

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AMENDING METRO CODE)
SECTIONS 2.02.040, 2.02.105 AND)
2.02.235 REGARDING PERSONNEL)
RULES FOR APPOINTMENTS)

ORDINANCE NO. 87-220

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Metropolitan Service District Code Section

2.02.040(e) is amended to read:

"Pursuant to ORS 268.180 [~~and 268.210~~ all] the appointment[s], removal and discipline of [employees] all personnel of the District except those persons directly employed by the Council pursuant to ORS 268.210 shall be the sole responsibility of the Executive Officer subject to this chapter. All personnel, except staff employed directly by the Council, shall be directed solely by the Executive Officer or the designee of the Executive Officer. [However, because the duties associated with certain positions include an independent and concurrent policy impact on both the Council and the Executive Officer, the appointment or promotion of persons to fill the following positions must be confirmed by a majority of the Council prior to the effective date of each such appointment or promotion.

- (1) ~~General Counsel~~
- (2) ~~Legislative Liaison (lobbyist)~~
- (3) ~~Director of the Public Affairs Department~~
- (4) ~~Deputy Executive Officer~~
- (5) ~~Solid Waste Director~~
- (6) ~~Zoo Director~~
- (7) ~~Finance & Administration Director~~
- (8) ~~Convention Center Project Director~~
- (9) ~~IRC Administrator]~~"

Appointment of all Department Directors shall be subject to confirmation by a majority of the Council. However, a Department Director appointee may serve for a period of 90 days from date of appointment without Council confirmation.

Section 2. Metropolitan Service District Code Section 2.02.040(f) is repealed.

Section 3. Metropolitan Service District Code Section 2.02.235 is amended to read:

"The exemptions designated in Section 2.02.230 shall apply to:

- a. Executive Aide to Executive Officer;
- b. Administrative Assistant to Executive Officer;
- c. Deputy Executive Officer;
- d. General Counsel;
- e. Legislative Liaison;
- f. Department Directors;
- g. Employees of the Council."

Section 5. Metropolitan Service District Code Section 2.02.105(g) is amended to read:

"(g) Except as provided in Section 2.02.045(e), the Executive Officer shall give an employee whose dismissal is sought at least fourteen (14) days written notice in person or by mailing to the employee's last known address of:

- (1) The proposed dismissal;
- (2) Any and all reasons, specifically and in detail, for the proposed dismissal; and
- (3) The employee's right to file a grievance pursuant to Section 2.01.110 of this chapter.

~~[(4) The employee's right to a hearing pursuant to contested case rules.]~~

This notice becomes a permanent part of the employee's personnel record. If the employee wishes to file a grievance, such grievance shall be submitted pursuant to Section 2.02.110. ~~[If the employee wishes to request a contested case hearing, such request shall be submitted pursuant to District rules on contested cases. If an employee requests a contested case hearing, the employee's right to file a~~

~~grievance shall be deemed waived and any pending
grievance for dismissal shall be terminated.]"~~

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1987.

Richard Waker, Presiding Officer

ATTEST:

Clerk of the Council

CS/gl
6864C/491-5
02/03/87

CONSIDERATION OF ORDINANCE NO. 87-220, FOR THE
PURPOSE OF AMENDING METRO CODE SECTIONS 2.02.040,
2.02.105 AND 2.02.235 REGARDING PERSONNEL RULES
FOR APPOINTMENTS

Date: February 3, 1987

Presented By: John Leahy

FACTUAL BACKGROUND AND ANALYSIS

It has become apparent that both the Council and the Executive Officer have administered the business of the District. Since ORS 268.190(1) states the Executive Officer may propose measures as deemed necessary to carry out the duties of the District, it is requested the Council consider and approve Ordinance No. 87-220 which, as presented on January 29, 1987, by John Leahy, would clarify those positions which are exempt and would clearly designate the Executive Officer as the administrator of the District.

Attached to the staff report is information presented to the Oregon State legislative leadership, a summary of proposed legislation, memorandum from Andrew Jordan to Rick Gustafson, copies of articles and editorials from The Oregonian, and the specific statutory changes proposed.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 87-220.

SUMMARY

PROPOSED LEGISLATION TO CLARIFY THE ROLE OF THE
EXECUTIVE OFFICER AND THE COUNCIL OF THE METROPOLITAN
SERVICE DISTRICT

Specifically, the proposed legislation will:

- A. Define the Council as the legislative body and the Executive Officer as the executive authority of the District.
- B. Unequivocally assign all personnel matters to the Executive Officer in accordance with a personnel system and compensation plan.
- C. Establish a uniform personnel system following the State of Oregon and an appropriate compensation plan.
- D. Veto power for the Executive Officer and Council override.



CRAG

Columbia Region
Association of
Governments527 S W Hall Street
Portland, Oregon 97201
503 221 4046

Memorandum

Date: December 14, 1978
To: Rick Gustafson
From: Andy Jordan
Subject: Possible Conflict Between ORS 268.210 and Section 7(5), HB 2070

The 1969 MSD legislation contained the following provision relating to the employment of staff by MSD:

"The governing body of a district may employ whatever administrative, clerical, technical or other assistance is necessary for the proper functioning of the district, on whatever terms the governing body considers in the best interests of the district."
(ORS 268.210)

Without repealing ORS 268.210, the legislature enacted the following provision in 1977 as part of HB 2070:

"The Executive Officer may hire any personnel and contract with any person or governmental agency to assist in carrying out the duties and powers under this 1977 Act, subject to personnel rules adopted by the council." (Section 7)

The issue to be resolved, in light of these two sections which are now both incorporated in ORS Chapter 268, is the relative powers of the MSD Council and the MSD Executive Officer in personnel matters.

Memorandum
December 14, 1978
Page 2

Either these sections are completely contradictory, or they are in some manner susceptible of being harmonized. The easiest resolution would be to find them utterly inconsistent and unreconcilable. In such case, the earlier enactment would be repealed. However, Oregon courts endeavor to avoid finding repeal by implication:

"Repeals by implication are not favored, and before such repeal is established there must be between two acts 'plain, unavoidable, and irreconcilable repugnancy, and even then the old law is repealed by implication only pro tanto, to the extent of the repugnancy.' * * * The courts, moreover, will adopt any reasonable construction which will sustain both statutes." Noble v. Noble, 164 Or. 538, 549, 103 P.2d 293 (1940).

In more recent cases, Oregon courts have adhered to this view:

"It is, of course, a cardinal rule of statutory construction that when it is contended that two statutes are in conflict the statutes must, whenever possible, be construed together and in such a manner as to be consistent, rather than in conflict, thus giving effect to both statutes." McLain v. Lafferty, 257 Or. 553, 480 P.2d 430, 432 (1971).

"We must give controlling effect to the last statement of legislative will. As stated by 2A Sutherland on Statutory Construction 290 Section 51.02 (4th ed 1973):

'* * * (I)f there is an irreconcilable conflict between the new provision and the prior statutes relating to the same subject matter, the new provision will control as it is the later expression of the legislature. * * *'

City of St. Helens v. Columbia County, 21 Or. App. 128, 533 P.2d 1401, 1403 (1975).

Memorandum
December 14, 1978
Page 3

The issue therefore becomes whether these statutes can be reconciled, bearing in mind that this must be done unless finding repugnancy is unavoidable.

It should first be observed that we are not faced with a situation where one provision gives personnel functions entirely to the council, and the other vests them entirely in the Executive Officer. HB 2070, which gives a role to the Executive Officer, makes his authority subject to personnel rules adopted by the Council. Given this situation, a determined MSD Council could dominate personnel matters regardless of what interpretation is given to the provisions under consideration: by enacting detailed personnel rules (e.g., fixing the number of employees in a particular classification, and setting forth qualifications for each), it could reduce the Executive Officer's role to picking and choosing among applicants.

Returning to the question of whether there is a repugnancy allowing repeal by implication of ORS 268.210, it is more likely than not that a court would harmonize the statutes, probably on the ground that Section 7(5) of HB 2070 is a "special statute" refining the broader principles set forth in ORS 268.210.

The relevant law is set forth in State v. Pearson, 250 Or. 54, 440 P.2d 229 (1968):

"(T)he rule, supported by authorities everywhere, is well stated in 82 C.J.S. Statutes Section 369, p. 839 as follows:

'* * * Where there is one statute dealing with a subject in general and comprehensive terms, and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy; but to the extent of any necessary repugnancy between them, the special statute, or the one dealing with the common subject matter in a minute way, will prevail over the general statute, * * *.'"
440 P. 2d at. 231.

ORS 268.210 invests the governing body of the MSD with a broad authority to "employ whatever * * * assistance is necessary for the proper functioning of the district." Section 7(5) of HB 2070 can be interpreted as dealing with a part of the subject matter of employment in a more minute and definite way: addressing the specific matter of hiring and contracting. In other words, policy matters relating to employment remain vested in the Council (as evidenced by the "subject to personnel rules adopted by the Council" provision of HB 2070), while the day-to-day process of hiring and firing is delegated to the Executive Officer. If we find the HB 2070 provision ambiguous on this point and admit extrinsic evidence of legislative intent, this interpretation of the relationship between the Council and the Executive Officer is confirmed:

"In keeping with the American system of distinguishing between the policy-makers who frame the laws and the chief executive who enforces the laws, the bill separates the legislative and executive powers * * *

* * *(T)he chief executive * * * * will execute the policies of the council. * * *

* * * The chief executive officer would not be a member of the council. He or she would head the executive branch, and duties would include supervision of administrative offices and executive departments * * *
* Within the budget approved by the council, the executive will employ professional administrators to handle day-to-day technical administrative matters. *
* *" (Tri-County Local Government Commission explanation of HB 2070, Senate Exhibits, p. 15-16)

The net result, under this analysis, is probably much the same as if ORS 268.210 could be said to have been impliedly repealed: the Executive Officer is exclusively vested with the administrative function of hiring and firing, circumscribed by council policy constraints. The parameters of the executive officers authority will be determined by the extent to which the council chooses to promulgate detailed policies.

AJ:MC:gh

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SATURDAY, JANUARY 24, 1987

THE OREGONIAN

Divide Metro powers

To many of the creators of the design for the first elected regional government of its kind in the nation, the present conflict over authority at the Metropolitan Service District rises as an insult to history.

There was to be a separation of powers, pure and simple, with the executive to be the administrator and the council to be a policy-making legislature. Under this traditional alignment of governmental duties, the existing tug-of-war over personnel would not exist. Administrators and their staffs would be responsible to the executive. The council would set policy and control the purse, which is the conventional legislative tool to assure that laws are enforced.

But the sharp division of power that was envisioned is undermined by conflicts found in the state law that stands as Metro's charter. They may be responsible for the confusion that now interferes with the opportunity of the new executive, Rena Cusma, to take charge.

In any event, they ought to be cleared away by the 1987 Legislature, for contradictions in the law are certain to cause trouble.

One section clearly says that the district's business shall be administered by the executive, who is also responsible for enforcing its rules and ordinances. Fair enough. That is

the charge to an independently elected executive.

But the section that allows the executive to select the personnel to carry out those duties contains the curious qualification that the process is subject to personnel rules adopted by the council. Therein lie the seeds of the current squabble over who is in charge as Cusma tries to assemble her own administration while some of the councilors insist on retaining the officials she inherited.

The separation of powers is further blurred by a directive that executive duties may be prescribed by the council, and a broad grant of authority to the council to employ staff for the best interests of the district.

A bad situation exists. Cusma, the only Metro official with high public visibility, is held accountable by her regional constituency, but is frustrated in trying to respond to her mandate because she does not have managers responsible to her. Councilors who are supposed to be legislators are trying to be administrators, too. The staff is caught in the middle between two competing masters.

The conflicts in the law may be the villain that brought this turmoil about. The Legislature ought to act expeditiously to clear them away and decree the clear separation of powers that was initially intended.

Metro not patterned after state — yet

THE OREGONIAN 1-23-87

By MIKE BURTON

LATELY, MUCH has been written about the efforts of the newly elected executive officer of the Metropolitan Service District seeking the resignation of top managers at Metro to replace them with members of her own team. Some argue that this amounts to a spoils system, while others have drawn an analogy to the situation in Salem, where the governor-elect asked for and accepted the resignation of agency heads so as to appoint his own "cabinet."

Whether or not the analogy is apt, it does point out a fundamental misunderstanding of Metro. State government is constitutional government, while Metro is statutory government.

In 1859, the drafters of the Oregon Constitution selected the same model used by the Founding Fathers in 1787. In the federal document, James Madison, who was mostly responsible for the structure of the proposed government, was careful to provide checks and balances. The monarchical form of government familiar to the founders was avoided by specifically delineating powers to three branches of government.

Article III of the Oregon Constitution does the same thing. So the executive branch (the governor) has the authority to appoint and fill offices, while the Legislature reserves the right to confirm those appointments.

In the case of Metro, no such delineation exists. While the statutory language that establishes Metro addresses the question of "Council and Executive Officer Relationships," it does so without providing checks and balances. The Metro executive officer can hire personnel, subject to council personnel rules. At the same time, the governing body (council) may employ whatever assistance is deemed necessary to carry out the functions of the district government.

Also, the executive officer is given no veto over council legislative action. It is easy to argue that what the public established in 1978 was a weak executive, as all power to act is in the hands of the council. The execu-

tive officer is not even charged with the execution of the ordinances adopted by the council; rather, he or she is to "perform all other duties as may be prescribed by the council."

While some would argue that the weak executive was purposely designed to prevent too much authority in any one person's hands, it is the lack of separation of powers that may be the fatal flaw in this form of government.

The executive officer is full-time and is elected by all the people in the district. The councilors are part-time and elected from separate districts. It was the intent of the proposers of Metro that these individuals be elected so as to be directly accountable to the public. But the statutory language stops short in granting any real autonomy to the executive officer in his role in the government. The executive is, if one reads ORS 268 carefully, a creature of the council.

In the 1985 legislative session, several proposals were made to clarify this situation. One was to give the executive officer a vote on the council, while another proposed eliminating the elected position and appointing the executive. Neither of these set up a separation of powers, and each measure failed.

What is needed is to delineate clearly the roles of the council and the executive. The council should be given clear responsibility for the enactment of necessary laws, and the executive should be given responsibility for the execution of those laws. Veto authorization should be given to the executive with override power given to the council.

Appointment of officers or agency heads should be given to the executive subject to confirmation by the council. The executive proposes a budget, but only the council can adopt or authorize expenditure of funds. If the executive were to propose the appointment of personnel the council did not deem necessary, then the council could alter the budget and withhold funding for the position.

After eight years of fuzzy frustration, the Metro "experiment" needs some shoring-up. It would be a step in the right direction to amend the statutory language to more closely reflect our constitutional model. The constitutional form has worked for several centuries and perhaps can work now for Metro.

Rep. Mike Burton is a North Portland Democrat.

Salem model for Metro

THE OREGONIAN 1-2-86

The transition to a new state administration in Salem ought to provide an instructive example for the Metropolitan Service District. Neil Goldschmidt is assembling his own team to carry out his duties as governor, and Rena Cusma should be entitled to no less for her duties as Metro executive.

The ready response of most state agency heads to the governor-elect's request for resignations contains a lesson that should not be lost on Metro. It is not a case of a spoils system or a patronage system, as some Metro councilors have contended. It is, rather, a matter of a cabinet system, assuring that the top managers who really are an extension of the elected executive can operate in that manner.

It is particularly important that Cusma not be bogged down in months of conflict and indecision while struggling with the council over department heads who report to her. This is the time when she should be able to respond boldly to the mandate the public gave her at the polls to bring about change. She should concentrate her energies on the con-

vention center, completing the region's solid waste plan and the long-delayed merger of Tri-Met into Metro.

Metro's very existence may hinge on the success of the first few months of her administration. When there was some doubt whether the public would continue its eight-year experiment with regional government, the voters gave it another chance by electing a new executive and approving the convention center.

But if the public feels it was cheated by an election that did not produce the results intended because the new executive's efforts are frustrated by a council unwilling to equip her with a cabinet suitable to her needs, Metro stands to lose whatever credibility it has achieved.

As a unique government with a short history, Metro has no guiding precedents. Indeed, it is going through its first transfer of power. The state, on the other hand, has a great deal of experience. The Salem model of an executive being free to pick the top echelon of his administration ought to apply for the same reasons to another executive.

Precedents in the making

THE OREGONIAN 12-18-86

Council, executive and staff at the Metropolitan Service District all ought to recognize that they are breaking new ground as they grope toward a change of administrations. What they are going through has never happened before as Rick Gustafson, the only executive the regional government has ever known, turns the reins over to Rena Cusma, who defeated him in his bid for a third term.

They should be accustomed, of course, to feeling their way through strange territory. That is what they have been doing since Metro's creation eight years ago. Since it was unique, it had no model or tradition to go by.

Part of the problem Metro faces in a transition totally lacking guiding precedent is that the distinctions between the legislative council and the independently elected executive have not been sharply defined. The council has been involved beyond the standard legislative duty to advise and consent on major appointments of the executive.

Thus, when Cusma asked for resignations of department heads so she could assemble her own administration, she encountered resistance and uncertainty. There is no historical basis for her action and, while separation of legislative and executive powers was envisioned, there

has been no specific delineation of those powers.

While Metro lacks precedent, however, there is ample tradition in other governmental jurisdictions. A new executive ought to be entitled to shape her own management team, for the department chiefs are extensions of the official elected by the people to run their government.

In Cusma's case, the electorate wanted change.

She can hardly deliver on that mandate without choosing her managers.

Cusma should be given the opportunity to move decisively and quickly upon taking office. Otherwise, she may lose the momentum provided by the election and Metro will fall into stagnation.

The councilors ought to recognize this opportunity to gain a foothold of achievement and credibility for their fledgling organization, which, despite its early struggles, remains filled with promise for the future of their community.

They also should understand that they are taking historic steps, for their approach to this first changing of the guard is likely to determine whether future executives take office free to respond to the electorate or bound hand and foot by an immobile bureaucracy and a system that failed to define the division of authority.

Real change for Metro

THE OREGONIAN 12-9-86

The public expectation of change at the Metropolitan Service District, the regional government for metropolitan Portland, should be clear to everyone in that organization following the Nov. 4 election. But to make changes, Executive-elect Rena Cusma needs to have some loosening of the reins by the bureaucracy and the elected Metro Council.

That adjustment is overdue, if only to give Metro a chance to function the way its citizen drafters intended. In other words, the part-time, 12-member council should confine itself to setting policy, and the independently elected executive should implement that policy. Voters never intended to have 13 executives running one regional government.

Cusma's postelection analysis of the regional operation is that it is bureaucracy-driven. To some extent that is because the executive and council lack a clear definition of their roles, each dabbling on the other's side of the fence.

At the start, Cusma would have the council repeal or revise a person-

nel ordinance it passed that severely restricts her ability to build her own management team. The ordinance allows removal of an employee, including all Metro department heads, the lobbyist, attorney and even the executive's executive assistant, only for cause and, in some cases, only with council permission.

That effectively secures retention of Rick Gustafson's managers despite Cusma's election to replace him.

Cusma points out that the council properly can set standards for professional positions and has the right of confirmation of new hires. However, a new executive ought to have some freedom to build her own management team, particularly when change so clearly has been called for by the voting public.

The November election provided opportunity for a rebirth of Metro, a new credibility with the public, with a new leader and a new, economy-stimulating challenge, the convention center. There also should be the staff changes necessary to deliver the new promise.

THURSDAY, SEPTEMBER 25, 1986

Elect Cusma to Metro

Public confidence in the Metropolitan Service District and support of its mission are essential if regional government is to survive, let alone end costly, duplicative and ineffective delivery of regionwide services. Rena Cusma is the candidate for Metro executive most likely to carry forward Metro's promise.

The two-term incumbent, Rick Gustafson, has a clear vision of what Metro was created to deliver for citizens of this region. However, when that vision is measured against his record of eight full years in office, voters will agree Metro needs a change in leadership.

If not, they ought to read the most recent analysis of Metro by the City Club of Portland, an enthusiastic supporter of Metro even before its creation by voters and the Legislature in 1977. In a March 21 report, the club accurately concluded:

- Citizens of the region lack identification with Metro.
- Metro is perceived as another layer of government.
- Metro has an insufficient revenue base.
- Metro is tainted by specific failures in the past.
- The "volunteer elected council and the paid elected executive constitute a policy-making group which acts, on occasion, as though there were some doubt over who is in charge of making policy and who is in charge of carrying it out."
- "No real leadership has



emerged within Metro."

Those same conclusions could have been reached in 1982, when the public gave Gustafson a second term. But a third term, when little has changed? Not when a candidate of the caliber of Cusma has surfaced.

Cusma is not the politician Gustafson has been. Her forte is management and accomplishing tough jobs. She managed Multnomah County's Department of Environmental Services, with a budget of \$32 million and 384 employees, and was responsible for operation and maintenance of more than 900 miles of county roads, land-use planning, bridge operation and the Inverness Sewage Treatment Plant.

Campaigners for Gustafson would discredit Cusma's management by pointing to audits critical of the departments she oversaw. Yet the auditors point out that she asked for those audits and eagerly used their recommendations to unseat and force changes by an entrenched bureaucracy that was not giving taxpayers their due. She has pledged to take the same tack at Metro.

Cusma shares much of Gustafson's vision for Metro. Where she differs is on how to achieve it. Cusma says new, responsive management of Metro is essential to earning public credibility, which is the key to delivering the kind of regional, cost-effective government taxpayers of the metropolitan area envisioned with creation of Metro.

The Oregonian recommends that voters give Metro new leadership by supporting Rena Cusma for executive in the Nov. 4 general election.

Statutory Amendments

268.020(1)

"Council" means the legislative body of the district.

268.020(1A)

"Executive Officer" means the executive authority of the district.

268.180(5)

The executive officer may appoint or remove any personnel or contract with any person or governmental agency to assist in carrying out the duties and power given the district under this chapter in accordance with the personnel system and compensation plan established by ORS 268.185.

268.185

The personnel system is divided into the following categories:

- (1) The exempt service comprising the executive officer and councilors.
- (2) The unclassified service comprising employees in the office of the executive officer, department directors and their principal assistant or deputy, and staff employed by council.
- (3) The classified service comprising all other full-time or part-time employees.

The personnel employed by the district shall be compensated in accordance with the following priorities:

- (1) the district's financial condition and policies;
- (2) prevailing rates of pay and benefits for services performed; and
- (3) organizational and individual performance.

268.190(3)

Delete.

268.190(4)

The executive officer shall have power to veto any ordinance passed by council. Council may override the veto of the executive officer when at least ten (10) of the twelve (12) councilors reconsider and approve that ordinance.

268.210

The council may employ whatever administrative, clerical, technical or other assistance which is necessary for the proper functioning of the legislative powers of the district.

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

Regular Meeting
February 12, 1987

Councilors Present: Mike Bonner, Tanya Collier, Larry Cooper,
Tom DeJardin, Jim Gardner, Gary Hansen,
Sharron Kelley, David Knowles, Mike
Ragsdale, George Van Bergen and Richard
Waker

Councilors Absent: Corky Kirkpatrick

Also Present: Rena Cusma, Executive Officer

Staff Present: Eleanore Baxendale, Chuck Stoudt, Kim
Duncan, Tuck Wilson, Keith Lawton, Jill
Hinckley, Vickie Rocker, Jan Schaeffer,
Randy Boose, Neil McFarlane, Jennifer Sims,
Dan Durig and Ray Barker

Presiding Officer Waker called the regular meeting to order at
5:30 p.m.

8. CONSIDERATION OF ORDINANCE NO. 87-220, for the Purpose of
Amending Metro Code Sections 2.02.040, 2.02.105 and 2.02.235
Regarding Personnel Rules for Appointments (First Reading and
Public Hearing); and Discussion of the Executive Officer's
Proposed Legislation Regarding Metro's Organizational Structure

The Presiding Officer announced the item was being removed from the
agenda. He explained State Senator Glenn Otto was arranging a joint
House and Senate hearing on the Executive Officer's proposed legis-
lation to clarify the Executive's authority. The joint hearing
would take place at Metro at a time to be announced. Councilors,
staff and any interested parties could testify at the hearings. He
requested Ordinance No. 87-220 or any other amendment to Metro's
Personnel Rules not be considered until after the outcome of the
Executive's legislation was known.

1. INTRODUCTIONS

None.

2. COUNCILOR COMMUNICATIONS

Presiding Officer Waker announced he had received a letter from
Washington County Commissioner Bonnie Hays offering Metro assistance
with its solid waste management process.



METRO

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

Memorandum

Date: February 3, 1987

PLEASE POST

To: All Metro Employees

From: Marie Nelson, Clerk of the Council *amn*

Regarding: NOTICE OF PROPOSED CHANGES TO THE
METRO PERSONNEL RULES

In accordance with Section 2.02.015 of the Metro Personnel Rules (which are included in the Metro Code), this is a formal notice to employees that the Metro Council will consider the following Ordinance at the regularly scheduled Council meetings of February 12 and February 26, 1987:

Ordinance No. 87-220, Amending Metro Code Sections 2.02.040, 2.02.105 and 2.02.235 Regarding Personnel Rules for Appointments

A copy of the proposed Ordinance is attached to this memo. Public hearings are scheduled for both the February 12 and February 26 Council meetings. Adoption of the proposed Ordinance will be considered at the February 26 meeting. The Ordinance will be adopted if seven or more of the twelve Metro Councilors cast an affirmative vote in favor of adoption.

You are invited to comment on the proposed Personnel Rules changes in any of the following ways:

1. You can appear at one or both of the Council meetings (2/12/87 and 2/26/87) and verbally testify before the Council;
2. You can submit your written comments to any Metro Councilor prior to one or both meetings;
3. You can submit your written comments to Debbie Allmeyer, the Metro Employees' Association President, prior to one or both meetings and request your comments be reported to the Council; or
4. You can submit your written comments to Marie Nelson, the Clerk of the Council, prior to one or both meetings and request your comments be reported to the Council.

amn

cc: Metro Councilors
Rena Cusma
Randy Boose

NOTE: Language proposed to be added is underlined. Language proposed to be deleted is in brackets and crossed out.

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2.02.105(g) is amended to read:

"(g) Except as provided in Section 2.02.045(e), the Executive Officer shall give an employee whose dismissal is sought at least fourteen (14) days written notice in person or by mailing to the employee's last known address of:

- (1) The proposed dismissal;
- (2) Any and all reasons, specifically and in detail, for the proposed dismissal; and
- (3) The employee's right to file a grievance pursuant to Section 2.01.110 of this chapter.

~~[(4) The employee's right to a hearing pursuant to contested case rules.]~~

This notice becomes a permanent part of the employee's personnel record. If the employee wishes to file a grievance, such grievance shall be submitted pursuant to Section 2.02.110. ~~[If the employee wishes to request a contested case hearing, such request shall be submitted pursuant to District rules on contested cases. If an employee requests a contested case hearing, the employee's right to file a~~

~~grievance shall be deemed waived and any pending grievance for dismissal shall be terminated.]"~~

ADOPTED by the Council of the Metropolitan Service District

this _____ day of _____, 1987.

Richard Waker, Presiding Officer

ATTEST:

Clerk of the Council

CS/gl
6864C/491-5
02/03/87