long period of time with a lot of players to balance those dollars out between where we were and the different kinds of requests, whether it be for buses or for highways or anything in between to come up with the package that was before Council today. The package showed the original requests, what was recommended to this body and to JPACT, and then the final allocations. In addition to that there was \$26 million that was being allocated from ODOT to finish the third lane on the sunset highway, so any of you who were affected by that bottleneck, this package funded the completion of that and the third lane to really take care of one of the major bottlenecks on the west side.

Councilor Washington said to the chair of JPACT and Transportation Planning Committee, Councilor Kvistad, that this process was about the best job we had done. Considering what we had and what the need was, this body along with JPACT and all of the other partners in the region did an excellent job of taking a difficult process and really making something worthwhile of it. He appreciated the hard work that everyone put into this.

Councilor Park also gave accolades to Councilor Kvistad, he did a fine job of running some very contentious meetings, both public hearings and also the JPACT meetings. He asked if the change in the gas tax potentially occurring, what would be available to go back and revisit being in one of those districts, part of the east, that we got the shortest end of the stick.

Councilor Kvistad said until we knew what and if there was a package from Salem. Presently this was the only money on the table, and the allocations that currently exist were the only dollars that we had. Should the legislature allocate and should they pass forward a \$.06 per package where they did pre-bonding we would have some additional moneys. Until we knew how much, he didn't want to put out there that there would for certain be additional dollars for programs. The likelihood was that we would have some additional moneys and then we would go through a process similar to this to allocate those funds, hopefully not quite as contentious.

Mr. Andy Cotugno, Transportation Planning Director, said any money that the legislature might adopt will either go to ODOT. There was discussion about a state modernization program, or through normal formulas to cities and counties and ODOT. It was expected that if there was an ODOT modernization program we would be part of a discussion about how those moneys were spent, and whatever those moneys were spent on they had to be consistent with our plans. This

money, generally speaking, was not funding very much in the way of those ODOT modernization projects, in fact, the only one was that highway project that was referred to. All the rest was on city and county roads, not on ODOT roads. That brought the second half of the question, if a local government, through the increase in gas taxes that got distributed out to local governments, they would have an opportunity to spend some of their money on some of these projects as well, and there were a variety of places in here where we had funded a partial project, and the question of completing those projects with some of those state gas taxes that they might receive would be available for discussion. The direction he took back from JPACT was, after we saw what happened, bring the whole issue back to JPACT and assess, what did we get and how might it supplement these allocations, and how might it change what we had already allocated. They wanted to have that discussion once they saw what the picture looked like. He anticipated that they would have that discussion later in the year.

Councilor Park asked that given that the tax money that would potentially be coming from the legislature could only be used for roads, would there be an opportunity to go back and look at how some of this other money was dispensed that could have been used for other projects. Was it possible to go back and reallocate if we had an opportunity.

Councilor Kvistad said it was possible, but not likely. There would be some discussion, should there be moneys freed up, some of the jurisdictions, and in our discussions we did talk about one or two small areas where there may be the opportunity to change allocations. It was very difficult with the process we went through to move the moneys around now that the jurisdictions were expecting them. For example, Washington County had additional funds that came in for an overcrossing that they were able to put back on the table, because those funds came in from another area, and they shared them with the region. We did have a working relationship with all of our partners where that sometimes did occur, and it was a very positive place to be. It was not something to count on, but there was a possibility that that could happen, but we were not going to know that for a couple of months at the earliest.

Councilor Park gave an example, in district 1, on 207th we used some flexible funds to do a road project because there was an overcross and we underfunded the boulevard project and some other work in the area. Was it possible within the county or within that jurisdiction, if money became available to move some of that around so it could fund the right projects. It depended upon which projects got funded in that area, you could end up with only low-priority projects to spend the money on.

Councilor Kvistad said that if it was on our project list and the county wanted to reprioritize the funds to fund projects that were already on the list, with those moneys, we would give them flexibility, they would have to come to JPACT for the discussion, but we had never disallowed a local government shifting their priorities with their own allocated funds, other than they had to be coordinated by the regional consensus that we had developed. If they wanted to move moneys amongst those projects by their own vote, so long as they came and ran it by Metro and there was agreement, there was no problem on our part with that.

Councilor Bragdon said with regard to Multnomah County, they did mention at the JPACT meeting the potential of backfilling certain items if the gas tax, which was shared with cities and counties, came through. One thing about this process was there was a tremendous amount of deference to local jurisdictions in terms of their own priorities and identifying their needs. Your question really got to the problem with this whole area, which was the lack of funds. How funds which could otherwise be used creatively, because they had fewer restrictions, were not used creatively. That was one of his disappointments with this particular process and the outcome of

it, but it was a sad fact of money and that was true in a lot of areas, not just in transportation in Oregon. When we pride ourselves on doing things differently and not being like Atlanta, where the environment and the economy were both threatened because of transportation decisions that they had made, or Los Angeles, where international trade, which was something we depended on here, and air quality were both hampered by transportation decisions that they had made. We tell ourselves that we were not going to make those mistakes, we had a different vision for the way things were going to be, and we needed to invest in that vision, and he didn't think we were doing that. It was clear from this collection of projects that we weren't doing that, and that was without regard to the merits of the projects, everyone had different views about the merits of different projects. It was a similar situation with school reform that we were reading about in Oregon. It was easy to have the vision, but stepping up and paying for it and persuading the public that it was worth doing was another matter, and we, unfortunately, have a long way to go in doing that here, and tying the land use vision and the type of community we wanted. He hoped in the next round they would be able to use these funds more creatively to support a community type of vision that the public would support. He would be supporting this resolution today.

Presiding Officer Monroe suggested that the Councilors e-mail their representatives today concerning the gas tax. We voted unanimously to support the gas tax.

Councilor Atherton said in any of these processes there was good news and bad news. The good news was that many people who came before them to speak about this very small pot of money was the number of folks who were willing to step up and take responsibility locally for their share of the projects, and increasingly we saw folks come forward and say they would do this as a local improvement district, since they were receiving the greatest benefit, therefore they would put in the greater share. Either as a local improvement district or through system development charges, that was a step in the right direction. That communication was getting through, and that was to all of our benefit. We knew that growth must pay its own way, and this was one way for it to happen. Still, we had the overarching pressure to continue to do things the old fashioned way and not be so different here, and that was what Councilor Bragdon was talking about. It was the automobile, the automobile, the automobile. We had said that we want to have more innovative, more multi-modal projects, and that we were looking for bicycle and pedestrian improvements here that had been underfunded in the past. Here was an opportunity to use these flexible funds from the federal government. It was a very small proportion of this measure, and that was what all this talk was about if we had a gas tax and we used those constrained funds that must be used for automobile use that if we had a larger portion of those funds we could backfill and then switch over some of these funds that were in this project being used for automobiles and use them for other modes. We were going to be having conversations about the regional transportation plan in the next few months, he thought that would be their next bite at the apple. Hopefully, they could come to some clarity of that issue, the amount of funds we would have available. There was an expenditure here which was not being shown and that was the \$35-50 million annually in underfunding for maintenance and preservation of our existing system. That didn't show up in the books here, but it was on the books, it was part of reality, and people needed to know that just \$.01 of gas tax in this region would generate a little over \$5 million annually in revenue, and if we were talking \$35 million, that was \$.07 right there. Folks needed to know that until we took care of that unfunded maintenance and preservation that that was a tax on our kids. That was a sobering note, it was not something to be proud of, but it puts it in perspective. We collaborated, we had open discussions on this, but they were going to have to continue, and this wasn't the end of the discussion. He would vote for this, but not without some reservation.

Presiding Officer Monroe opened a public hearing. No one came forward. He closed the public hearing.

Mr. Cotugno said they had submitted a revised version coming out of transportation planning committee that recognized that first transit allocation of \$18 million towards buses, and this packet still had the lightrail version, but the one that should be adopted was the bus-version.

Councilor Kvistad closed by saying it was difficult when you chaired some of these, many of you know where he was on a lot of these transportation issues, and when he was sitting there carrying something like this as the chair of JPACT and the Transportation Committee, he would keep his comments to that specifically. We had a real bumpy ride ahead in terms of setting priorities in this Council and region-wide about where we wanted to go with transportation funding and where some of the problems were, but this in particular was a very big win, not only for Metro, but for the region. We actually saw what was very good about what we did as a body and as an agency. It made him proud to work with so many people that represented so many different points of view, jurisdictions, and to come up with a package after a period of time that really was as balanced and as forward thinking as we could have it, and met as many of the needs that we could possibly meet with so few dollars. As he said before, \$75 million seemed like a lot of money, but in the regional checkbook for transportation money it was next to nothing, but we were able to target it to some very solid projects. He thanked all of the JPACT members, all of the jurisdictions, all of the people who came to the public hearings, they all did a terrific job of working together and coming up with a great package. He also thanked the Council for all the work and time they put into this. It was a good learning experience. He thanked TPAC, MPAC, Andy and his entire staff.

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

10.2 **Resolution No. 99-2794A**, For the Purpose of Urging Balance in the Regulation of Pesticide Use in an Urban Area.

Motion: **Councilor Park** moved to adopt Resolution No. 99-2794A.

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

Councilor Park said he had some concerns about pesticide use in the environment and noted that their use had been coming under increasing attention. He said there were requirements for the application and sales of pesticides which were regulated by the Department of Agriculture through the state Pesticide Control Act for rural and/or farming areas and for commercial applicators in urban areas. He felt there was a need for additional information because of water quality and health concerns. He said areas looking at using Willamette River water should be able to know what could be going into their systems. He noted Metro's direct interest in the pesticide issue was because the effects in urban areas were primarily unknown. He noted Metro's interest in water quality, land use, water supply, parks, open spaces, and the recent ESA listings. He said there were still a lot of questions that needed answers and the urban environment was unique due to stormwater runoff being connected to the river system. He said even though the percentage of total pesticide use statewide was less in urban areas, it was magnified because of that system. He noted that the governor supported the concept, but not without an urban component, and the Board of Agriculture had also gone on record in support of that position.

Presiding Officer Monroe assumed if this resolution were approved, copies would get to the proper water policy committees in the legislature and elsewhere.

Councilor Atherton felt some people may have the perception that urban pesticide users had not been supportive of this type of measure, or aware of the impact on the environment. He said the members of the League of Oregon Cities had endorsed the concept and the comprehensive nature of it. He added that he hoped supporting the measure would not sidetrack or slow down the effort because of the complications of tracking pesticides use in urban areas. He asked about the differences in volumes between rural and urban areas.

Councilor Park did not have exact figures. He added that the difference was proportional and there was a higher percentage in the urban environment because of the concentration in a smaller land mass. He said there was a bill currently in the legislature that would clarify that.

Councilor Atherton shared an incident that happened to him when a large plumbing company helped him deal with root problems and a clogged sewer line. He said the workers dumped a package of blue crystals down the sewer line and flushed water through. When he read the bag, he found that the crystals were copper naphthate and it said on the bag not to use it in or near water systems as it was very harmful to fish. He wondered if the waste water treatment systems were able to remove such chemicals. He felt this resolution would correctly raise people's awareness of such chemicals being used. He said he expected to support this resolution.

Councilor Bragdon supported the resolution and felt it was important as urban dwellers to step up and take responsibility for this and do it in the spirit of bridging the urban/rural divide. He felt that gap was sometimes the cause for inaction. He felt everyone needed to do what they could to get the point of the resolution across.

Councilor Kvistad commented that people in urban areas sometimes forgot that the whole state was often affected by regulations for urban communities, and vice versa. He said he was still undecided about this resolution and asked for some explanation as to why it would meet his philosophical test.

Councilor Park responded that HB 3602-4, currently in Ways and Means at this time, had the support of the agricultural community as well as the governor. He thought that was about as wide a schism as you could get about supporting a controversial issue like this one. He explained they had considered a "right to know" act instead of a "reporting" act but felt it went too far in terms of privacy issues. He said the current bill would allow factual information to be gathered from both the rural and urban sides of the issue.

Councilor Kvistad said he was okay with the concept but wanted clarity of who was reporting, and what exactly would the regulations do.

Councilor Park said that was a good question that did not have an answer yet. He said part of the bill was to do a 2 year study to find out the most cost effective way to get that information. It was possible that the reporting methods would be different for rural and urban areas.

FRIENDLY AMENDMENT: Councilor Kvistad said if the wording of the resolution could be changed in "Be It Resolved, #2" to say "the Metro Council supports regulations requiring a comprehensive statewide reporting of the sales ~~and~~ and/or use of pesticides", he could support it.

Councilors Park and Bragdon, as maker and seconder of the motion, agreed to the friendly amendment.

Councilor McLain said the Regional Water Consortium had indicated an interest in this type of regulation. She thought it was extremely important for this council to be aware as they passed this resolution, that the water providers and the water managers were very interested in the material and the studies and reporting that would be done if this legislation passed at the state level. She felt by passing the resolution the Metro Council was also voicing support to the regional water supply plan.

Councilor Washington said he would support the resolution.

Councilor Park closed by saying he appreciated the support for what he felt was a very important stand taken by the council.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed as a "B" version.

12. COUNCILOR COMMUNICATION

Councilor Washington invited the council to take a canoe tour of the Smith and Bybee Lakes and the Leadbetter Peninsula. He told of all the wildlife they had seen on the trip. He urged the council to take advantage of the trip Emily Roth in Parks was giving.

Councilor McLain said the June WRPAC meeting would be June 21st.

Councilor Park thanked the council, the executive and the auditor for the recent retreat. He felt it was an extremely good session and gave them an opportunity to interact with each other in a positive worthwhile manner. He felt a lot of positive things would come of it.

Councilor Atherton commented on the MPAC committee and the value of their outreach. For example, he had spoken to a fairly large group of realtors in Clackamas County that day who were very misinformed about Metro and their role in regional planning. He felt the MPAC effort to try to facilitate more councilors and staff going out into the community to communicate face to face with people was breaking through some of the misconceptions people had.

13. ADJOURN

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

Prepared by,

Chris Billington
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
052799c-01	May 20/21,	Pesticide Use	TO: Rod Park	Resolution No.

	1999	Reporting	FROM: State Department of Agriculture	99-2794A
052799c-02	2/23/99	Media concerning Zoo fee increase	TO: Metro Council FROM: Beth Anne Steele	Ordinance NO. 99-804