

BEFORE THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO)	ORDINANCE NO. 81-124
RULEMAKING AND DECLARATORY)	
RULINGS; AMENDING ORDINANCE)	Submitted by the Council
NO. 81-105; AND REPEALING)	Coordinating Committee
METRO CODE CHAPTERS 5.01 AND 5.03.)	

The Council of the Metropolitan Service District hereby ordains:

Section 1. Metro Code Chapter 5.01 (Rule No. 79-2), relating to rulemaking procedures, is hereby repealed.

Section 2. Metro Code Chapter 5.03 (Rule No. 79-4), relating to declaratory ruling procedures, is hereby repealed.

Section 3. Section 3 (Administrative Interpretation of the Urban Growth Boundary (UGB)) of Ordinance No. 81-105, is hereby amended to read as follows:

"(a) When the UGB map and the legal description of the UGB are found to be inconsistent; the Executive Officer is hereby authorized to determine and interpret whether the map or the legal description correctly establishes the UGB location as adopted and to correct the map or description if necessary. In determining where the adopted UGB is located, the Executive Officer shall review the record to determine legislative intent and shall seek a legal opinion from the District General Counsel. The map location should be preferred over the legal description in absence of clear evidence to the contrary.

"(b) A city, county or special district whose municipal or planning area boundary includes the property, or a property owner who would be included or excluded from the urban area depending on whether the map or legal description controls, may request that the Executive Officer render an interpretation under this section. If the request is submitted in writing, the Executive Officer shall make the requested interpretation within 60 days after the request is submitted.

"(c) Within ten days of rendering the interpretation, the Executive Officer shall provide a written notice and explanation of his decision to each city or county whose municipal or planning area boundaries include the area affected, owners of property in the area affected, and the Council.

"(d) Any party eligible to request an interpretation under subsection (b) may [petition] appeal to the Council [under subsection (e) of this section] for a determination of where the UGB is located if that party disagrees with the Executive Officer's interpretation or if the Executive Officer fails to render an interpretation requested under subsection (b). Such appeal must be filed with the District within 20 days of receipt of the Executive Officer's interpretation or within 80 days after submission of the request for interpretation to the Executive Officer, whichever is later.

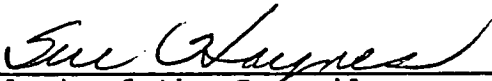
"[(e) Petitions for a Council determination of the location of the UGB under this ruling shall be treated as a petition for declaratory ruling. Petitions shall be submitted and decided in accordance with Code chapter 5.03 and not as a petition for locational adjustment under Sections 4 through 16 of this ordinance.]

ADOPTED this 7th day of January, 1981.



Presiding Officer

ATTEST:



Clerk of the Council

AJ/srb
4631B/283

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Executive Officer *WLL*
SUBJECT: Repeal of Rules

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Approval of two (2) ordinances repealing public contract rules and rules relating to rulemaking and declaratory rulings.
- B. POLICY IMPACT: None. Ordinances are housekeeping in nature.
- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: Original Metro legislation applied the State Administrative Procedures Act (APA) to the agency and gave Metro rulemaking and declaratory ruling authority. Recent legislation repealed Metro's rulemaking and declaratory ruling authority and took Metro out from under the APA. Consequently, all of Metro's existing rules are now obsolete and must be repealed or replaced with ordinances.

Since Metro now lacks APA authority, our existing procedural rules governing rulemaking and declaratory rulings should be repealed since they are no longer useful. Our rules governing contract procedures should be preserved, but converted to ordinances.

Metro also has contested case rules which are being revised for adoption as an ordinance at a later date.

- B. ALTERNATIVES CONSIDERED: To retain the old APA rules would be useless and confusing. To retain the contract rules as rules would raise the issue of Metro's authority to enforce rules.
- C. CONCLUSION: Approval of attached ordinances.

AJ:sh

Motion to adopt the amendment. (Schedeen/Kafoury)

Coun. Williamson stated that the ordinance should include language that the employee is responsible for notifying his supervisor if outside work is obtained.

Coun. Deines stated that the language in the ordinance leaves the responsibility nowhere and there is no obligation on the part of the employee to say anything.

Sue Woodford stated that the meetings between the Employees' Association and management determined that the working relationship that exists in each department will determine how each supervisor may handle the outside work issue.

Coun. Burton stated that the language did not include any requirement for reporting and the Coordinating Committee agreed that this should be made clear.

Deputy Executive Officer Carlson stated that the language appearing under "B" makes it clear that the department head has the responsibility of initially determining that there is no conflicting outside work and that the department head does have the right to ask his employees if they are employed outside of Metro.

Presiding Officer Deines opened the public hearing.

Jill Hinckley, representing the Employees' Association, stated that the Association's position is that those employees having outside work that has no conflict with Metro should not be questioned or required to report.

General discussion.

Presiding Officer Deines stated he would refer the item back to the Coordinating Committee since there seemed to be no agreement on a policy.

Coun. Rhodes stated that the amendment, as written, could require the department head to be reprimanded if one of his employees is engaged in outside work since the suggested wording makes the department head responsible.

General discussion. It was the consensus of the Council that the ordinance would be placed on its second reading at the next regular meeting and that the outside work policy (Section 3) would be eliminated at that time and referred back to the Coordinating Committee.

5.2 Public Hearing on Ordinance No. 81-124, An Ordinance Relating to Rulemaking and Declaratory Rulings; Amending Ordinance No. 81-105; and Repealing Metro Code Chapters 5.01 and 5.03.

Motion to adopt Ordinance No. 81-124. (Schedeen/Burton)

Coun. Burton stated that this and the following ordinance were housekeeping ordinances that came about after the last state legislative session.

There was no one present who wished to speak during the public hearing.

Friends of the Zoo

Betty Schedeen
Ernie Bonner
Bob Oleson, alternate

Bi-State Task Force

Mike Burton
Cindy Banzer, alternate

Presiding Officer Banzer also specified in the committee assignments that three (3) committee members shall constitute a quorum for the Services, Development and Coordinating Committees.

Motion to confirm the Presiding Officer's committee assignments; carried unanimously. (Oleson/Schedeen)

There were no introductions.

2. Written Communications to the Council.

Presiding Officer Banzer stated she had received some correspondence from Margaret Strachan's office regarding the seriousness of the state budget cuts. The letter requested endorsement by Metro and other agencies to cooperate with one another and communicate their concerns to the state; this endorsement was in the form of a resolution.

Motion that the resolution be adopted; carried. (Bonner/Schedeen, Kirkpatrick voting "no")

There were no citizen communications to the Council on non-agenda items.

4.1 Ordinance No. 81-123, An Ordinance Relating to Personnel and Establishing Personnel Rules Relating to Zoo Visitor Services Employees and Outside Work.

Motion to amend the ordinance to delete Section 3 (Outside Work) and to delete references to same in the title and Section 1A; carried. (Rhodes/Williamson, Kirkpatrick voting "no")

A vote on the previous motion to adopt the ordinance (Kafoury/Schedeen) indicated that the ordinance passed unanimously.

4.2 Ordinance No. 81-124, An Ordinance Relating to Rulemaking and Declaratory Rulings; Amending Ordinance No. 81-105; and Repealing Metro Code Chapters 5.01 and 5.03. (Second Reading)

A vote on the previous motion to adopt the ordinance (Schedeen/Burton) indicated that the ordinance passed unanimously.

4.3 Ordinance No. 81-125, An Ordinance Relating to Public Contract Review; and Repealing Metro Code Chapters 5.05 and 5.06; and Amending Metro Code Chapter 2.04. (Second Reading)

A vote on the previous motion to adopt the ordinance (Williamson/Etlinger) indicated that the ordinance passed unanimously.