

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ADOPTING A FINAL ORDER )  
AND AMENDING THE METRO URBAN GROWTH )  
BOUNDARY FOR CONTESTED CASE 87.2: )  
ANGEL PROPERTY )

ORDINANCE NO. 88-243

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The Council of the Metropolitan Service District hereby adopts the Findings of Fact in Contested Case 87-2, attached as Exhibit B of this Ordinance, which is incorporated by this reference.

Section 2. The District Urban Growth Boundary, as adopted by Ordinance No. 79-77, is hereby amended to add the Angel property as shown in Exhibit A of this Ordinance and described in Exhibit C, which are incorporated by this reference.

Section 3. This Ordinance is the Final Order in Contested Case 87-2.

Section 4. Parties to Contested Case 87-2 may appeal this Ordinance under Metropolitan Service District Code Section 2.05.050 and ORS chapter 197.

ADOPTED by the Council of the Metropolitan Service District  
this \_\_\_\_\_ day of \_\_\_\_\_, 1988.

**NOT ADOPTED**  
Mike Ragsdale, Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

JH/sm/8737C/525-02/17/88

**SEE ORDER #88-17**

5. EXECUTIVE OFFICER COMMUNICATIONS

None.

6. CONSENT AGENDA

Motion: Councilor DeJardin moved, seconded by Councilor Collier, to approve items listed on the Consent Agenda.

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

The motion carried and the following items were approved.

6.1 Minutes of February 11, 1988

6.2 Resolution No. 88-872, Appointing Peat Marwick Main & Co. as Metro's Independent Auditor and Provider of Professional Tax Services

7. CONSIDERATION OF CONTESTED CASE NO. 87-2: ANGEL PROPERTY

Consideration of Order No. 88-17, in the Matter of Contested Case No. 87-2, a Petition for a Locational Adjustment of the Urban Growth Boundary by Joseph and Lynn Angel; or

Consideration of Ordinance No. 88-243, Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-2: Angel Property (First Reading and Public Hearing)

The Clerk read Ordinance No. 88-243 a first time by title only.

Presiding Officer Ragsdale announced that at the Council meeting of November 24, 1987, the Council failed to adopt Order No. 87-16 which would have adopted the Hearings Officer's Findings for Contested Case No. 87-2. At that meeting, the Council directed Legal Counsel to prepare an ordinance and findings in support of amending the Urban Growth Boundary (UGB). However, on January 18, 1988, the Council failed to adopt Ordinance No. 88-238 and the findings. Although Councilor Knowles served notice on January 28 he might move to have the ordinance reconsidered, no motion was received at the subsequent Council meeting and reconsideration did not occur. In summary, Contested Case No. 87-2 had not been acted on by the Council.

Dan Cooper, General Counsel, identified the documents distributed to the Council and explained the Council's options: 1) adopt Order

No. 88-17 (formerly numbered Order No. 87-16) which would adopt the Hearings Officer's Report and Recommendations and not amend the UGB for Contested Case No. 87-2; or 2) adopt Ordinance No. 88-243 (formerly numbered Ordinance No. 87-238) which would adopt findings in support of amending the UGB for Contested Case No. 87-2. Mr. Cooper further explained the burden of proof was on the applicant to meet Metro's criteria for amending the UGB. The Hearings Officer had concluded there was sufficient evidence that the applicant had not met Metro's criteria (see Item 11, "Relative Superiority," pages 13 and 14 of the "Report and Recommendation of the Hearings Officer"). Mr. Cooper also had concluded there was sufficient evidence to support adoption of Ordinance No. 88-243 and the related findings prepared by himself at the instruction of the Council.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Collier, to adopt Order No. 88-17 based on the information and for the reasons contained in the Hearings Officer's Report and Recommendation for Contested Case No. 87-2.

Steve Janik, the attorney representing petitioners Lynn and Joseph Angel, addressed the Council. Mr. Janik said he wished to explain the difference between the two sets of findings being considered by the Council. The primary issue, he explained, was whether there was sufficient improvement to the Angel property to justify a change to the UGB. The Hearings Officer found in several instances there would be improved efficiency if the petition's request were granted, he said. He then explained that for this case the efficiency standard had to be calculated on a different basis than was usually done because the land improvements had already been made. The capacity for urban services usually diminished at the edge of the UGB. Mr. Janik also pointed out that in July of 1987 the Council unanimously waived the requirement regarding "islanding" for this case. He noted all parties had received a letter from the DLCD saying it was not a violation of Goal 14 to have an island situation.

There were no questions of Mr. Janik.

Presiding Officer Ragsdale asked General Counsel to explain procedures for voting on the Order. Mr. Cooper said the Council's rules provided that an order denying a UGB amendment could be adopted by six affirmative votes. If a tie vote were received, the order would be adopted.

Vote: A vote on the motion to adopt Order No. 88-17 resulted in:

Ayes: Councilors Bonner, Collier, DeJardin, Gardner,  
Kirkpatrick and Knowles

Nays: Councilors Cooper, Hansen, Kelley, Ragsdale,  
Van Bergen and Waker

The motion carried. Order No. 88-17 was adopted and the applicant's petition to amend the UGB was denied.

Councilor DeJardin reported he had voted to support the Hearings Officer's recommendation -- a change from his previous thinking -- because the findings prepared by Metro's General Counsel had not persuaded him to go against the Hearings Officer's recommendation.

## 8. ORDINANCES

### 8.1 Consideration of Ordinance No. 88-244, Amending the Metro Urban Growth Boundary in Contested Case No. 87-1: the Edy Road, Highway 99W, Middleton and Substation Sites (First Reading and Public Hearing)

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

Motion: Councilor Waker moved, seconded by Councilor Bonner, to adopt the ordinance.

Jill Hinckley, Land Use Coordinator, briefly reviewed staff's written report. Presiding Officer Ragsdale opened the public hearing. There was no testimony and the hearing was closed. He announced a second reading was scheduled for March 24, 1988.

### 8.2 Consideration of Ordinance No. 88-240A, Adopting an Updated Solid Waste Management Plan (Second Reading)

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

Councilor Hansen, Chair of the Solid Waste Committee, reported the ordinance amended the Management Plan to exclude reference of the formerly designated Wildwood landfill. After conducting a public hearing, the Committee unanimously recommended adoption of the ordinance.

Motion: Councilor Hansen moved, seconded by Councilor Kelley, to adopt the ordinance.

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

The motion carried and the ordinance was adopted.

9. RESOLUTIONS

9.1 Consideration of Resolution No. 88-873, for the Purpose of Naming the Zoo African Aviary in Honor of Howard Vollum

Councilor Kelley, Chair of the Zoo Committee, reported the Committee recommended adoption of the resolution due to the generous contribution of the Vollum family for the exhibit and because the proposal met the Council's adopted criteria for naming exhibits and facilities in honor of individuals.

Motion: Councilor Kelley moved to adopt the resolution. Councilor Kirkpatrick seconded the motion.

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

The motion carried and the resolution was adopted.

9.2 Consideration of Resolution No. 88-881, for the Purpose of Authorizing Solicitation of Bids for Oregon Convention Center Bid Package 1: Steel Fabrication and Erection

Convention Center Committee Chair Councilor Cooper reported the Committee recommended adoption of the resolution. The bid represented the first major component of the convention center project construction.

Motion: Councilor Cooper moved, seconded by Councilor Waker, to adopt the resolution.

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

The motion carried and the resolution was adopted.

10. COMMITTEE REPORTS

Intergovernmental Relations Committee. Councilor Waker reported the Committee would be evaluating nominations for Boundary Commissioners. Councilors had received information about the nomination process. He requested applications be returned to Council staff as soon as possible.

Solid Waste Committee. In response to Councilor Knowles' question, Councilor Hansen reviewed the Committee's schedule for considering disposal options. The Committee would most likely conclude its deliberations on March 15.