

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING CODE) ORDINANCE NO. 86-203
SECTION 2.05 REGARDING DEADLINES)
FOR SUBMITTING EXCEPTIONS AND)
NEW EVIDENCE AND EXCEPTIONS TO)
REVISED ORDERS)

The Council of the Metropolitan Service District Hereby Ordains:

Section I.

Paragraph 2.05.035 (b) of the Code of Metropolitan Service District shall be amended as follows:

(b) [The parties shall be given the opportunity to file with the Council written exceptions to the proposed order and, upon approval of the Council, present oral argument regarding the exceptions to the Council. Argument before the Council shall be limited to parties who have filed written exceptions to the proposed order pursuant to this section, and shall be limited to argument on the written exceptions and argument in rebuttal of the argument on written exceptions.]

Within seven (7) days of the release of the proposed order, the Executive Officer shall mail notice to all parties of the date by which written exceptions to the proposed order must be filed. This shall be not less than fourteen (14) nor more than twenty-one (21) days from the date notice of this deadline is mailed, unless otherwise agreed to by all parties. The proposed order and any exceptions received to it shall be forwarded to the Council of the Metropolitan Service District for consideration at its next scheduled meeting at least two (2) weeks after the deadline for filing exceptions.

The Council may, by majority vote, decide to consider objections received following the deadline established, but must allow at least two weeks between the date the exception is filed and the date the Council reviews it. Only parties may file exceptions and exceptions may address only issues raised in the hearing. Upon approval of the Council, parties who have filed written exceptions may present oral argument in support of the exceptions, and other parties shall be given the opportunity to orally rebut exceptions made. Oral argument shall be limited to the specific objections raised in the written exceptions.

Section 2.

Paragraph 2.05.035 (c) shall be amended as follows:

(c) A party may, in addition to filing written exceptions, file a written request to submit evidence that was not available or

offered at the hearing provided for in Code Section 2.05.025. A written request to submit additional evidence must explain why the information was not provided at the hearing, and must demonstrate that such evidence meets the standards of Section 2.05.030 and would likely result in a different decision. Upon receipt of a written request to submit additional evidence, the Council shall [within a reasonable time]:

- (1) Refuse the request; or
- (2) Remand the proceeding to the Hearings Officer for the limited purpose of receiving the new evidence and oral argument and rebuttal argument by the parties on the new evidence; or
- (3) If the nature of the new evidence to be submitted is such that remand would serve no useful purpose, proceed to hear and consider the evidence and argument and rebuttal from the parties on the evidence.

Requests to submit new evidence must be filed by the deadline for filing written exceptions established pursuant to Section 2.05.035 (b), unless circumstances regarding the evidence preclude doing so.

Section 3

Paragraph 2.05.045 (b) shall be amended to read:

(b) Upon receipt of a proposed order and consideration of exceptions, the Council shall adopt the proposed order or revise or replace the findings or conclusions in a proposed order or remand the matter to the Hearings Officer. No written exceptions [will] need be received [or heard] on a revised or replaced order except on new evidence presented to the hearings officer on remand. Parties shall be given an opportunity to comment orally to the Council on a revised order.

ADOPTED by the Council of the Metropolitan Service District
this 10th day of July, 1986.



Jim Gardner
Deputy Presiding Officer

ATTEST:



Clerk of the Council

JH/sm/5673C/462-2
06/16/86

STAFF REPORT

Agenda Item No. 7.1

Meeting Date July 10, 1986

CONSIDERATION OF ORDINANCE NO. 86-203 AMENDING
METRO'S CODE SECTION 2.05 REGARDING DEADLINES AND
NEW EVIDENCE AND EXCEPTIONS TO REVISED ORDERS
(SECOND READING)

Date: June 27, 1986

Presented by: Jill Hinckley

FACTUAL BACKGROUND AND ANALYSIS

Continuing experience with the Contested Case procedures established by Chapter 2.05 of the Code of the Metropolitan Service District (Metro) has identified certain problems requiring correction. One of these is the absence of provision allowing the Executive Officer to set a deadline for the filing of exceptions and requests to submit new evidence. This can create scheduling problems or interfere with an orderly, deliberate decision-making process. Ordinance No. 86-203 would remedy this problem. It also provides parties with an opportunity to present oral argument on revisions to a proposed order.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 86-203

JH/sm
5673C/462-3
06/27/86

STAFF REPORT

Agenda Item No. 7.1

Meeting Date June 26, 1986

CONSIDERATION OF ORDINANCE NO. 86-203 AMENDING
METRO'S CODE SECTION 2.05 REGARDING DEADLINES AND
NEW EVIDENCE AND EXCEPTIONS TO REVISED ORDERS
(FIRST READING)

Date: June 13, 1986

Presented by: Jill Hinckley

FACTUAL BACKGROUND AND ANALYSIS

Continuing experience with the Contested Case procedures established by Chapter 2.05 of the Code of the Metropolitan Service District (Metro) has identified certain problems requiring correction. One of these is the absence of provision allowing the Executive Officer to set a deadline for the filing of exceptions and requests to submit new evidence. This can create scheduling problems or interfere with an orderly, deliberate decision-making process. Ordinance No. 86-203 would remedy this problem. It also provides parties with an opportunity to present oral argument on revisions to a proposed order.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 86-203

JH/sm
5673C/462-2
06/16/86

7. ORDINANCES

7.1 Consideration of Ordinance No. 86-203, Amending Metro's Code Section 2.05 regarding Deadlines and New Evidence and Exceptions to Revised Orders (First Reading and Public Hearing)

The Clerk read the Ordinance by title only a first time.

Motion: Councilor DeJardin moved the Ordinance be adopted and Councilor Kafoury seconded the motion.

Jill Hinckley, Land Use Coordinator, reported that if adopted, the Ordinance would provide for the Executive Officer to set deadlines for filing exceptions and requests for submitting new evidence in contested cases.

Presiding Officer Waker opened the public hearing on the Ordinance. There being no public testimony, the hearing was closed and the Ordinance passed to a second reading to occur on July 10.

7.2 Consideration of Ordinance No. 86-204, Amending Ordinance No. 85-189 (Temporary Procedures for Hearing Petitions for Major Amendment of the Urban Growth Boundary) (First Reading and Public Hearing)

The Clerk read the Ordinance a first time by title only.

Ms. Hinckley explained the Ordinance would establish bi-annual deadlines for parties requesting major amendments to the Urban Growth Boundary (UGB). She said other amendments to the procedures could be requested when permanent rules were prepared.

Councilor Kelley noted that Section 2(b) of the Ordinance did not provide specific reasons for which the Council could waive filing deadlines. She thought reasons should be specified in order to avoid arbitrary decisions. She requested staff prepare language for an amendment to that section to provide for waivers under unusual circumstances.

Councilor Frewing agreed that more specific language should be provided and that staff require petitions be consistent with various local comprehensive plans.

Motion: Councilor DeJardin moved Ordinance No. 86-204 be adopted and Councilor Gardner seconded the motion.

Presiding Officer Waker opened the public hearing on the Ordinance. There being no public testimony, the hearing was closed and the Ordinance passed to a second reading to occur on July 10.

the Hearings Officer's Report. There was no motion to hear oral arguments from the petitioner.

Motion: Councilor Frewing moved to remand the matter to the Hearings Officer in order for the Hearings Officer to prepare a written response to the petitioner's exceptions. Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Frewing, Gardner, Hansen, Kelley, Kirkpatrick, Oleson and Van Bergen

Absent: Councilors Kafoury and Waker

The motion carried.

A discussion followed on when the Order should again be considered by the Council. Deputy Presiding Officer Gardner said he could not determine when the Order would be scheduled until he had an opportunity to review the Hearings Officer's written response to the exceptions.

7.1 Consideration of Ordinance No. 86-203, Amending Metro's Code Section 2.05 Regarding Deadlines and New Evidence and Exceptions to Revised Orders (Second Reading)

The Clerk read the Ordinance a second time by title only.

Motion: A motion to adopt the Ordinance was made by Councilor DeJardin, seconded by Councilor Kafoury, at the meeting of July 26, 1986.

There was no discussion on the Ordinance.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Frewing, Gardner, Hansen, Kelley, Kirkpatrick, Oleson and Van Bergen

Absent: Councilors Kafoury and Waker

The motion carried and Ordinance No. 86-203 was adopted.



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

August 19, 1986

Ms. Juanita Orr
County Clerk
Clackamas County Courthouse
8th and Main
Oregon City, Oregon 97045

Dear Ms. Orr:

Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District. Please file these ordinances in the Metro ordinance files maintained by your county.

Ordinance No. 86-203, Amending Metro Code Section 2.05
Regarding Deadlines for Submitting Exceptions and New
Evidence to Revised Orders

Ordinance No. 86-204, Amending Ordinance No. 85-189
(Temporary Procedures for Hearing Petitions for Major
Amendments to the Urban Growth Boundary)

Revised Ordinance No. 85-189

Sincerely,

A. Marie Nelson
Clerk of the Council

Metro Council

Richard Waker
Presiding Officer
District 2

Jim Gardner
Deputy Presiding
Officer
District 3

Bob Oleson
District 1

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

(Vacant)
District 8

Hardy Myers
District 9

Larry Cooper
District 10

Marge Kafoury
District 11

Gary Hansen
District 12

Executive Officer
Rick Gustafson

Enclosures



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

August 19, 1986

Mr. Charles D. Cameron
County Administrator
Washington County Courthouse
150 North First Avenue
Hillsboro, Oregon 97123

Dear Mr. Cameron:

Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District. Please file these documents in the Metro ordinance file maintained by your county.

Ordinance No. 86-203, Amending Metro Code Section 2.05 Regarding Deadlines for Submitting Exceptions and New Evidence to Revised Orders

Ordinance No. 86-204, Amending Ordinance No. 85-189 (Temporary Procedures for Hearing Petitions for Major Amendments to the Urban Growth Boundary)

Revised Ordinance No. 85-189

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A. Marie Nelson
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Tom DeJardin
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(Vacant)
District 8

Hardy Myers
District 9

Larry Cooper
District 10

Marge Kafoury
District 11

Gary Hansen
District 12

Executive Officer
Rick Gustafson



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

August 19, 1986

Ms. Jane McGarvin
Clerk of the Board
Multnomah County Courthouse
1021 S.W. Fourth Avenue
Portland, Oregon 97204

Dear Jane:

Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District. Please file these ordinances in the Metro ordinance files maintained by your county.

Ordinance No. 86-203, Amending Metro Code Section 2.05 Regarding Deadlines for Submitting Exceptions and New Evidence to Revised Orders

Ordinance No. 86-204, Amending Ordinance No. 85-189 (Temporary Procedures for Hearing Petitions for Major Amendments to the Urban Growth Boundary)

Revised Ordinance No. 85-189

Sincerely,

A. Marie Nelson
Clerk of the Council

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