

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING A) ORDINANCE NO. 87-215
ONE PERCENT FOR ART PROGRAM FOR)
THE NEW CONSTRUCTION OR MAJOR)
ALTERATION OF MAJOR DISTRICT)
FACILITIES)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Short Title

This Ordinance shall be known as the "Metropolitan Service District One Percent for Art Program" and may be so cited and pleaded and shall be referred to herein as "this program."

Section 2. Definitions

A. "Construction Cost" means budgeted construction cost, excluding design, engineering and administrative costs, cost for fees and permits, and indirect costs, such as interest during construction, land acquisition, relocation, demolition, street and utility, construction appurtenant to the main project, advertising and legal fees.

B. "Council" means the Council of the Metropolitan Service District.

C. "District" means the Metropolitan Service District.

D. "District Facility" means those facilities constructed at the direction of the District.

E. "Major District Construction Project" ("Project") means projects for construction, reconstruction or major renovation of a District facility with an estimated construction cost of \$100,000 or more. "Major District Construction Project" does not include emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a facility.

Section 3. Policy

The Council finds that it is appropriate in Major District Construction Projects that one percent of the construction cost of such projects be devoted to the acquisition and display of art to be integral to, displayed in, upon, or in proximity to the project, or capable of display in other District facilities which the Council deems appropriate.

These funds shall be expended on art which is of redeeming quality, advances public understanding of art, and enhances the aesthetic quality of the location which will be the site of works of art funded by these funds. The goal is to select and display art which represents the best in artistic skills and to encourage public dialogue and understanding of works of art.

Section 4. Dedication

One percent of the construction cost of Major District Construction Projects shall be set aside for the acquisition of art, unless the Council, following a public hearing, by resolution exempts the project from the one percent program. Such an exemption must be approved prior to or at the time a contract for an architect has been entered into, or prior to or at the time a contract to participate financially in a project is entered in to by the Council, whichever is earlier.

Works of art may be integral to, or displayed in, upon or adjacent to the project, or capable of display in other District facilities.

The Council may order works of art removed or relocated if it finds that doing so is in keeping with the purposes of this Ordinance.

The Council may determine to use contributed funds in addition to or in lieu of the monies raised for the construction costs.

Section 5. Ownership

All art acquired pursuant to this ordinance shall be acquired in the name of the Metropolitan Service District and title shall vest in the Metropolitan Service District.

Section 6. Approvals

Contracts brought forward under this program shall be approved in accordance with the Metro Code.

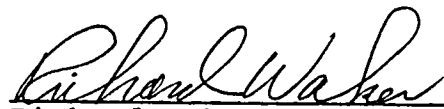
Section 7. Implementation

The Council shall adopt by resolution guidelines for implementing this program. The guidelines shall be interpreted in such a manner to fully carry out the purposes of this ordinance.

Section 8.

This ordinance shall be added to the Code of the Metropolitan Service District as part of Title II.

ADOPTED by the Council of the Metropolitan Service District
this 12th day of March, 1987.


Richard Waker, Presiding Officer

ATTEST:


Clerk of the Council

PF/gl
7014C/486-3
03/02/87

STAFF REPORT

Agenda Item No 8.1, 9.1

Meeting Date March 12, 1987

CONSIDERATION OF METRO'S PROPOSED ONE PERCENT
FOR ART PROGRAM (ORDINANCE NO. 87-215 AND
RESOLUTION NO. 87-717)

Date: February 26, 1987

Presented by: Neil McFarlane

FACTUAL BACKGROUND AND ANALYSIS

In actions at meetings December 18 and January 8 Metro Council has resolved many issues surrounding the proposed Ordinance and Resolution establishing a One Percent for Art Program. On January 22 the Presiding Officer referred unresolved issues to the Management Committee. Meeting on February 20, the Management Committee approved changes summarized below.

Issues Previously Resolved

(reflected in attached revised drafts of the Ordinance and Resolution)

1. Artwork possessing functional as well as aesthetic qualities is allowed.
2. ~~The one percent requirement does not apply to emergency work, minor alteration, or ordinary repair and maintenance.~~
3. Advisory committees established to help select art and artists for each project will invite comment on the proposed art from the public and adjacent neighborhoods.
4. Council may decide to display art in locations other than the actual project site.
5. Advisory committee may recommend a program of art integral to the project design, including artists, art works and placement within the project.
6. Performing art is not an eligible art form under this program.
7. The program will set aside a full one percent for art rather than an amount up to one percent.

Issues Not Resolved Previously

(addressed in attached draft Resolution and Ordinance)

1. Relationship of placement of art to Metro facilities

The Ordinance states the art need not be on the project site but must be "in proximity" to the site or within or "in proximity" to another District facility.

2. Point during the planning process at which a construction project could be declared exempt from the art program

The Ordinance states that exemptions must be approved by resolution prior to or at the time a contract for an architect has been entered into, or at the time Council decides to enter into a contract to participate financially in a project.

3. Council role clarified

Guidelines presented in the Resolution clarify Council's role as (1) deciding whether or not to exempt a project; (2) approving art program recommended by the advisory committee as part of overall project design approval; and (3) review of contracts with specific artists as part of normal contract review procedures.

4. Timing of formation of advisory committee

Committee would be formed upon letting a contract for the project architect.

5. Committee membership

The guidelines state members would be appointed jointly by the Executive Officer with the concurrence of the Presiding Officer.

6. Timing of community input

Guidelines specify that public comment on the art program would be solicited as part of public review for the overall project design.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 87-215 to establish a One Percent for Art Program for new construction or major alteration of major district facilities. The Executive Officer also recommends adoption of Resolution No. 87-717 to establish guidelines for Metro's One Percent for Art Program.

STAFF REPORT

Agenda Item No. 7.3, 8.1

Meeting Date Jan. 22, 1987

CONSIDERATION OF ORDINANCE NO. 87-215 AND
RESOLUTION NO. 87-717, FOR THE PURPOSE OF
ESTABLISHING A ONE PERCENT FOR ART PROGRAM
AND GUIDELINES

Date: January 14, 1987

Presented By: Phillip Fell

FACTUAL BACKGROUND AND ANALYSIS

The Presiding Officer has recommended this issue be set over to a later date to allow the Council's Management Committee to develop a recommendation for full Council consideration.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer concurs with the Presiding Officer's recommendation.

PF:amn

STAFF REPORT

Agenda Item No. 7.4, 8.1

Meeting Date Jan. 8, 1987

CONSIDERATION OF ORDINANCE NO. 87-215 AND
RESOLUTION NO. 87-717, FOR THE PURPOSE OF
ESTABLISHING A ONE PERCENT FOR ART PROGRAM AND
GUIDELINES

Date: January 7, 1987

Presented by: Phillip Fell

FACTUAL BACKGROUND AND ANALYSIS

Staff has been asked to prepare amendments addressing six areas: (1) art may serve functional as well as aesthetic purposes (Kelley); (2) Council should have the ability to exclude projects from the provisions of this ordinance (Van Bergen); (3) Council should have the ability to determine location for display of artworks (Waker); (4) if artworks are to be placed in a neighborhood, that neighborhood should have an opportunity to present its feelings to the Advisory Committee (Knowles); (5) performing arts should be an eligible expenditure (Frewing), and (6) Council should have the option of spending "up to" 1% for Art (Waker).

The attached versions of the 1% for Art ordinance and resolution contain amendments for the first five topics plus some housekeeping amendments. Staff did not include written amendments for the "up to" option in an attempt to minimize the difficulty of working through the attached documents. If Council adopts the "up to 1%" provisions, staff will make two basic changes: (1) change all references to "1%" to "up to 1%" everywhere they appear in both the ordinance and resolution; and (2) add a sentence to the end of the first paragraph of Section 4. Dedication in the ordinance. The sentence will read "The Council shall establish the percentage to be used for each project at the time the project is placed in the budget."

1. Functional Art

Councilor Kelley has asked if art placed, for example in a park, could possess functional as well as aesthetic qualities. The answer is "yes." To clarify this, staff has added a paragraph to the resolution's definition of "Works of Art" (Resolution IIG, p. 2).

2. Council Authority to Exclude Projects

Councilor Van Bergen and other Councilors have questioned the desirability of generating art funds from all projects, particularly landfill and alternative technology projects. To provide the

Council with adequate latitude, staff has drafted amendments which allow the Council to exempt any project it feels appropriate. As drafted, exemption of a project requires Council action in the form of a resolution "at the time the Council establishes the project budget...." (See Ordinance, p. 4, Section 4(c) Dedication)

If the Council makes this change, additional clarifying changes should be made in the ordinance definitions (Section 2. Definitions, D(1) and E(1)). As currently written, D(1), "District Facility" is limited to "...facilities constructed by the District. D(2), "Major District Construction Project" is defined to include certain projects costing "\$100,000 or more when the District constructs the project." These definitions would exclude projects built by vendors.

If the Council wishes the authority to exempt any project, then the definitions of eligible projects, to be consistent, should allow any "District facility" or any "Major District Construction Project" to be equally eligible.

This can be accomplished by deleting the definitions in D(1) and E(1) and substituting the definitions contained in D(2) "District Facility" and E(2) "Major District Construction Project."

3. Council Determines Location

4. Neighborhood Input

Several Councilors suggested that the original language which directed the Advisory Committee to determine the location for display of artworks and restricted the range of possible choices to Metro facilities should be modified. Accordingly, staff has drafted amendments which authorize the Council to choose the location for display of art and place no restriction on the range of choices.

The existing ordinance language which restricts location of display is found in the first paragraph of Section 3(A) Policy which concludes with the requirement that the art must be displayed at the project site, "or capable of display in other District facilities." Similar language is found in the first paragraph of Section 4(A) Dedication.

If the Council wishes the authority to display art at the location of its choice, Sections 3(A) and 4(A) should be replaced with the language in Sections 3(B) and 4(B). The new language in those sections refers to art which must be displayed at the project site, "...or capable of display in other locations which the Council deems appropriate."

There are related changes to be made in the resolution. On the first page in Section I THE PURPOSE, delete "public structure" and insert "location" so that the language will read, "...and enhance the aesthetic quality of the location which will be the site of works of art...."

On page 3 of the resolution (Section III C) a new Council responsibility is added, "2. Determine the location for the display of the art."

On page 4 of the resolution, the two paragraphs under B(1) are existing language. The first paragraph under B(2) has a new sentence which directs the Advisory Committee to recommend locations to the Council as its first responsibility. The second paragraph of B(2) drops the word "first" from the requirement that the Committee prepare a budget prior to taking any action.

Accompanying these changes is the suggestion put forth by some Councilors that Metro may wish to place artworks out in the community, e.g., a sculpture garden. Councilor Knowles has suggested that if art is to be placed in a neighborhood, the neighborhood should have an opportunity to comment. On page 5 of the resolution, a new instruction is added as III D. This language requires the Advisory Committee to solicit neighborhood opinions regarding suitable art forms if the art is to be externally visible.

5. Performing Arts

If the Council wishes to make performing arts an eligible expenditure, changes must be made to both the ordinance and resolution. In the ordinance changes are made in both Sections 3(A) and 4(A) allowing funds to be spent for the performance of art as well as the acquisition of artworks.

On the first page of the resolution, Section I THE PURPOSE is amended to address art which is "purchased or performed."

In the definitions on page 2, "Artist" is redefined as "A practitioner in the visual or performing arts...."

Further down the page, "G. Works of Art" is amended to include performing arts.

On page 3, Section IV. Advisory Committee Membership (B.) is amended to allow the selection of an "other suitable advisor" rather than a member of the Metropolitan Arts Commission or its designee. This change would be appropriate if a performing art is to be selected.

On page 6, VIII. Management and Maintenance, (A) Metro's responsibility for ongoing care of artworks is limited to visual works of art.

In Section IX. Application of Percent Funds: Inclusions, new authorization is added in "I." to allow the acquisition of rights to perform a work.

In Section X. Application of Percent Funds: Exclusions, (A) the expenditure prohibition for reproductions of original works of art is exempted for performing arts.

HOUSEKEEPING AMENDMENTS

Ordinance

Section 4(A) Dedication -- A new paragraph is added to allow the Council to remove or relocate works of art if it determines that such action is in keeping with the purpose of the ordinance. In the original version, this authority was granted to the Executive Officer. If the Council determines that it, rather than an advisory committee, should select the location for display of artworks, then the Council should also be responsible for relocation.

Resolution

The definition of "Affected Department" originally appeared in the ordinance. However, the reference to "Affected Department" appears in the resolution. Therefore, the definition has been moved into the resolution's Definition section.

On page 2, Section III. Process language in "A" which originally triggered the appointment of the Advisory Committee "Upon Council action initiating a major District construction project" has been made more specific. It now directs those appointments to occur, "Prior to letting the contract for architects/engineers for designing the project."

PF/gl
6675C/491
01/07/87

CONSIDERATION OF ORDINANCE NO. 86-215 FOR THE
PURPOSE OF ESTABLISHING A METRO 1% FOR ART
PROGRAM, AND RESOLUTION NO. 86-717 ESTABLISHING
GUIDELINES FOR IMPLEMENTING METRO'S 1% FOR ART
PROGRAM

Date: December 10, 1986

Presented by: Phillip Fell

FACTUAL BACKGROUND AND ANALYSIS

In 1975 the Oregon Legislature established the first Percent for Art program in the state. Initially, the program focused on the acquisition of art works for the state capitol. In 1977 the scope was expanded to include 1% of the construction budget for all new and remodeled state buildings with a construction budget of \$100,000 or greater. Subsequently, both the City of Portland and Multnomah County established similar programs. Last summer, representatives of the Metropolitan Arts Commission approached Metro staff to seek consideration of a Metro Percent for Art program. The Ordinance and Resolution before you tonight are the result of that request.

The format differs from the draft which was delivered to you earlier in that the guidelines have been placed into resolution format. This was done to clarify exactly what the Council is being asked to adopt. A resolution format is suggested because of the greater ease of making changes in the implementation process should the conditions warrant.

Councilor Hansen has asked if the Program's provisions do -- or should -- apply to alternative technology facilities and landfills. In response to that question, staff has amended language in Section 2, paragraphs "E" and "F." By redefining "District Facility" to mean those facilities constructed by the District and also restricting the definition of "Major District Construction Project" to those facilities constructed by the District, the Program's application is limited. There are scenarios under which alternative technology facilities would be built and owned by other entities. Should that occur, the provisions of the Program would not apply. If a similar scenario is used for a regional landfill, the Program would not apply.

The policy decision of whether the Program should apply under these circumstances or whether alternative technology facilities and/or landfills should be excluded from the Program is for the Council to make.

Councilor Frewing has asked if the Program should be limited to Oregon artists. Oregon Public Contracting law, however, forbids restriction to Oregon bidders. Under a Personal Services contract such a restriction could be exercised.

Councilor Frewing also asks if the Program should be restricted to visual arts, as currently drafted. This is also a policy decision resting with the Council. Staff anticipates testimony from the Art Community which would be asked for comment.

SUMMARY

PURPOSE -- Set aside an amount of money equal to 1 percent of the construction costs of Metro facilities for art acquisition.

Eligible Projects

Construction, reconstruction or major renovation of facilities with an estimated construction cost of \$100,000 or more. Does not include: emergency work, minor alteration, ordinary repair or maintenance.

Funding Source

Money may come from construction funds authorized by the Council. It may also come from private contributions.

The following process will be used for projects associated with major construction projects. It may be used for art projects funded privately, e.g., donations to the Zoo for that purpose.

PROCESS

Executive Officer appoints and Council confirms a five-member Advisory Committee composed of:

- Metro Councilor
- Department Head or a designated representative from the department which will administer the completed project;
- Project Architect;
- Citizen with a background in art;
- A member of the Metropolitan Arts Commission or its designee.

The Advisory Committee recommends:

- Amount of money to be spent for purchased or commissioned work;
- Appropriate location for art;
- Suitable art forms;
- Artists' prerequisites;
- Specifics of artist/art work selection process;
- Budget for the selection process.

Contracts brought forward under the program shall be approved in accordance with the Metro Code.

General Artist Selection Criteria

1. Qualifications as demonstrated by past work, if any;
2. Appropriateness of proposal to a particular project; and
3. Probability of successful completion.

Consideration given to: materials used, durability, maintenance, public access and safety.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 86-215 and Resolution No. 86-717.

PF/gl
6675C/485-3
12/11/86

Metro Council
July 9, 1987
Page 4

Councilor Van Bergen said he had received a telephone message from a constituent regarding the convention center which he had submitted for the record.

There was no further testimony and the Presiding Officer closed the public hearing. He asked for comments from Councilors on the proposed design. No comments were received and the Presiding Officer announced the Council concurred with the recommended design.

In response to Councilor Gardner's question, Mr. Frasca explained the design had not included provisions for day care because retail space had been reduced to accommodate lobby and ballroom features. If, however, the Council determined that day care should be part of the program, space could be found.

Ms. Sherburne said privately owned child care facilities were located near the convention center site and conventioners could certainly use those facilities. She further explained that because the convention center was not a year around business, it would be difficult for a child care provider to operate a profitable facility on-site.

An unidentified man urged the Council to listen to public testimony received and to investigate providing child care at the convention center.

8. REPORT ON THE OREGON CONVENTION CENTER PUBLIC ART PROGRAM

Tuck Wilson explained the Council had adopted Ordinance No. 87-215 and Resolution No. 87-717 which established the One Percent for Art Program and guidelines. Councilor Knowles had been appointed as Chairman of the Advisory Committee to administer the \$475,000 art program for the Oregon Convention Center per the Council-adopted guidelines.

Councilor Knowles then described the Advisory Committee's activities to date and introduced other committee members: Larry Kirkland, representing artists; Carol Edelman, Metropolitan Arts Commission; Robert Frasca, project architect; and Tuck Wilson, Executive Officer's representative. Per an intergovernmental agreement with the Metropolitan Arts Commission, Catherine Gleason would serve as the Advisory Committee coordinator. He reported the Committee had developed a "procurement" process for art which would include: developing a reference list of artists; selecting four to six finalists; soliciting proposals from artists for how art could be incorporated into the facility; and using those ideas to implement a competitive process for final selection of artists and artworks. Councilor Knowles emphasized the process would involve early

cooperation between the architects and artists in order to include unique design features into the facility.

9. ORDINANCES

9.1 Consideration of Ordinance No. 87-224, for the Purpose of Waiving Metro Code Section 3.01.020(d) for Contested Case No. 87-2: Angel (First Reading and Public Hearing)

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

Jill Hinckley, Land Use Coordinator, presented staff's report. She explained the Metro Code provided: "No petition will be accepted under this chapter if the proposed amendment to the UGB would . . . create an island of non-urban land within the UGB." Joseph Angel, property owner, had requested the Council waive that provision in order to allow him to submit a petition to the Council for locational adjustment of the UGB.

Councilor Van Bergen asked if the Council had the authority to grant such a waiver. Ms. Hinckley said it was her understanding any action made by ordinance could be waived by ordinance. The Council would not be waiving the provisions of Code Section 3.01.020(d) by adopting Ordinance No. 87-224, she said. Rather, it would be waiving that provision for the Angel case. Future parties could appeal for a similar waiver and the Council would evaluate each petition on a case-by-case basis.

Motion: Councilor Cooper moved, seconded by Councilor Kirkpatrick, to adopt Ordinance No. 87-224.

Presiding Officer opened the public hearing.

Steven Janik, an attorney representing the applicant, Joseph Angel, requested the Council support staff's recommendation and adopt the ordinance. He explained the existing UGB had actually created the unique land situation and no new island of non-urbanized land would be created if the waiver were granted. The UGB boundaries were within 500 feet of each other and city water lines already served his client's property, he reported.

Councilor Knowles asked staff to explain why the Metro Code prohibited the acceptance of applications for UGB locational adjustments when an island of non-urban land would be created. Ms. Hinckley reported that such a condition would be illegal under the Statewide Land Use Planning Goals. However, she said, the Angel case, being a unique situation, was not in violation of the land use goals. She suggested the Council consider revising its Ordinance for cases such as the Angel property.

tee's recommendations. Councilor Gardner urged approval of the legislation.

Motion to Amend Ordinance No. 87-215: Councilor Ragsdale moved, Seconded by Councilor Collier, to amend Section 4, "Dedication," of the Ordinance as follows (deletions are in brackets):

"One percent of the construction cost of Major District Construction Projects shall be set aside for the acquisition of art[, unless the Council, following a public hearing, by resolution, exempts the project from the one percent program. Such an exemption must be approved prior to or at the time a contract for an architect has been entered into, or prior to or at the time a contract to participate financially in a project is entered into by the Council, whichever is earlier]."

Councilor Ragsdale explained no project should be excludable from the art program by resolution. He proposed that funds could be transferred to another project and that any changes to the program be authorized by adoption of an ordinance.

A discussion followed on Councilor Ragsdale's amendment. Councilor Kelley opposed the amendment because she thought the presence of solid waste facilities in neighborhoods should be mitigated by art works. Councilor Van Bergen thought Metro's community image could be improved by better maintenance and enhancement of facilities. Councilor Hansen also opposed the amendment.

Councilor Collier asked if the amendment would preclude art works at landfills. Councilor Ragsdale responded said the amendment would not preclude art works at the site or near the site. It would preclude installing art works elsewhere in the community. Presiding Officer Waker pointed out the public would not have access to the next regional landfill.

Vote on Motion to Amend the Ordinance: The vote resulted in:

Ayes: Councilor Ragsdale

Nays: Councilors Bonner, Collier, Cooper, Gardner, Hansen, Kelley, Knowles, Van Bergen and Waker

Absent: Councilors DeJardin and Kirkpatrick

The motion to amend the Ordinance failed.

Eleanore Baxendale, General Counsel, explained the Ordinance would present Metro's contract procedures in a logical format and avoid confusion for those who used the procedures. She noted substantive changes in the Ordinance from previous procedures as listed in the written staff report.

Ms. Baxendale referred to an errata sheet distributed to Councilors. Several references in the Ordinance to contracts "under \$2,500" should be changed to read "\$2,500 and under", she said. Also, several references to contracts should also include amendments of the same amounts, she explained.

There was no discussion on the proposed Ordinance.

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

Presiding Officer Waker opened the public hearing on the Ordinance. There being no testimony, he closed the hearing and announced the second reading was scheduled for January 8, 1987.

7.4 Consideration of Ordinance No. 87-215, for the Purpose of Establishing a One Percent for Art Program for the New Construction or Major Alteration of Major District Facilities (First Reading and Public Hearing)

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

Phillip Fell, Government Relations Manager, reviewed staff's written report and the following undetermined policy issues regarding the art program: whether the Ordinance should apply to all Metro projects or whether it should exclude certain solid waste projects such as landfills and resource recovery facilities; whether the program should be limited to participation by Oregon artists; and whether the program should be restricted to the visual arts.

Councilor Knowles asked what role the Metropolitan Arts Commission would play in Metro's program. Mr. Fell said the proposed Ordinance should provide for one member of the Commission to advise Metro on each major project.

In response to Councilor Frewing's question about which construction projects would apply, Eleanore Baxendale, General Counsel, explained that any new construction or renovation project included as an item in Metro's budget would be included under the proposed Ordinance.

Presiding Officer Waker proposed budgeting up to one percent rather than one percent for any particular project, explaining good art could not be measured by the amount of money expended.

Councilor Gardner did not want to restrict projects to Oregon artists but suggested weighting local artists more heavily in the selection process.

Ms. Baxendale said under Metro's current contract procedures, non-Oregon artists could not be excluded for low bid type contracts. Restrictions could be imposed, however, for personal services type contracts.

Motion for Adoption: Councilor DeJardin moved the Ordinance be adopted and Councilor Knowles seconded the motion.

Presiding Officer Waker opened the public hearing on the Ordinance.

Dorothy Pacientini, former Director of the Metropolitan Arts Commission, encouraged Metro to adopt a one percent for art program. She said Metro could enjoy a positive public response and could make a significant aesthetic contribution to the area if art were part of the convention center project.

In response to Councilor Frewing's question, Ms. Pacientini encouraged a balance of Oregon and out of state artists, especially for visual arts.

Bob Frasca, Portland architect, said he supported Ms. Pacientini's testimony and urged the Council to include solid waste facilities in its art program. He said the Justice Center did not seem an appropriate project at first but had become a very successful vehicle for art. An earth sculpture could be installed at the landfill site, he suggested. Mr. Frasca proposed that if a project were deemed inappropriate for art, funds could be pooled and set aside for other projects. Regarding local artists, he urged Metro to make no restrictions since other state's often commissioned Oregon artists. Finally, he said it would be in Metro's best interest to have the Metropolitan Arts Commission administer the program.

Presiding Officer Waker asked Mr. Frasca if he have any reading on the general public's response to one percent for art programs. Mr. Frasca responded that art touched all people. He expected good response if Metro adopted a properly administered, broad-based program.

In answer to Councilor Frewing's request for an example of pooling and leveraging funds on a project, Mr. Frasca cited the Justice Center ceiling tiles. He said for a little more money, the ceiling had been tiled with specially designed, hand made tiles. Landscape architecture was another example.

Selina Ottum, responding to the Presiding Officer's question about the nature of the Metropolitan Arts Commission (MAC), she explained MAC was an agency funded 60 percent by the City of Portland and 40 percent by Multnomah County to administer art projects and grants. She said although MAC was very interested in Oregon artists, it did not limit its projects to locals. She also explained her prejudice was that Metro's program should be limited to the visual arts.

Responding to Councilor Hansen's question, Ms. Ottum said she had been and would continue to work with Mr. Fell to ensure female and minorities, including native American artists, were given every opportunity to participate in Metro's art program.

Councilor Knowles asked Ms. Ottum about her experience in administering projects where funds had been pooled or leveraged. She said that could be achieved by matching funds with federal arts programs, using funds from other Metro projects, and participation from local foundations and corporations.

Councilor Knowles asked what experienced Ms. Ottum had in working with communities for major art projects. Ms. Ottum said projects had been successful when citizens served on selection committees. She said Metro's ordinance provided for additional community based advisors at the Council's discretion.

Bill Naito, local developer, testified the public sector should take the lead in presenting art to the community. He agreed with Councilor Frewing's preference for local artists, stating Oregon had many talented artists and architects. He encouraged incorporating art into landfill and transfer station projects because art could help mitigate negative attitudes about garbage. In summary, he said visitors would view the Oregon Convention Center as representing the city and state and incorporating art into that facility would enhance the already existing view of a high life quality in Oregon.

Carry Jackson, Co-chair of Oregonians for Art in Public Places, strongly urged the Council to adopt a full one percent for art program. To allocate up to one percent would seriously erode the program, he said, as had happened with other programs. Mr. Jackson said he worked in the field of resource recovery and thought it include art as part of planning such facilities.

Mike Russo, artist, a sponsor of the one percent for art program, member of the Portland Arts Commission and Design Review Committee, said he would speak to the Council from an artists viewpoint. He was encouraged the Council was discussing the issue of public expenditures for art because it was an issue vital to the area's economic growth. He explained that Europe enjoyed a brisk tourist trade due to the Continent's long-term investment in art. He said

the world was curious and envious about Oregon's unique sense of identity and its pride in the surrounding environment. Artists enhanced that image by humanizing the environment in a time dominated by mechanization. They personalized important places, he said. Regarding restricting projects to local artists, Mr. Russo explained he was not an exclusionist but thought it important the art give local identity to Oregon buildings and places.

Ed Carpenter, artist and member of the Metropolitan Arts Commission, testified against restricting projects to Oregon artists. He explained that other, out of state art programs were not restrictive and Oregon artists had made valuable contributions to those programs. He encouraged fostering a spirit of reciprocity.

Manual Esquierdo, sculptor, art professor and member of the Metropolitan Arts Commission, addressed the issue of design and art. He noted that art and design were closely linked in many WPA projects, resulting in significant and beautiful facilities were built. He encouraged Metro to conduct its projects in this tradition, especially solid waste facilities.

There was no further testimony and the Presiding Officer closed the public hearing.

Councilor Ragsdale said he supported including solid waste facilities in the Ordinance but wanted to know the impact of that provision on solid waste disposal rates.

Councilor Kelley proposed the Ordinance be worded to include both visual and functional art. She said she had worked with Mr. Fell and General Counsel to draft specific language.

Councilor Van Bergen thought it the Council's responsibility to administer its own art program until circumstances dictated another solution. He also recommended adopting a full one percent program with the Council having the option to reject art for specific capital projects.

Councilor Frewing said after hearing public testimony, he supported Mr. Russo's statement the program not be restricted to Oregon artists but that projects enhance a local or regional identity.

In response to Councilor Ragsdale earlier request for the economic impact on disposal costs, Executive Officer Gustafson reported capital costs for the new regional landfill would be about \$22 million. Assuming a one percent for art program was adopted, \$220,000 would be spent for art which would result in an approximate increase of 3 cents per ton for disposal costs over a twenty-year period. He added that rather than place the art at the landfill,

the Ordinance could be amended to allow art to be installed in the surrounding community.

Presiding Officer Waker announced the second reading of the Ordinance would take place January 8, 1987.

8.1 Consideration of Resolution No. 86-717, for the Purpose of Establishing Guidelines for Metro's One Percent for Art Program

Motion: Councilor Kirkpatrick moved consideration of the Resolution be continued to January 8, 1987, and Councilor Kelley seconded the motion.

Presiding Officer Waker called a break at 7:35 p.m. The Council reconvened at 7:50 p.m.

9.5 Consideration of Resolution No. 86-723, for the Purpose of Supporting State of Oregon Financial Participation in the Construction Costs of the Oregon Convention Center

Tuck Wilson, Convention Center Project Manager, briefly explained the financing plan for the Convention Center project, adopted by the Council in May 1986, identified the State as providing \$15 million for the project. Resolution No. 86-723 would request the Governor-elect include a general fund appropriation of \$15 million in his recommended budget for the 1987-89 biennium and would ask the Speaker of the Oregon House and the President of the Oregon Senate to introduce legislation appropriating \$15 million from the general fund.

Norm Smith, member of the Convention, Trade and Spectator Facility Committee, reported the Committee recommended adoption of the Resolution.

Motion: Councilor Ragsdale moved the Resolution be adopted and Councilor Van Bergen seconded the motion.

Councilor Collier said she supported the Resolution but wanted to make sure this action was coordinated with the rest of Metro's Legislative Program. Councilor Ragsdale, Chair of the Council Convention Center Committee, agreed coordination would occur.

Vote: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried and Resolution No. 86-723 was adopted.

Vote on Main Motion: A roll call vote on the main motion, as amended, resulted in all twelve Councilors voting aye.

The motion carried and Ordinance No. 86-216 was adopted as amended.

7.4 Consideration of Ordinance No. 87-215, for the Purpose of Establishing a One Percent for Art Program for the New Construction or Major Alteration of Major District Facilities (Second Reading)

The Clerk read the Ordinance by title a second time. Presiding Officer Waker announced the first reading and public hearing of the Ordinance had occurred on December 18, 1986.

Motion: Councilors DeJardin and Knowles moved the Ordinance be adopted at the meeting of December 18, 1986.

Phillip Fell, Legislative Liaison, explained at the December 18 meeting, the Council requested staff prepare amendments addressing six areas: 1) art may serve functional as well as aesthetic purposes (Kelley); 2) the Council should have the ability to exclude projects from the provisions of the Ordinance (Van Bergen); 3) Council should have the ability to determine location for display of artworks (Waker); 4) if artworks were to be placed in a neighborhood, that neighborhood should have an opportunity to present its preferences to the Advisory Committee (Knowles); 5) performing arts should be an eligible expenditure (Frewing); and 6) Council should have the option of spending "up to" one percent for art (Waker).

John Frewing, a Metro Councilor until December 31, 1986, testified it was his understanding that at the first reading of the Ordinance, the Council wanted the performing arts included in the program and that the program not be limited to local artists.

A discussion followed about how to administer a performing arts program. Mr. Frewing suggested a trust fund, ideally administered by the Metropolitan Arts Commission or another body, be established from which performing artists could be paid. He explained Michael Russo, a local artist who had testified at the December 18 public hearing, had urged Metro's arts program incorporate art which related to the region's unique character. Performing arts, he said, would achieve that goal.

Responding to Councilor Ragsdale's question, Mr. Fell reported the Ordinance as now written would fund performing arts facilities and equipment.

Edwin Schneider, President, Oregon Youth Philharmonic Association, spoke in support of including performing arts in the Ordinance. He

said a revolving trust fund, as suggested by Mr. Frewing, would be the best way to administer a performing arts program.

Greg Moss, past President of Oregon Artists Equity and current President of the National Artists Equity Association, urged the Council to limit its program to visual arts. He explained the visual artists' potential for earning revenue was limited to one time, he could not sell season tickets and his materials were often costly. Other jurisdictions had determined it best to limit programs to visual arts, he said.

Constance Haws, 19920 S.W. Oak Court, Aloha, objected to including performing arts in the program because audiences would have only one opportunity to enjoy a performance. Visual arts, however, could be enjoyed continuously.

There was no further testimony.

First Motion to Amend: Councilor Kelley moved, seconded by Councilor Gardner, to amend Resolution No. 87-717, page 2, Guideline II(G), "Works of Art," to include a new paragraph to read "Artworks which possess functional as well as aesthetic qualities."

Vote on the First Motion to Amend: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried and Resolution No. 86-717 was amended.

Second Motion to Amend: Councilor Van Bergen moved, seconded by Councilor Hansen, to amend Ordinance No. 87-215 as follows:

1. Replace the existing definition for "District Facility" with the following definition: "D. 'District Facility' means those facilities constructed at the direction of the District."
2. Replace the existing definition for "Major District Construction Project" with the following definition: "E. 'Major District Construction Project' ('Project') means projects for construction, reconstruction or major renovation of a District facility with an estimated construction cost of \$100,000 or more. 'Major District Construction Project' does not include emergency work, minor alteration, ordinary repair of maintenance necessary to preserve a facility."

Mr. Fell explained the Council would be voting on the concept of the amendment and staff would return on January 22 with more refined language for final consideration.

Councilor Knowles said he did not understand the need for the above amendment when the Council could exempt a program by resolution at any time. Eleanore Baxendale, General Counsel, explained that by establishing a clear policy by ordinance, the Council would be adopting a process that would most likely not be challenged in the future.

Councilor Knowles questioned whether the budget adoption process or the time when a contract was approved would be the most appropriate time to determine if the art program should apply to specific construction projects. Ms. Baxendale said she had discussed that issue with Kay Rich, Assistant Zoo director because the Zoo was the most prolific contractor in the agency. Mr. Rich had advised making a determination when a project architect was selected because the architect needed basic knowledge about what the project would include. Ms. Baxendale recommended the Council specify a time in the Ordinance.

After discussion, Councilors Ragsdale, DeJardin and Knowles agreed the Council should have the authority to deem a project inappropriate for the art program and to allocate those funds to another project. Councilor Kelley, however, was not sure the Council would want to spend the large amounts demanded by upcoming solid waste facilities projects.

Vote on Second Motion to Amend: The vote resulted in:

Ayes: Councilors Bonner, Collier, Cooper, Gardner, Hansen, Kelley, Kirkpatrick and Van Bergen

Nays: Councilors DeJardin, Knowles, Ragsdale and Waker

The motion carried.

Mr. Fell discussed a proposed amendment to the Ordinance and Resolution that, if adopted, would allow the display of artworks in locations other than actual Metro facilities.

In response to Councilor Bonner's concern, Ms. Baxendale said staff could draft language clarifying that the Council would determine the general location (i.e. facility) rather than specific placement (i.e. which wall) for artwork.

Third Motion to Amend: Councilor Knowles moved, seconded by Councilor Van Bergen, that Criteria V(B) and (D) of Resolution No. 87-717 be chanted to read:

"B. In making the decisions regarding the expenditure of the Program funds, the Advisory Committee shall be guided by the goals and purposes of these Guidelines and the criteria set forth below. The Committee will first recommend to the Council appropriate locations for the display of the art. In addition: the Advisory Committee shall select Works of Art which are technically feasible to produce, display and maintain; the selection of the Artist(s) who will provide art integral to the project will be made as early in the conceptual design stage as practical, so the Artist(s) will be able to work with the Architect from the beginning of the project.

"The Committee will prepare a budget for its administrative operations and the selection process; funds may not be expended unless in conformance with the budget. Next the Committee shall prepare a statement of the procedures to be followed in the selection process. These procedures shall cover at least the method of advising prospective competitors of the selection process, a time schedule of the Committee's work, the nature of the proposals sought, the process by which the Works of art will be chosen, and the means of accomplishing the purposes of these Guidelines set forth above.

"D. The Advisory Committee shall solicit opinions regarding suitable art forms from the affected neighborhood."

The language was moved for adoption in concept only with the understanding staff would return with more refined language for final adoption by the Council at a later date.

Councilor Knowles explained he was proposing the amendment in order to bring about greater community involvement in the art program.

Councilor DeJardin suggested that under the proposed amendment, artwork could be placed in the Oregon City community to enhance the City's historical promotion efforts.

Councilor Hansen proposed a neighborhood representative be added to the artwork selection and placement committee. Presiding Officer

Metro Council
January 8, 1987
Page 11

Waker said guidelines could be developed at a later date which would establish those procedures.

Vote on Third Motion to Amend: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried.

Responding to Councilor Hansen's earlier statement, Councilor Knowles said he had considered the option of having a neighborhood representative on selection committees but decided that provision was unnecessary because it would not guarantee the neighborhood representative would have the required technical expertise to judge the merit of proposed artworks.

A discussion followed the definition of "adjacent" in the Ordinance as it applied to artworks. Councilor Van Bergen said defined "adjacent" as directly on the premises of a Metro facility. Councilor Knowles said the artwork could be near the capital investment. Presiding Officer Waker instructed staff to return with final language for Council adoption that would define "adjacent" as very near the capital project. Councilor Van Bergen said he was still opposed to that language.

The Council then discussed whether the Ordinance should include performing arts. Councilor Cooper did not think performing arts appropriate because the benefits of such art were not long lasting.

Councilors Ragsdale and DeJardin supported including performing arts because visitors could easily glean the "Oregon experience" from performances. Councilor Ragsdale suggested a subcommittee be established to recommend specific language and guidelines for performing arts.

Councilor Gardner supported commissioning performing artworks because they could be performed repeatedly.

Councilor Van Bergen did not support including performing arts because he thought it too difficult to administer. He questioned whether the Council had the capability to establish an ongoing trust fund.

Councilor Knowles also opposed performing arts saying the Council should restrict its investment to works of a capital nature. Presiding Officer Waker concurred.

Councilor Bonner did not object to including performing arts in the Ordinance.

Fourth Motion to Amend: Councilor Van Bergen moved, seconded by Councilor Bonner, to amend the one percent for art Ordinance and Resolution to include provisions for performing arts.

Councilor Hansen said he would support the motion because the Advisory Committee could offer assistance in recommending how a performing arts program should be administered.

Councilor Knowles again explained he was strongly opposed to including performing arts in the program. He said the Council should limit its investment to capital items, especially if borrowed funds were being used to finance facilities.

Vote on the Fourth Motion to Amend: A vote resulted in:

Ayes: Councilors Bonner, DeJardin, Gardner, Hansen and Ragsdale

Nays: Councilors Collier, Cooper, Kelley, Kirkpatrick, Knowles, Van Bergen and Waker

The motion failed.

Fifth Motion to Amend: Councilor Van Bergen moved, seconded by Councilor Cooper, to amend the Ordinance and Resolution to provide for funding projects "up to one percent" rather than a full one percent.

Councilor Van Bergen explained it could be impossible to purchase artworks that were exactly one percent of the value of a total facility.

Councilor DeJardin said he supported a full one percent program. Any unused funds could be set aside for other projects, he explained, and a full one percent program represented a clear commitment to the program.

Vote on Fifth Motion to Amend: A vote resulted in:

Ayes: Councilors Cooper and Van Bergen

Nays: Councilors Bonner, Collier, DeJardin, Gardner, Hansen, Kelley, Kirkpatrick, Knowles, Ragsdale and Waker

The motion failed.

Motion to Continue the Ordinance: Councilor Ragsdale moved, seconded by Councilor DeJardin, to continue the second reading of Ordinance No. 87-215 to the meeting of January 22, 1987.

Vote on Motion to Continue: A vote resulted in all twelve Councilors voting aye.

The motion carried.

Motion to Continue to Resolution: Councilors Kirkpatrick moved, seconded by Councilor DeJardin, to continue consideration of Resolution No. 86-717 to the meeting of January 22, 1987.

Vote on Motion to Continue: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried and Ordinance No. 87-215 and Resolution No. 87-717 were continued to the meeting of January 22, 1987.

Presiding Officer Waker called a recess at 8:10 p.m. Deputy Presiding Officer Gardner reconvened the Council at 8:30 p.m. and explained Presiding Officer Waker left the meeting due to illness.

8.2 Consideration of Resolution No. 87-702, for the Purpose of Adopting Principles for a Legislative Program for the 1987 Legislative Session

Mr. Fell reported the Resolution before the Council did not include proposals for solid waste legislation because the Council Legislative Planning Committee determined it would be appropriate to seek the recommendation of the Council Solid Waste Committee prior to formal adoption of any proposed solid waste legislation. He then reviewed the major legislative programs recommended for 1987 including general government funding, Convention Center funding, transportation and administration.

Councilor Van Bergen said he did not support the proposed administration-related legislation concerning the definition of Zoo overtime pay. He thought Metro should be subject to the same tests as any other business.

Councilor Collier, Chair of the Legislative Planning Committee, reported the Committee met informally with Metro area legislators. The Solid Waste Committee would consider a recommendation for solid waste legislation at their meeting of January 13. Regarding Councilor Van Bergen's concerns, she said she also was uncomfortable with the Zoo overtime issue and would bring back more information to the Council on the matter.



METRO

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

April 6, 1987

County Clerk
Clackamas County Courthouse
8th and Main
Oregon City, Oregon 97045

Dear Clerk:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro files maintained by your County.

Ordinance No. 87-219, Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 86-2: West Coast Auto Salvage

Ordinance No. 87-215, Establishing a One Percent for Art Program for the New Construction or Major Alteration of Major District Facilities.

Sincerely,

A. Marie Nelson
Clerk of the Council

amn
Enclosures (2)

Metro Council

Richard Waker
Presiding Officer
District 2

Jim Gardner
Deputy Presiding
Officer
District 3

Mike Ragsdale
District 1

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

Mike Bonner
District 8

Tanya Collier
District 9

Larry Cooper
District 10

David Knowles
District 11

Gary Hansen
District 12

Executive Officer
Rena Cusma



METRO

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

April 6, 1987

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 Metro Council. Please file these ordinances in the Metro files maintained by your County.

Ordinance No. 87-219, Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 86-2: West Coast Auto Salvage

Ordinance No. 87-215, Establishing a One Percent for Art Program for the New Construction or Major Alteration of Major District Facilities.

Sincerely,

A. Marie Nelson
Clerk of the Council

amn
Enclosures (2)

Metro Council

Richard Waker
Presiding Officer
District 2

Jim Gardner
Deputy Presiding
Officer
District 3

Mike Ragsdale
District 1

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

Mike Bonner
District 8

Tanya Collier
District 9

Larry Cooper
District 10

David Knowles
District 11

Gary Hansen
District 12

Executive Officer
Rena Cusma



METRO

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

April 6, 1987

Ms. Jane McGarvin
Clerk of the Board
Multnomah County Courthouse, Room 606
1021 S.W. Fourth Avenue
Portland, Oregon 97204

Dear Jane:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro files maintained by your County.

Ordinance No. 87-219, Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 86-2: West Coast Auto Salvage

Ordinance No. 87-215, Establishing a One Percent for Art Program for the New Construction or Major Alteration of Major District Facilities.

Sincerely,

A. Marie Nelson
Clerk of the Council

amn
Enclosures (2)

Metro Council

Richard Waker
Presiding Officer
District 2

Jim Gardner
Deputy Presiding
Officer
District 3

Mike Ragsdale
District 1

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

Mike Bonner
District 8

Tanya Collier
District 9

Larry Cooper
District 10

David Knowles
District 11

Gary Hansen
District 12

Executive Officer
Rena Cusma