

## MINUTES OF THE METRO COUNCIL MEETING

December 19,1996

Council Chamber

Councilors Present: Jon Kvistad (Presiding Officer), Don Morissette, Susan McLain, Ed Washington, Patricia McCaig, Ruth McFarland, Rod Monroe

Councilors Absent: None.

**Presiding Officer Jon Kvistad** called the meeting to order at 2:05 p.m.

### 1. INTRODUCTIONS

**Presiding Officer Kvistad** announced that Bonnie Hays, former County Commissioner passed away today and called for a moment of silence.

The Presiding Officer then awarded Mr. John Houser, Councilor Senior Analyst, a certificate of appreciation and a pin for five year of service with the Metro Council.

### 2. CITIZEN COMMUNICATIONS

None.

### 3. EXECUTIVE OFFICER COMMUNICATIONS

None.

### 4. KPMG PEAT MARWICK AUDIT REPORT

**Alexis Dow, Metro Auditor**, said that Metro's financial statements for the year ending June 30, 1996 have been audited in compliance with the state law by KPMG Peat Marwick. They had issued a clean report with no significant exceptions to the financial statement. These financial statements were prepared in house by the Accounting Division of the Administrative Services Department. Don Cox and Karla Lenox assumed primary responsibility for the statements preparation. The financial statements had a clean report themselves, there were some exception situations, specifically some over expenditure of budget appropriations and some question of compliance with legal requirements pertaining to soliciting competitive quotes when awarding public contracts. She introduced Mr. Joe Hoffman and Mr. Max Downing, from KPMG Peat Marwick.

**Mr. Don Cox, from Administrative Services**, noted the written report by KPMG Peat Marwick. He then recognized Karla Lenox, the Financial Control Supervisor in the Accounting Division whose efforts were to prepare this report. He felt she had done a very good job for Metro. He said that Metro had received a certificate of achievement for excellence in financial reporting for last year's report. This year's report would be submitted for that consideration as well. They fully expected to receive that award this year as well. Some of the major changes in the report included page 65 of the report, reporting on the activities of the Open Spaces fund, this past fiscal year was

the first year that fund had been in existence. The format of reporting for the component unit of the Metropolitan Exposition Recreation Commission on page 89 was changed to conform more closely with Gasbian GFOA requirements for reporting. What that did was pull all of the budgetary schedules for a MERC component unit back into a separate section of the report as opposed to being on a fund type basis as they had been in the past. He pointed out that an unqualified opinion on the financial report was received. That was the best opinion auditors could give and meant that the financial statements were fairly presented. He noted in the back of the report there were also additional comments that were required by state law.

**Mr. Hoffman** spoke of the audit, the scope of the work and the results of their company's work. The purpose of the work with Metro was four fold, first, was to perform an audit in accordance with generally accepted auditing standards and to express an opinion on Metro's CAFR, second, was to test for Metro's compliance with Oregon minimum standards and report the findings in that regard, thirdly, was to conduct an audit in accordance with the single audit act of 1984. The scope of that work was to look at Metro's compliance with all of the federal grants moneys that Metro received and to look at the administrative and internal control surrounding the application of those funds. Lastly, the auditors used the opportunity they had during the course of the audit to identify the opportunities for improving control or improving operational efficiencies, these were reported in the form of a management letter.

Mr. Hoffman indicated that Mr. Cox had mentioned, with regard to the audit of the financial statements of Metro, the auditors had in fact issued an unqualified opinion. That opinion appeared on page 2 of the Comprehensive Annual Financial Report. He reviewed that, in that opinion, it was an unqualified opinion but second, the scope of the work was one of a test nature. The objective of the work was to obtain a reasonable assurance that the financial statements were fairly presented. It was not an absolute. The responsibility for the financial statements were that of Metro's management. Several of items that the auditors were required by their professional standards to point out to Metro as it related to the financial statements were, first, the management must decide how to account for certain things under generally accepted accounting principles and the significant accounting policies that Metro follows were outlined in footnote 2 on page 17. There were no significant changes from the past year, as Mr. Cox previously pointed out. One wanted consistent application of accounting principles from year to year. He said accounting was not an exact science and there were certain areas where Metro's management must apply judgment in determining how to account for certain things. Several items that were particularly significant at Metro were in the areas of the landfill post closure liabilities and second was in the area of self insurance liabilities. In both of those situations, Metro management used engineering expertise in the cases of post closure land fill liabilities or actuarial expertise in the case of the self insurance liabilities. The auditors reviewed the work that was done and form their own conclusion as to where those liabilities are reasonable. The auditors believed that they were reasonable, but there was a significant amount of judgment in coming up with those numbers. There was a smooth audit this year with no difficulties encountered, no significant audit adjustments that came out of the work, no disagreements with management and to the auditor's knowledge there were no consultation with Metro management with other auditors, which if there was would be something the auditors would report to the Council. In addition, the auditors were not aware of any issues that would prevent them from being reappointed to do the work again in the future.

Mr. Hoffman then focused on the single audit. The purpose of the single audit was to look at Metro's compliance with federal grants in accordance to the Single Audit Act of 1984. The output

of the work in the area of the single audit was six reports, one was a report on the schedule of Federal financial assistance and their opinion on that report stated that they believed that schedule was accurate. Then five other reports were issued, one on compliance with requirements applicable to the major federal financial assistance programs, one on the internal control structure, one on the internal control structure as it related to administering federal financial programs and then one on compliance of general requirements relative the administration of federal financial assistance programs. In each case, those reports were clean opinions, they had no findings reported. They found things to be in good shape.

**Presiding Officer Kvistad** said last year there were some questions about the federal contracts. He asked if the auditors found in this audit those concerns addressed?

**Mr. Hoffman** responded, yes, the auditors always followed up on findings they had seen in the past. If they had been cleared up, there was no need to repeat them. The third area was compliance with Oregon minimum standards. The auditors issued two reports which were found in the back of the CAFR. There were several minor findings, one dealt with over expenditures, those over expenditures were set forth in footnote 4 to the financial statements. The second finding dealt with compliance with legal requirements pertain to soliciting competitive bids. The auditors chose to put that particular issue into a management letter. Those two findings were considered relatively minor findings. These were reported. The auditors had a professional requirement to report anything that was a material weakness in internal controls. They found none of these items and their letter stated that fact. They found some observations about things which could be improved and asked his associate to review those.

**Mr. Max Downing** reviewed the first item presented in the management letter which related to the question about compliance with procurements procedures and Metro Code relating to the solicitation of competitive quotes. Metro, during 1996, conducted an internal investigation and found it difficult to obtain the supporting documentation which would support that the Purchasing Department did perform the procedures required by Metro Code when soliciting competitive quotes under a certain dollar threshold. The management letter comment focused on the fact that that documentation was not available and simply offered suggestion as to going forward, how that documentation should be made available each time. The second comment that the auditors had related to a transaction initiated and performed by MERC. There were some communication issues between Metro and MERC and because of the relationship between these two entities, the financial information was required to be reported into Metro's CAFR. Due to a number of things including some communication issues, there was a budget over expenditure in MERC's budget that was reported in Metro's CAFR. The auditor's comment focused on how to alleviate that type of problem going forward. The third comment related to the federal financial assistance programs and to reiterate they did not find any instances of non-compliance when the federal program audit work was done. There could be some improvements in terms of making the subrecipient monitoring process more effective. What that process involved was when Metro passed money to sub-grantees to perform under the guidance of the federal grant received by Metro, Metro was then required to monitor those sub-grantees to insure that they were performing certain procedures. The auditor's comment focused on improving that monitoring process.

**Mr. Hoffman** expressed his appreciation to Don Cox and Karla Lenox. Ms. Lenox did an excellent job of putting the CAFR together. To the extent that she did an outstanding job made the auditor's job easier.

**Councilor Washington** echoed Mr. Hoffman's commentary on Karla Lenox. He thanked her for a job well done and suggested keeping up the good work.

**Presiding Officer Kvistad** thanked the auditors and the staff for all of the hard work.

## 5. CONSENT AGENDA

### 5.1 Consideration of the Minutes for the December 12, 1996 Metro Council Meeting.

The minutes were delayed until the January 9, 1997 Council meeting for consideration.

## 6. ORDINANCES - FIRST READING

### 6.1 **Ordinance No. 96-669**, An Ordinance Amending the FY 1996-97 from the Planning Fund contingency to materials and services to provide a metro contribution to a regional car-sharing feasibility study; and Declaring an Emergency.

Ordinance No. 96-669 was assigned to the Transportation Committee.

### 6.2 **Ordinance No. 96-671**, For the Purpose of Amending the Metro Code to Provide Temporary Assistance for the Council; and Declaring an Emergency.

Ordinance No. 96-671 was assigned to Council.

### 6.3 **Ordinance No. 96-672**, For the Purpose of Amending the FY 1996-97 Budget and Appropriations Schedule in Various Funds to Enable the Office of General Counsel to Prepare Findings Needed for the Urban Reserve Selection Process, and Declaring an Emergency.

Ordinance No. 96-672 was assigned to Council.

**Councilor Morissette** asked if there was something going on in the press right now about what the Council had done with Urban Reserves. He asked if the Council was currently moving a head with all 18,000 acres and having the findings done on them. He asked, as the Executive Director had said, if some of them may not have findings?

**Presiding Officer Kvistad** responded that the Metro Council was the body responsible for policy development in this agency. The Council had directed the manager of this agency to do the work. The manager of the agency, based on a memo he had sent to him at the beginning of this week, had said he would be doing that work. The Council would be tracking that to make sure that that work was done, he was responsible for doing it and that work would be done in a timely manner.

## 7. ORDINANCES - SECOND READING

### 7.1 **Ordinance No. 96-666**, For the Purpose of Granting a Yard Debris Processing Facility to License to Scotts Hyponex Corporation to operate a Yard Debris Composting Facility; and Declaring an Emergency.

**Motion:** **Councilor McLain** moved the adoption of Ordinance No. 96-666.

**Seconded:**      **Councilor Washington** seconded the motion.

**Discussion:**      **Councilor McLain** reviewed the ordinance which dealt with the yard debris composting facility that Metro would be licensing with this motion. Scotts Hyponex Corporation, located in Clackamas County, had met all of the responsible Code issues as far as this type of facility. There was a full discussion of this at the REM Committee. This motion authorized the Executive Officer to enter into the attached licensing agreement for the yard debris processing facility within 10 days of the ordinance. Second, an emergency was declared for the reasons stated in the ordinance packet.

**Presiding Officer Kvistad** opened a public hearing at 2:29 p.m.

No one came forward to speak.

**Presiding Officer Kvistad** closed the public hearing at 2:30 p.m.

**Vote:**              The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7.2      **Ordinance No. 96-668**, An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule for the Purpose of Transferring \$39,100 from Contingency to Personal Services within the Zoo Capital Fund for Funding a Limited-Term Project Manager Position for the Zoo's Oregon Project; and Declaring an Emergency.

**Motion:**            **Councilor McFarland** moved the adoption of Ordinance No. 96-668.

**Seconded:**        **Councilor Monroe** seconded the motion.

**Discussion:**        **Councilor McFarland** spoke to the ordinance. The region voted a \$30.5 project for the Zoo which was called the Zoo's Oregon Project. Mr. Butler came before the Regional Facilities Committee and requested that this position be created for the period time of when the Zoo project was in process of being built. The primary duties of this position would include the preparation and monitoring in the project's budget, schedule coordination and management of the wide variety of project tasks related to both designing and construction and acting as Metro representative and contract manager for the project's major contracts with the architect, the exhibit fabrication consultant and the CM/GC. This person would report to the Director of Administrative Services Department, Mr. Butler. Should this ordinance be approved, the position would be filled in January 1997 and the salary and fringe benefits for this fiscal year would be \$39,100. The position was dedicated to the Oregon Project. Funding from this limited term position would come from the project's bond proceeds. The fiscal year 1996-97 Council included \$5 million in the contingency for the Oregon Project to cover costs related to start up. The recommendation of the Committee was that this ordinance pass.

**Presiding Officer Kvistad** called a public hearing at 2:34 p.m..

No one came forward to speak.

**Presiding Officer Kvistad** closed the public hearing at 2:35 p.m.

**Vote:**              The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7.3 **Ordinance No. 96-663**, Amending the FY 1996-97 Budget and Appropriations Schedule Transferring \$715,333 from the Contingency of various funds to the Personal Services of the Same Funds to Cover Labor Contracts and Changes in Pay Plans; and Declaring an Emergency.

**Motion:** **Councilor Washington** moved the adoption of Ordinance No. 96-663.

**Seconded:** **Councilor Monroe** seconded the motion.

**Discussion:** **Councilor Washington** asked Ms. Jennifer Sims to come up and give a background on this ordinance.

**Ms. Jennifer Sims** indicated that this budget amendment implemented previously approved actions by the Council, negotiated labor contract with AFSCME Union and pay plan changes. This was drawing from contingencies within the various operating funds of the organization and transferring those to the personal services line stemmed to pay salaries and wages in accordance with those previous Council actions.

**Presiding Officer Kvistad** opened a public hearing at 2:37 p.m.

No one came forward to speak.

**Presiding Officer Kvistad** closed the public hearing at 2:38 p.m.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7.4 **Ordinance No. 96-662**, An Ordinance Amending the FY 1996-97 Budget and Appropriations Schedule for the Purpose of Transferring \$20,000 from the Building Management Fund contingency to interfund transfers to provide sufficient funding for the Metro Regional Center Debt Service Payments for the FY 1996-97; and Declaring an Emergency.

**Motion:** **Councilor McLain** moved the adoption of Ordinance No. 96-662.

**Seconded:** **Councilor Washington** seconded the motion.

**Discussion:** **Councilor McLain** addressed this ordinance which was to transfer \$20,000 from the Building Management Fund to interfund transfers for the purpose of providing funding for the Department Service Payment and the General Revenue Bond Fund. This money needed to be in the right fund to implement this transaction.

**Presiding Officer Kvistad** opened public hearing at 2:39 p.m.

No one came forward to speak.

**Presiding Officer Kvistad** closed the public hearing at 2:40 p.m.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7.5 **Ordinance No. 96-664**, Amending the FY 1996-97 Budget and Appropriations Schedule for the Purposes of Transferring \$38,905 in the Support Services Fund From Administrative Services Department Capital Outlay to Personal Services to Provide Staff Support for the InfoLink Project and Adding 0.6 FTE; and Declaring an Emergency.

**Motion:** **Councilor McFarland** moved the adoption of Ordinance No. 96-664.

**Seconded:** **Councilor Monroe** seconded the motion.

**Discussion:** **Councilor McFarland** asked Ms. Sims about the change in the ordinance related to the recommended change from 0.6 to 0.5 FTE.

**Presiding Officer Kvistad** indicated he had a proposed substitution.

**Councilor McFarland** said we needed to transfer some funds for expenditure for updating the computer system. It was found that some of the parts of this project could be done at less expense therefore there were extra funds in that fund. There was a need for a part-time employee during a period time while this project was being put together. The original plan called for a 0.6 FTE with permanent status and benefits.

**Motion to**

**Substitute:** **Councilor Monroe** moved to substitute Ordinance No. 96-644A for No. 96-664.

**Seconded:** **Councilor McFarland** seconded the motion.

**Discussion:** **Councilor McFarland** said that this amendment moved the total transfer of funds from \$38,905 to \$26,653 because the new position would be hired as a temporary position therefore reducing the costs.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion to substitute Ordinance No. 96-664A passed unanimously.

**Discussion:** **Councilor McFarland** indicated that this money did not come out of contingency. It was a transfer within fund that the Council had already designated for this operation. They found that they needed more money one place and less money in another. The contingency fund for this operation remained intact.

**Councilor Monroe** indicated that the comfort level with the amended version was much higher in that it cut the cost of the position and made it clear that this was a temporary position and would not carry any permanent status or budgetary implications into the future.

**Presiding Officer Kvistad** said that at the last Finance Committee he was the person that spoke against creating a permanent position. He had spoken to Ms. Sims about the project in total about the fact that he was going to hold her accountable to deal with this project with the staff that currently existed. She had made a compelling case since that point. He had done independent fact finding on the position and found that this additional position would help the staff work better. The funds that were being used came from savings within the current existing program, this was

not additional money that would be expended out of the general fund. He supported the temporary position.

**Councilor Morissette** questioned Ms. Sims about whether this was the same program that he did not support because of the cost per hour to bring the project up to speed and the administrative costs that were being paid to the consultant.

**Ms. Sims** responded that Councilor Morissette had a good memory, this was in fact that project.

**Councilor Morissette** asked if the costs were being lowered with this proposal even though he thought this project was too high initially.

**Presiding Officer Kvistad** responded by saying that what was being done was in implementing the proposal there was more work required of the staff to keep staff functioning at full efficiency as well as keeping staff on schedule making sure that everyone was trained to use the new system. This additional help was needed by the department in order to complete the project on time. They were using funds that have been saved from the work on the project to fund the temporary position rather than using additional moneys.

**Councilor Morissette** synopsised that he did not prevail on whether or not we should do this contract. Now that we had the project because it did prevail, we were in a situation where the project could be more efficiently done or was this just a more complicated way of driving the cost up?

**Ms. Sims** responded that as she understood Councilor Morissette's question, he was asking if this position was in addition to the outside help that he felt was overpriced or if it was some how helping reduce the cost of that contract. Metro still had the outside contract for the same dollar amount that was proposed and won the contract for. This position would alleviate the workload of staff who were working with that consultant and in directly it did save dollars with the consultant because the staff would be more effective in working with the consultant. It did not relieve the cost of that consultant in terms of the hourly rate that Metro was paying.

**Councilor Morissette** said, so in essence, even though he believed that Metro was paying a lot for this consultant, Metro now had to add some staff to make it through the process.

**Ms. Sims** said that their research on how to do this project effectively after having worked with the consultant, the software company and the other organizations who are buying this software was that the most effective use of the resources that had already been allocated to the project would be to backfill existing staff so that they could work on this project. spend more time on this project. But as other Councilors had already spoken to, they were redirecting resources within the project, they were not adding anything, they were still on time and still on budget.

**Presiding Officer Kvistad** opened a public hearing at 2:48 p.m.

No one came forward.

**Presiding Officer Kvistad** closed the public hearing at 2:49 p.m.

**Vote on the**



**Amended**

**Motion:** The vote was 6 aye/ 1 nay/ 0 abstain. The motion passed with Councilors McFarland, McLain, Washington, Monroe, McCaig and Presiding Officer Kvistad voted aye, Councilor Morissette voted nay.

**8. RESOLUTIONS**

8.1 **Resolution No. 96-2429**, For the Purpose of Appointing New Members for Vacancies on the Regional Transportation Plan Citizens Advisory Committee.

**Motion:** **Councilor Morissette** moved the adoption of Resolution No. 96-2429.

**Seconded:** **Councilor Monroe** seconded the motion.

**Discussion:** **Councilor Morissette** believed that the new members were a great group of people and encouraged the Council to support their appointment.

**Presiding Officer Kvistad** asked if Councilor Morissette would like to review what these people would be doing.

**Councilor Morissette** said that there were vacancies which needed to be filled on this committee, there were individuals who had applied, there was a meeting to review the applicants. The committee went through the process of picking a good distribution from each of the communities.

**Councilor Monroe** added that this agency functioned as successfully as it does because of the many citizen's advisory committees that Metro had and because of the many very qualified citizens that agreed to serve gratis on these various committees. In transportation decision making, it was particularly important to have knowledgeable citizens to give input and advise. This was such a committee. He urged the Council's support.

**Councilor Washington** asked Councilor Morissette to review the recommended qualifications of the appointments.

**Councilor Morissette** said that there had been one volunteer from the Vancouver area, two individuals from Washington County, one of them a former Councilor, Mr. Ed Gronke.

**Councilor McFarland** noted that Councilor Morissette was listed as one of the people that the advisory committee had put on the committee. She questioned this, she believed that this was the Council's prerogative as to who was put on that committee. It was not that the Council would not put Councilor Morissette on the committee, she believed that the Council should choose who came from the Council to sit on the committee. She said that unless the name of the Council representative was removed from the list, she planned to vote against the resolution.

**Presiding Officer Kvistad** reviewed what Councilor McFarland had said, as he understood it, Councilor McFarland was going to vote against the nominating committee who did the work to nominate these individuals.

**Councilor McFarland** said that she was because they could not nominate who came from this Council.

**Councilor Morissette** said he volunteered to serve on that committee.

**Councilor McLain** said that she understood that that committee was the committee that sent forward the selection and that Councilor Morissette would not be serving on the TPACT group but only helped the committee choose the representation that was brought forward. He was just on the nominating committee.

**Presiding Officer Kvistad** concluded that he believed that Councilor McFarland knew this and was just jesting with Councilor Morissette.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

8.2 **Resolution No. 96-2434**, For the Purpose of Approving Change Order No. 7 to the Waste Disposal Services Contract.

**Motion:** **Councilor McFarland** moved the adoption of Resolution No. 96-2434.

**Seconded:** **Councilor Monroe** seconded the motion.

**Discussion:** **Councilor McFarland** said that they had had their negotiating teams working on this for a long time and they had come before the Committee. She said that it would save Metro if this change order was enacted around \$85,000 a month even to start and some \$37 million for the rest of the life of the contract that Metro had with their partners. She continued that she believed Councilor McLain would be coming forward with amendments that she had that changed the language so that she could be totally in favor of this resolution. The implication that was in an ad in the newspaper that it had not come before any of the Council Committees was incorrect, it had come before both REM and Finance as well as being aired with public hearings. She urged the Council not to delay and that the Resolution be moved forward and adopted.

**Presiding Officer Kvistad** asked Councilor McFarland if she would recommend that the Council move forward with the McLain amendments before moving into a general discussion?

**Councilor McFarland** said she was willing to do that.

**Councilor McLain** reviewed that there were three items before the Council that were titled Resolution No. 96-2434A including an exhibit A.

**Motion to**

**Amend:** **Councilor McLain** moved an amendment to Resolution No. 96-2434 making it an A version.

**Seconded:** **Councilor McFarland** seconded the resolution as amended.

**Discussion:** **Councilor McLain** said that there were several issues that were of concern to her that were addressed in these amendments. The first issue dealt with recycling. Anytime Metro tied a tonnage price or rate to a specific tonnage, there was a tendency not to do as good a job as we wanted to on recycling or diversion of waste including such items as dry waste of which there is a pilot project at this time. She requested that the legal staff and the

negotiating team go back and look at this and talk to Waste Management about these issues. They found some agreement on some language. In the resolution it was add, "whereas Metro will continue to make every effort to maximize the diversion of waste from landfills consistent with the adopted Metro Regional Solid Waste Management Plan." It repeated that in the be it resolved clauses and said, "that Metro shall continue to maximize diversion of waste from landfills consistent with the adoption of the Metro Solid Waste Plan." The amendment verified that this agency and staff would make every effort possible to divert any type of waste that Metro could and also that Metro would be working with their transfer stations to make sure they were diverting as much waste as possible to continue on with Metro's recycling goals. The second issue was Exhibit A, which was a package of housekeeping amendments that came from legal staff. These were legal wording that must be in the resolution. The third package, Exhibit A, items 8 and 9, dealt with the reference to an amendment which she never ratified and never would. Reviewing 8 and 9, they came up with language that both Waste Management and the legal staff could agree with, that was, that the provision contained in the attached schedule A, that indicated anything that came out of Amendment Four, which was not ratified, was retyped and was part of Change Order No. 7, not of a non-ratified Amendment 4. No. 9, the Contract Amendment No. 4, superseded by the provisions of this Change Order No. 7 and Contract Amendment No. 4 was null and void. Her concern was that it could be null and void and never have been ratified.

**Mr. Dan Cooper** responded that that was correct.

**Presiding Officer Kvistad** asked about the two Exhibit A's on this amendment that were attachments.

**Mr. Cooper** responded that the second Exhibit A which Councilor McLain referred to which had the new language underlined in 8 and 9 actually already incorporated the changes that were underlined in the first Exhibit A. The only purpose for giving two Exhibit As was so that these two issues were separately identified. The first version handed out was unnecessary and superfluous.

**Presiding Officer Kvistad** said that they would set aside the Exhibit A version that came out first and deal only with Exhibit A that was just explained by Councilor McLain.

**Mr. Cooper** said, that was correct, the Exhibit A that had no underlining on the first page and had the underlining a strike outs in section 8 and 9 on the second page contained all of the details.

**Presiding Officer Kvistad** reviewed that they had the amendment that was before the Council and an Exhibit A as amended incorporating all of the discussion which had happened.

**Councilor McLain** said that these two amendment took away two thirds of all of the issues and concerns that she had and she would speak to the main motion when the Council was ready to do this.

**Vote to Amend  
to Main Motion:**

The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously, Resolution No. 96-2434 became Resolution No. 96-2434 as amended.

**Councilor Monroe** said one of his most serious concerns about amendment 7 was what impact it would have on recycling. Most of his other concerns had been taken care of. He had done quite a bit of investigating in terms of the numbers that Council was given, in terms of the savings and comparability with Seattle. He liked the new language added by Councilor McLain to try to continue to divert as much as possible but he also was looking at the rate structure and understanding the concerns from the City of Portland and others that that rate structure in itself may make it less economic to do additional recycling. He asked to hear from Mr. Warner or Mr. Cooper to speak to that concern. He believed that it was a real concern and one of the mandates that Metro had was a mandate to do as much recycling as possible and he wanted to make sure that when this amendment 7 was voted it that it did not detract from that effort.

**Bruce Warner**, Director of REM, noted a December 17, 1996 memo, which attempted to outline or answer various questions raised at the previous meeting on this matter. There was a memo included in that packet which attempted to answer the Council's concerns on that particular issue. The memo was from Doug Anderson, Acting Waste Reduction Planning Service Manager and himself, titled Impact of Change Order No. 7 on Waste Reduction. This memo indicated that very clearly this change order did not require any changes in state mandates or law or Metro's Regional Solid Waste Management Plan (RSWAMP) or any of the goals or objectives that were outlined in that particular plan. The change order itself did not contradict any state or regional goals or mandates. Change Order No. 7 did not alter the position of his staff and department relative to implementing waste reduction programs or meeting the RSWAMP and statewide goals and objectives. More importantly, the discussion that the Council would have regarding disposal rates, the tipping fees, was probably the major policy area where the Council would have some impact about what was the cost to dispose of materials through Metro's transfer stations. In other words, as a result of this, he assumed that Council would want to have a discussion about Metro's tipping rates and did we want to lower those tipping rates? REM had done some work with the industry and knew that that was the most sensitive thing in terms of an impact on recycling. So by a subsequent action by the Council in terms of adjusting the rates, they would have to grapple with that. REM's analysis and input with the industry had shown that if one went from a current \$75.00 level down to even \$70.00, there was minimal impacts on the recycling rate but if one went below that it was much greater. He believed there would be a debate again about what that rate should be. It was his department's intent to look at the total average cost of disposing of waste rather than look at the marginal cost when one hit that threshold outlined in the rate schedule. He believed that this change order itself did not impact the recycling programs but obviously anything one started talking about lowering the cost of the disposal materials one would have impacts on recycling. The Council's ability to impact that would be through the rates, which he assumed the Council would be talking about through the budget process early in 1997.

**Councilor Monroe** concluded that it was the total impact on reduced cost that might in fact drive a lower tipping fee, lower than the current \$75.00, rather than the disparate rate structure where one had a relatively high disposal rates for the first 550,000 tons and a very low disposal rate for additional tons that would have potential impact on recycling. The terms he had heard were that that convoluted rate structure in itself might have an impact on recycling rates. He asked Mr. Warner to speak to that issue.

**Mr. Warner** reiterated, the rates themselves would impact the recycling, however, if the rates were adjusted so that again they went down when you hit a certain threshold that would have an impact. But what he suggested to the Council was that they would want to look at the average costs over a year for budgetary purposes and for setting rates. If the rates were kept at an average

rate across the year, the impact would be minimized. He said that he suspected that there would be a push to reduce the rates as a result of this action from Change Order 7 if it would be endorsed.

**Councilor McLain** indicated she had received a number of phone calls and the only one that had a question that she had not heard before was something she had previously spoken of but wanted to make sure she understood. She asked Mr. Warner if on the \$1.24 per ton DEQ fee, Metro was picking up all of it now, where only part of it was picked up before by Metro, what was the difference between that amount pre-Change Order 7 and if the Change Order was to be accepted.

**Mr. Warner** responded that he would get those figures for Councilor McLain before the end of the meeting.

**Presiding Officer Kvistad** said he had discussed a 30 day delay in the consideration of adoption of this item based on several different factors. He noted a letter from the City of Portland's City Council requesting such as delay so that this item could be reviewed. His concerns on this had been long standing. This discussion had been on going since the initial signing of Contract Amendment No. 4 over 2 and a half years ago. The Council received the information on the discussion and on this agreement before the Financial Committee only yesterday. At that time the Council had opportunity to look it over and it was moved forward to Council for discussion. He did not believe he had the information available on this item to be comfortable with moving forward this item at this time. He was not saying he would not support this item. He believed there was some very good things that were accomplished in the negotiation. He also believed that if indeed a delay was granted so that he could be comfortable by seeing the bids from Thurston County that would come out on about January 10, 1997, which separated out the bid between transportation and disposal, if those number came down in the ball park of what Metro had been offered in this contract, then he would also support this item. There were several items that were of deep concern to the Presiding Officer. First, by going forward with Change Order No. 7, what the Council was doing was giving up permanently the most favored rate clause in that there was still an on going law suit and contract dispute. The second part was that Metro would have to, in dropping the law suit, according to the information presented, defend both Waste Management and themselves from any further legal action having to do with that most favored rate clause and the contract that Metro had with them pre-Contract Amendment No. 4. This item had taken 2 and a half years of review and concerns and yet the Council only had six working days in order to review this and move forward with a multi-million dollar contract. He felt that this was not enough time for the Council to adequately address these items. With the City unanimously requesting a delay from the Council, also with the fact that this item had not been before the Rate Review Committee or the Solid Waste Advisory Committee, he believed those things could be accomplished within the next 30 days. Both Committees would have the opportunity to review this item and come back to Council. The numbers from Thurston County would also be in place which would allow the Council to make sure that the numbers they had received were the numbers that would be in place and were comparable to the numbers that Metro was given for the Seattle contract. He thought it was a valuable and important delay for the Council. He, beyond anyone, wanted to get this item moving and dealt with, he also wanted to move forward with having and getting the savings for the people of this region. However, a six day review period and the lack of reasons for dealing with this on such a quick turn around concerned him greatly.

**Motion to Delay:**            **Presiding Officer Kvistad** moved to delay a decision on Resolution No. 2434A until the Council meeting directly following the release of the

bid to Thurston County (anticipated for January 10, 1997).

**Seconded:** **Councilor McLain** seconded the motion.

**Discussion:** **Councilor McLain** indicated that the Thurston County numbers could be as late as January 24, 1997.

**Councilor Washington** said that if Thurston County was late in their bid, how would the Council deal with that? Did the Council delay 60 days?

**Presiding Officer Kvistad** reiterated that his motion was that it would go on the Council agenda directly following the release of the numbers as an action item.

**Councilor Washington** said that the Presiding Officer had no control over Thurston County but could someone at least address the issue, was there a guarantee that the Thurston County information would be available by January 24, 1997 or was this just an assumption?

**Mr. Warner** said the latest information was that Seattle had extended the deadline of the receipt of proposals to January 24, 1997. He would assume that shortly thereafter there would be information available to the Council.

**Councilor Washington** asked Mr. Warner to take his best shot at when the information from Thurston County would be available, the Council meeting after January 24th would be in February, thus pushing this decision beyond 30 days.

**Presiding Officer Kvistad** said that at worst case it might be 45 days.

**Mr. Warner** said they could possibly have the data for information on proposal by January 24, 1997. He would also assume that the Council would like staff to do some sort of an analysis comparing that data against the information in Change Order No. 7. That could take a few days. He suspected that there would need to be a delay of a week or two to allow staff to put together a staff report and information so that the Council could see it and the REM staff could answer questions about the differences. He would recommend that the Council look toward the second or third meeting in February to revisit this item.

**Councilor Washington** asked what the calendar day was for the third week in February.

**Mr. Jeff Stone**, Assistant to the Presiding Officer, said that the first meeting in February would be February 6, 1997 and the second meeting was February 13, 1997.

**Councilor Washington** said that if the Council was looking at any delays, that they needed to be specific in terms of the dates. He understood the importance of this item but if there was a delay, the Council owed it to everyone involved to be specific about the dates and not have the potential for confusion on the dates.

**Presiding Officer Kvistad** indicated that at the very latest the decision would be made on February 13, 1997, if it could be handled before, should the number come in prior to that, it would go on the very first possible Council agenda.

**Councilor McFarland** reminded the Council that this was a contract between Metro and Oregon Waste Systems. She had a lengthy discussion with the legal Counsel about what would be appropriate and what would be inappropriate. It was totally appropriate that this came before the committees of this Council. It was not appropriate that this come before advisory groups from out in the industry to pass muster on a contract between Metro and one of the principals. If both parties wished to do this, then, it might be possible, however, she did not believe that Waste Management Systems wanted the piece of this contract discussed out in the real world. She was unhappy with those individuals who kept requesting delays, she suspected that this wouldn't be done until next July if the Council didn't act upon it now. She reiterated that this was a contract for the Council to talk about and the people that Metro had the contract with, it was not other people. She didn't remember the City of Portland checking with Metro about their contracts. She suggested that Metro could handle their own contracts. She strongly opposed a delay in this decision, she believed it was a mistake, a continuing mistake.

**Councilor Monroe** said that he assumed there were individuals at this meeting who came to testify. It was his hope that they would have that opportunity before a vote was taken on a potential delay. He asked Mr. Warner about the delay particularly to receive information on Thurston County who would be breaking down the transportation and disposal costs. He asked how comparable was Thurston County to Metro and would that information be helpful or we would be comparing unlike situations?

**Mr. Warner** believed that there may be some additional information that may be helpful. There were, however, true difference between Metro's situation and the contract the Thurston County was looking at. Thurston County was requesting costs on siting, constructing and operating a transfer station. They were also interested in transporting and disposing of 125,000 tons of waste per year. Further, the contract terms would be seven years and would begin in the year 2000 with a potential 7 year extension. In terms of the data he could not answer if we would be able to compare 'apples to apples' other than to say there were some clear differences in the tonnage, the size of the contract, the length of the contract and a question about whether Waste Management, if they chose to participate in this proposal, would go to a different landfill. There was another facility in Washington so there may be a lack of comparison there. Thurston County would be making their decision based on a combined cost of transport and disposal. Even though the costs could be broken down, the question was, how they had loaded things up would be up for debate. There may be difficulties comparing Metros' contract and rates with what we would see in Thurston County. Any additional information gave further opportunities to view things in a different way. He suspected it would bring up many more questions about the analysis.

**Councilor Monroe** verified what Mr. Warner said, even though Thurston County would be bidding with a breakdown between transportation and disposal they might choose to make their profit more heavily on one side of that ledger and take a loss on the other side.

**Mr. Warner** responded that he did not know how the bidders would be preparing their proposals in Thurston County or how they would be submitting data for transportation versus disposal. This was the exact debate that the Council was getting into with the current Change Order No. 7, what was in transportation and what was in disposal. He would submit to the Council that if Thurston County would be looking at a total price package combining the two that would be the determining factor on who won in their particular proposal. Metro would still not know the underlying assumptions in all of those breakdowns of individuals costs for transportation or for disposal. It was clearly up for questions but he would not want to intimate that some of the firms

would do unbalancing of their bids, however, he had seen this in road construction contracts a number of times.

**Councilor Morissette** said he didn't get the Thurston County connection. Metro had negotiated with a vendor to try and lower the rates for the regional rate payers. He did understand where the Presiding Officer was coming from, however, he thought that Metro had lost Contract Amendment 4 prior to him being on this Council with action that the previous Council took. He realized that that was an ongoing debate and he would rather not second guess what a judge would do. He understood that this was being challenged but it was his opinion that Metro did not have Contract Amendment No. 4 and he believed that the Executive Officer had gone out and negotiated in good faith to put something together. He suggested that it was difficult for him to analyze the situation where 'if they get a better deal, I want a better deal too'. As Metro went through this process, it would be more how we were handling our negotiations as to whether or not this was a good deal for Metro not whether or not Thurston County got a better deal down the road potentially causing Metro to want to get a better deal. He would opt for the \$85,000 per month savings. He has had enough time to look at this and to decide that this seemed like a pretty good deal from a group who did not have to negotiate anything with Metro.

**Councilor Monroe** requested a public hearing prior to the vote on the delay.

**Presiding Officer Kvistad** opened a public hearing at 3:30 p.m. on the vote delay was well as the resolution itself.

**Scott Bradley**, Manager of Landfill Operations for USA Waste Services Inc., supported a delay to have a further review. He was a competitor of Waste Management Services and a contract amendment like this bothered him to some degree. He believed the questions had been asked although he did not know if the answers were there nor if this was as good a deal as Seattle's. He suggested that everyone needed to have a look and see if it was truly a good deal. He would support that the delay be enacted and recommended that someone in a financial capacity independent of all entities review this, have access to all of this information and present whether this was a fair deal or not. Councilor Morissette had brought up a good point by saying why would a vendor be here with this if they did not have to be here. Mr. Bradley responded that they didn't have to be here, they were here because they knew that Amendment Four would most likely be overturned and they would be back to the original contract which contained the most favored rate clause which would be substantially more savings than \$37 million over the life of the contract. That was why they were here.

**Councilor McCaig** asked Mr. Bradley if his company participated in the advertisement in the Oregonian this morning?

**Mr. Bradley** responded that his company had participated in the ad.

**Councilor McCaig** said that this resolution was before the Solid Waste and Finance Committees on Wednesday, December 4, 1996. She had questions about how quickly the resolution was put on and understood that Mr. Bradley's company wanted an opportunity to lobby people. She asked Mr. Bradley if he had contacted her in the last two week. She was actually one of the Councilors who had moved for a delay.



**Mr. Bradley** indicated he had not contacted her and was unsure if anyone from his firm had done so.

**Councilor McCaig** said that the answer was 'no', no one had contacted her. She was curious as to what benefit he saw for asking for the delay or the Thurston numbers. What was the benefit of the delay.

**Mr. Bradley** said if the delay was going to consist of the current vendor coming back to staff and convincing staff that these numbers were correct noting the true disposal costs for both Seattle and Portland then there would be no purpose in a delay. However, it was Mr. Bradley's hope, if there was any benefit, that that purpose would be an independent review of these figures. He believed that there had been enough questions asked and enough information brought forward at those two meetings to the effect that maybe the number out there reported by the vendor as to the disposal cost that they gave Seattle would not be it. He believed that earlier this year, the Council had heard from their own auditor, when asked the question about the true break out costs for Seattle, that there was not enough information. She could not ascertain that information from the staff.

**Councilor McCaig** synopsisized that it would be possible then that the Council could find another date that would be acceptable independent of the other numbers that might be helpful in arriving at a conclusion.

**Mr. Bradley** said he believed so.

**Councilor McCaig** said, for the record, she was offended by the company's advertisement.

**Councilor McFarland** said that normally all input was welcomed from people who came from far and wide but she was offended by Mr. Bradley's implication that what Metro had been given were lies. She did not believe that Mr. Bradley had any proof that this was true. She requested the Mr. Bradley not imply this again.

**Presiding Officer Kvistad** closed the public hearing.

**Councilor McCaig** indicated that she intended to support the proposal. She believed that this resolution was a good deal but she continued to have a problem with the time of the process. She was not particularly interested in waiting until February 6 or 15. She did think that there was some benefit in responding to Metro's partners in all of this even though they may not be our technical partners. This resolution had been before Council for about 10 days, not a very long period of time. She did intend to support the proposal to postpone action on the resolution for a short time and then saw the ad in the Oregonian this morning which implied all sorts of things about the job Metro was doing. She was uncertain as to what information would be received within the period of time she would ask to delay, which was three weeks. The City of Portland made no indication that they were interested in the Thurston numbers. She asked Council if there was support for not delaying it until February 6, 1997 but delaying until the middle of January to give those individuals who wished to have one more opportunity to give input to the Council the opportunity to do this or was it necessary to wait for Councilor Kvistad's information request before acting upon the resolution. She believed waiting until February 6 or 15 was too long.

**Presiding Officer Kvistad** said that it had been his understanding that the information from Thurston County would be available on January 10, 1997. It was only in the last hour that he found it was later in the month. His concern was that he wanted independent verification of numbers based on what was given to someone else because Metro was giving away the most favored rate clause by stepping back from the legal action. He wished to be comfortable with that, he was trying to deal with this in good faith. His intention was not the delay, it was so he was comfortable by having the numbers. He understood where Councilor McCaig was coming from. If she would like his motion to not include a time certain and should the Council at some point earlier than that be comfortable, he would be willing to bring it up for a review mid-January on the Council agenda. The only reason the February dates came up was due to Mr. Warner and some other information that he received directly prior to this Council meeting.

**Councilor McCaig** addressed Mr. Cooper, Councilor McFarland and Presiding Officer Kvistad and asked if it were possible to go ahead and vote on the contract at this Council meeting and to postpone the enactment date until after the Thurston County numbers came in where it would then take a motion of the Council to bring it back to the table.

**Dan Cooper** said that he understood the question that was being asked was that, if the resolution could have a delayed effective date that would in effect be an action by the Council that on or after February 1, 1997, the Executive Officer would be authorized to enter into and execute Change Order No. 7 and then the Council would leave itself time, by a subsequent resolution, repeal the authorizing resolution before it went into effect? He believed that the Council could do that but it would be an extraordinary procedure for the Council to follow.

**Councilor McCaig** said she felt that this was not an extraordinary case.

**Councilor McLain** said that she did get an answer back on the DEQ fees. If Change Order No. 7 would be passed it would be about \$.15 a ton or about \$100,000 a year that Metro would be picking up. Secondly, the reason she seconded the Presiding Officer's delay request was because the City of Portland, the Tri-County Council and at least four industry members or representative had all sent information indicating that they wanted an opportunity to review the resolution. She personally believed that this was a public contract. It was public dollars, public money and this public contract was something that Metro had in the public eye through public requests for information. That information was not a private document in a sense that Metro was a public agency dealing with a private vendor. She believed that the delay was not to see the Thurston numbers or in re-analysis as to whether Metro got as good of a deal as Seattle but basically because of public understanding or lack of understanding and also requests by an industry and partners who were in part of the system. They were the ones that franchised the haulers, that had the rates for the cans, that had to use our disposal facilities and deal with the tipping fee. They were very much involved in this process and in this solid waste system that Metro was responsible for handling. She was not that inflexible that she would take that short time to review information that there were a lot of others who were wanting some confidence that this was a good public contract from our agency. She did not see that it would hurt Metro to make sure that they understand why Metro felt it was an appropriate action. She also wanted to make it known to the public that she felt personally comfortable with the language that was in the resolution, with the changes in the amendments that were passed today. She felt that the staff had been very conservative in the amount of tonnage that would actually go to Arlington so she believed that Metro would reach a Seattle rate sooner than given to Council by staff. But there was one issue that was out there and would remain to be out there whether she voted yes or no. The rate

structure for this Change Order No. 7 was still tied to 500,000 tons in other words a larger amount tons going to a single facility to get the rate, only getting the additional better rate compared to Seattle's if Metro sent more tons. It was not a flat rate, it was a sliding scale issue. She believed that Metro would always make and it would always mean that some of the savings had been left on the table. She thought that it was very important to recognize what the Council was doing, whether the Council thought it was a good deal, whether the Council believed that the \$37 million that was offered by the Change Order No. 7 was enough of a good deal to make it now and hope for more later. She would continue to asked for a short delay and agreed with Councilors McCaig and McFarland that those Thurston numbers, what was known of that deal and what was known of the Seattle rates, the additional information that would be received from the Thurston number could be guessed on now. As far as making sure that the Council and the public was comfortable with this, she did not see why it would be voted on after 10 days. She reminded the Council that they took 8 months on Amendment Four.

**Amendment**

**to the Motion:** **Councilor McLain** moved that the Council would vote on this resolution on Thursday, the third week in January, 1997.

**Discussion:** **Councilor McLain** indicated that this delay allowed an opportunity to be convincing to the public and Metro's partners that this was indeed a reasonable request and a reasonable change order.

**Presiding Officer Kvistad** asked Councilor McCaig if Councilor McLain's recommendation was an accepted date if he were to change his motion? He asked Mr. Stone what specific date that was.

**Jeff Stone** responded that it was January 16, 1997.

**Councilor McCaig** said that date would be acceptable if it were a guarantee that the vote would occur on that date.

**Motion to**

**Amend:** **Presiding Officer Kvistad** accepted a friendly amendment to amend his motion to vote on Change Order No. 7 on January 16, 1997.

**Seconded:** **Councilor McLain** accepted the friendly amendment.

**Councilor McFarland** asked Mr. Cooper about item No. 1, paragraph 2, 'as a part of the negotiated settlement for eliminating the lump sum payment of \$1,802,950 per year, Metro agreed to a one time lump sum payment of \$1,250,400 to be paid on January 10, 1997 or the effective date of this amendment which ever came later. Even with the lump sum payment in FY 1996-97 Metro still saved an additional \$1.1 million compared to Amendment 4.' Would this delay effect that payment or would there be another year's payment due before Council would put this into play.

**Dan Cooper** responded that the Change Order as negotiated did not require that it be effective before January 10, 1997. It specifically contemplated that it could go into effect afterwards. Metro was paying currently a monthly lump sum of approximately \$150,000 per month. Every

time Metro delayed, they kept paying under the old version. It would be a question of economics not of changing the words of the agreement as negotiated if there was a delay.

**Councilor McFarland** asked Mr. Cooper if the Council delayed consideration of this resolution for another month, then, that \$150,000 per month would be in addition to the \$85,000 that Metro loses in difference in tipping fees, would it not?

**Dan Cooper** suggested that that question be directed to Mr. Warner.

**Councilor McFarland** asked Mr. Warner to respond to her question.

**Mr. Warner** said that this would not be above the savings that Metro would have normally. In other words, the \$85,000 was factored over a year's worth of savings over the life of the contract. It actually changed every month dependent upon where the rates were. That would not be in addition to that \$85,000.

**Councilor McFarland** asked for clarification. If Metro found themselves paying an additional \$150,000 how could that not be in addition to it?

**Mr. Warner** said that they were eliminating a lump sum payment, that equivalent annual payment that they would have to pay, if you equated that out over twelve months, that would be so much savings. In addition to that you had savings equating to the decrease in the rate for tonnage. All of these combined equated to about one million dollars for the first year. This was the remainder of this particular year. He indicated that the \$150,000 was the correct number for this next month's payment.

**Councilor McFarland** said that the \$150,000 was the correct number for next month's payment and by the Council enacting the Change Order No. 7 now, Metro would eliminate that for the future, but until the change order would be enacted, Metro would be paying that fee every month plus what ever other more costly expenses that Metro was paying for the disposal of putrescible waste.

**Mr. Warner** said that Councilor McFarland's assessment was correct.

**Councilor McFarland** reviewed that it would be more than \$150,000 but Mr. Warner was not prepared to say how much more it would be.

**Presiding Officer Kvistad** responded that what Mr. Warner was saying was that it was possible but that he did not have any of those numbers.

**Councilor McFarland** said that she believed it was probable.

**Councilor Washington** asked if this resolution was delayed until January 16, 1997, he would assume that this would be the last delay.

**Presiding Officer Kvistad** responded that he would not be bringing anything further than his amendment which was on the floor at the time.

**Councilor Washington** said he was addressing the entire Council.

**Presiding Officer Kvistad** said that Council would cast a vote on that date if his amendment passed.

**Councilor Washington** said that there always seemed to be something that came up on this particular item. He suggested that there was about 28 days left to get it nailed down. He asked Council to verify that he was correct.

**Presiding Officer Kvistad** reiterated that Councilor Washington was correct, this would be the only time that additional input could be given, on January 16, 1997 a vote would be cast.

**Councilor McLain** said she believed that if Councilor Washington voted for this motion that a date was included as January 16, 1997.

**Councilor Washington** confirmed that that date was the end of the line, no further consideration would occur?

**Presiding Officer Kvistad** said that he would also guarantee his lack on lobbying on anything further on this item.

**Councilor Morissette** said he was unsure what 25 days would do, assuming that lobbying was important. On its surface, with some assumptions, he believed that Metro had lost Contract Amendment No. 4. Without that though, with the process of a contract with someone for 13 years, this resolution looked like a pretty good deal. In the process of evaluating a deal, he did not have to keep going over and over it again so he would not lobby anyone on how they should vote, however, this resolution made sense to him and more information wouldn't make a whole lot of difference to his position. Ultimately, as the Council went through this process, they needed to get to decisions. He had enough information and was comfortable enough with the information he had to make a decision. He respected what other local jurisdictions and others may have in looking at this resolution but as the Council went through this for Metro, he believed that Metro's staff had negotiated a great deal. He was unsure that the people that Metro negotiated with had to do that. He suggested to the Council that if they felt that they needed more time to make a decision that they should vote for a delay, however, he had enough information now to vote on the resolution.

**Councilor McCaig** responded that Councilor McLain's point was well taken. She did not believe that she needed more information but her partners in this and her district included the City of Portland. She believed that if the City came to the Council unanimously and asked for a delay that out of courtesy and respect to them, she was willing to give them a two week delay after Christmas. Out of respect for the process, she believed it was not going to cost very much in terms of the actual contract. Again, she moved this resolution out of both committees, it would take something extraordinary to move her away for it.

**Councilor Monroe** spoke to the timing because the Council had heard from a number of people that believed that this resolution was fast tracked or that the process was being short cut. He and Councilor McFarland were very much aware of the negotiations that were going on and were in an auxiliary way involved in those negotiations, letting the negotiator know what Council's position was and what might and might not be acceptable to the Council. Negotiations could not be an open book, it was not appropriate for everyone to know what was happening in detail, but

all of the Council knew that negotiations were going on and that Councilor McFarland as Chair of Solid Waste and he as the Chair of Finance were a bit more involved than the rest of Council. He and Councilor McFarland learned this information approximately 3 weeks prior, they discussed how this information could best be presented to the Council in a way that would allow the maximum public input and yet would be timely in that the sooner that something like this was accomplished, the sooner there would be savings. They did not want to come under the pressure of it being said that they were trying to fast track or railroad this resolution. The decision was made to fast track it to committee more than two weeks ago. It was heard two week prior in both the Finance and Solid Waste Committees. The reason for this was so that there would be a 15 day window for public input, for lobbying, for every one to have their say, for press inquiries and for Councilors to feel comfortable. He had a lot of questions. He asked some of those questions at those committee hearings and had since received some information answering most of his questions. He believed the process had been a proper process. This did not speak for a delay one way or the other but it had not been a process to shut anyone out or to prevent anyone from having appropriate input. He had a personal interest in that this was his last Council meeting. The Council in January would be a different Council. He reiterated that there had been 15 days for additional information between when committees met and the Council meeting occurred. One of the Councilors had a chance to look at the books to determine if staff had made an accurate assessment of the breakdown in transportation and disposal costs in Seattle, concluded that the staff had made a very accurate determination. He indicated that he would not be supporting the amendment to delay the vote.

**Presiding Officer Kvistad** closed by saying that he understood the concern of Councilor Monroe, however, his personal view having looked at those numbers was that these numbers were ones that he could support and he wanted to be able to vote in favor of this resolution. He said that there were some specific issues on this that had not been addressed to his satisfaction. He had tried not to be specific, not to be inflammatory out of sensitivity to Metro's partners and people Metro had contracted with. He expressed deep reservations based on what happened preliminary with this contract and what happened to get Council to this point two and a half years ago. He thought having the opportunity to be allowed to have the extra few days to become comfortable so that he could vote in favor of the resolution. Without the information and without him being comfortable, he could not in good conscientious do that, because he was not comfortable with simple ascertains by certain bodies that certain numbers were correct. He would like the Thurston County number however he would accept not having them in hand and would study this to his best advantage over the next few days. He did make a commitment to the Council that should they vote in favor of a delay, he would lobby none of the Council to oppose the contract nor do nothing to get in the way of a process and a final vote on January 16, 1997. He had some deep reservations, he felt that a contract dealing with \$10 to \$50 million deserved some extra time for review.

**Vote on the Amendment:** The vote was 4 aye/ 3 nay/ 0 abstain. The motion passed to delay the main motion vote until January 16, 1997. Councilors McLain, Washington, McCaig, and Presiding Officer Kvistad voted yes, Councilors Morissette, McFarland and Monroe voted nay.

8.3 **Resolution No. 96-2439**, For the Purpose of Accepting the Boundary Commission Study and Seeking Implementation Legislation.

**Motion:** **Councilor McCaig** moved the adoption of Resolution No. 96-2439.

**Seconded:**     **Councilor Morissette** seconded the motion.

**Discussion:**   **Councilor McCaig** asked John Houser, Councilor Analyst, to review this resolution for Council.

**Mr. Houser** reviewed the resolution. The resolution had two basic purposes, one was to accept the report from the Government Affairs Committee as constituting the completed study of the Council with regard to the Boundary Commission that was required under a provision of Metro's 1992 Charter. The second element of the resolution dealt with the specific areas of recommendation that had been proposed in that report and asked that those be translated into implementing legislation that would come back for Council review prior to being adopted for introduction at the 1997 Legislative Assembly.

**Councilor McLain** thought that this was a well done report and appreciated the work the Councilor McCaig had put into this resolution. She had only one concern, she did not agree with the process described which was the difference between a hearings officer and the review by a three member citizen commission. It was her opinion from the subcommittee work at MPAC and from the three public hearings, that the information received was very compelling. The kinds of contested cases that were spoken of were very specific, very legalistic, very much making sure that Metro was following state law, regional law, 2040, RUGGOs, etc. She did not believe because of the few number of these cases that Metro would get, that they truly needed a three person commission. She thought that in this format, there was already places for public testimony, public input. As it would be done at the county levels, there would be a full blown public process that would be available to the citizens at that time. It was her belief that the three member citizen commission should be a hearings officer.

**Motion to Amend:**       **Councilor McLain** moved that the three member citizen commission should be changed to a hearings officer.

**Presiding Officer Kvistad** called for a second. There was no second the Councilor McLain's motion, so the motion failed for lack of a second.

**Councilor McLain** asked if this was the only opportunity as a Council that they would have an opportunity to formulate this for the legislature?

**Dan Cooper** responded no. They would be coming back with the formal legislative package which would be part of another resolution that Mr. Higby and he would be preparing to come before Council for setting the full goals. Then, as the legislative process goes forward, the Council was making a recommendation to the legislature, the legislature may or may not choose to act upon those recommendations, and the Council may or may not later change their position as a body in response to something that happens in Salem.

**Councilor McLain** asked to go on record saying that she would be actively working through those processes to change the three person commission to a hearings officer.

**Presiding Officer Kvistad** indicated that Council would be working on that package over the next couple of week so she would have another opportunity for discussion on that.

**Councilor McCaig** said that this was a project that was dropped in their lap. It was something that came from the Charter Commission, MPAC reviewed it, put a report together that was by their own accounts incomplete but established a foundation and came to the Government Affairs Committee. The Committee took the responsibility pretty seriously because of the implications of the changes that would be occurring in this region in the future and how those decisions would be made. More importantly, there was this whole body of people who were citizens who had participated in the Boundary Commission and she had a fundamental belief in boards and commissions and the role they played in Oregon government. She spoke with Gerry Tippins, former editor of the Oregonian who served on the Boundary Commission, the League of Women Voters, past Boundary Commission members, and the Governor's Office about Boards and Commissions. The role of the Boundary Commission had been significantly scaled down. She noted that when MPAC voted on the issue of a three member commission versus a hearings officer, that it was a split vote three different times. She argued that in this case it was worth attempting to keep that one segment of Oregon politics that was unique, which was the role of citizens in developing policy and reviewing policy. The recommendation in this legislation would be that the Council went from the existing Commission to a three member panel, very similar to the Board of Equalization which reviewed all taxation issues for Multnomah County. The reason for this three member panel was that there was nothing of more concern to people than taxation and property. There was an advantage in having their peers involved in the process. They were not coming simply before another panel of politicians. She believed it was important to have that perceived objectivity in this case. She said there was no right or wrong answer on this issue but she would argue that there was a bigger issue in this and she felt the three member panel was worth trying.

**Mr. Houser** clarified that there was a blank on the second page of the resolution which needed to have a date filled in. It was the date that the representatives of MPAC presented their report to the Council. The date listed should be June 20, 1996.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

## 9. JPACT RECOMMENDATIONS

### 9.1 Acceptance of JPACT's South/North Light Rail Recommendations.

**Councilor Monroe** moved that the Council support the JPACT recommendations on South/North Light Rail that were forwarded to Council with the unanimous vote from JPACT and the unanimous support of the South/North Steering Group.

**Presiding Officer Kvistad** indicated that a second was not necessary since it was not a formal resolution, it would be an action of assent by the Council.

**Councilor Monroe** said what the Steering Group and JPACT were asking for was that we rethink but not abandon the South/North Light Rail given the vote on Measure 32, that consideration be taken into account that Measure 32 passed in the Metropolitan area by a 56% yes vote. The Metropolitan area had voted in favor of light rail time after time. The Citizens Advisory Committee had recommended strongly that we continue to pursue ways to implement South/North Light Rail. The recommendation found on page 2 were as follows: 1) that we are urged to develop a range of options and design changes to significantly reduce the cost of the



project, 2) that we develop a financial plan which can be implemented to provide a basis for federal matching funds and furthermore, we understand that that financial plan will need to encompass local moneys and federal moneys not state moneys because the vote on Measure 32 was a vote to deny state funding at this time, 3) that we work with the Oregon delegation to pursue ISTEA funding for phase one of the project and they will be making decision on ISTEA funding in 1997, it was very appropriate that Council take this action at this meeting, 4) that we continue to assess and discuss with the public a range of transportation options to meet future needs of this region, and 5) that we develop a very thorough public process to ensure that all citizens have a full opportunity to provide input regarding how this project moves forward and what changes are to be made in the environmental impact study." He urged the Council to vote in support of this procedure.

**Commissioner Lindquist** asked the Council to continue on with JPACT and the Steering Committee to continue the project and in reviewing the list of recommendations, he felt that the problems that people perceived in the South/North Light Rail program could be addressed and come back to Council with a measure that everyone could support, take forward, ask the federal government to give their share of the money and to continue on. The ISTEA process started early this next year. It was one that Congress would probably pass this summer and that would be for the next five to six years of federal funding. There was a queue that must be met to get that federal funding. So they must go forward with a project now or wait another five to six years. He suggested that they continue forward as Councilor Monroe had recommended.

He said he had been involved with Light Rail since the late seventies in the legislature, carried the bill in the House that built the line to Gresham as well as having been involved in the West line and now the South/North line. Each time that one of those lines was started there was a particular situation where they had to go through alignments with people. Those alignments were developed because there was confusion, unhappy individuals, as well as a whole myriad of problems that created opposition to the light rail at that time. When he carried the bill on the floor to build the Banfield line, every legislator along that line and all of their constituents fought against it. It was leadership from the region that put it through. When they started to go to Washington County, there were very few people at that time that were for the light rail. The Mayor of Hillsboro and Congressman Aucoin took a strong stand, it was put through and eventually people came around to support it. The same thing was going on now in parts of Clackamas County, pretty much along the alignment, they were confused and unhappy. There was a third alternative being proposed for the City of Milwaukie, this was put together just before the vote, they did not have time to go to the public with it, they believed they would have gained much more support in that area as well. He concluded with, the leadership in the region was what had kept light rail going. He urged the Council to take that continued stand.

**Executive Officer Burton** emphasized what was being requested at this meeting was to continue with the project given that financing would be there and in the same corridor that they spoke of before, to come back with some design efforts which would match the projected money that Metro have, engage the public in a discussion about that because it is important to help the public understand what was being done. He had had indication from Senator Elect Gordon Smith of his continued support, this was a priority for him. He had also had the discussion with the Governor. In the JPACT meeting, Commissioner Rogers from Washington County strongly supported this project, so it was a region-wide effort. Mr. Burton thought that even though this failed on a statewide vote, it significantly passed in the region. There was also a strong commitment to create the line and to bring the next phase of that which was good transit and bus routes in the area.

There was some significant progress planned for that whole system. He noted that this was part of the system, not a resolution on congestion problems. This needed to be recognized and no one was more acutely aware of that than perhaps Commissioner Lindquist himself who was trying to keep his roads going in that area. All of these were going forward and he believed it would be a mistake to not continue the momentum that we felt from the voters inside the region who supported this. He urged the Council to endorse the resolution.

**Councilor McCaig** admitted some concerns about the public statements included in the package, although she supported the plan. She believed it was a good idea. She was unsure how JPACT was going to go about doing this plan given several things, in 1990, the polling indicated 77% for light rail. The most recent poll indicated 56%. It had gone from 77% to 64% and then to 56%. She indicated that something was going on in the region, whether it be related to light rail, the economy, or Measure 47 or the mood of the voters. She said she was worried about the trend, wished to pay attention to the trend and believed that it influenced the need for leadership outside in the community. The region just outspent their opponents 4 to 1 and only barely won in the tri-county area. She expressed concern about these results, repeating those mistakes, and believed that one could put the best plan in the world inside Metro and it would drop like a led weight in the rest of the community. She recommended that as JPACT went forward she urged them to move further away from TriMet, Metro and JPACT and more into a different community of individuals in order to find the kind of support needed.

**Commissioner Lindquist** reviewed the last bullet in the report was to develop a thorough public process to ensure that citizens would have a full opportunity to provide input. He said that we were going back to the basics of public input that we really missed in the campaign. He was hurt that the campaign was a statewide campaign, it had to be, but there was no campaign in Clackamas and Washington Counties. The negative campaign was listened to by those folks, there had never been a negative campaign like that before. The polling showed that people were still supportive of light rail. They thought this line was too expensive, not understanding that it was being build with dollars that were designed to be spent in 2002 and the costs in 2002. The public did not understand that the project was way too expensive, there was uncertainty about where the route should be, all adding up to a negative vote. They must go back to the basic building blocks, to the neighborhoods and explain what this was about. They did not do a very good job the first go around. They had learned from the campaign that they must go back to the basics and rebuild the system back again. The time was limited but they were committed to going through this process.

**Executive Officer Burton** said, with no empirical evidence, he believed that Councilor McCaig was correct. This debate to go public must be carried by a different sector than had been done so far. When one looked at the major "no" vote on the ballot measure, there was another aspect here and that was why he mentioned the need to express this in different terms than had been done before. Light rail was a very glamorous system, it worked, it connected to the land use, but it was only one part of the system and the roads and the rest of the connections. He felt that the voters believed that the light rail would solve all of our congestion problems. What has happened was that when growth had occurred, the region had had more congestion problems because the road and bus system had not kept up with the rest of the system. He said that the public was now saying, this did not seem to work as well as they thought it would. He argued that the absence of this system would make congestion far worse. That different message as a component of what was going to be done needed to go forward. We needed to engage our public and private partners,

our citizens to help carry that message out so that this did not become another Metro/TriMet measure.

**Councilor McLain** said during the last JPACT meeting she was meeting with transportation individuals in Washington County. She supported this package, believed Councilor McCaig did a good job of outlining some of the challenges. Washington County indicated that the line was too expensive for them and that it did not go to the airport. It was not that they were against light rail or they did not want that light rail to happen for Clackamas County but if there had been a line to the airport they would have voted yes. The congestion issue and the torn up roads in Hillsboro are awful. So the congestion looked even worse than it does on the regular roads. They have not connected enough with the cities, like Cornelius and Forest Grove, that are not getting light rail under any proposal. How are we going to transport those individuals so that they could benefit and be part of this system. Those individuals need to be targeted as well.

**Commissioner Lindquist** said part of the study would be to consider the airport area even though it was not in the DEIS for this project. There was a private proposal to build that line. This could be included in what was being done together and could actually help the South/North be built. Not only would it help the citizens understand what they were doing but also help get points from the federal government. He chaired the JPACT Finance Subcommittee, putting together the financing for the region's transportation system including roads, light rail and transit. Part of the goals of JPACT were to find funding for the transit system as well as roads. It was a package that was being looked at altogether but it could not be done without this part. All the land use planning, the densities planned for Clackamas County were around light rail. If they didn't have light rail, they must go back to the drawing boards. He was unsure how this would be done. Transit itself was the other leg of the three legged stool. They must figure a way to get better funding and to get more bus service in the Portland metropolitan area.

**Councilor Morissette** said that he heard something through this last vote that said we wanted, with limited tax dollars, to do the maximum amount of moving people possible. He thought that one of the things that was very damaging in the campaign against the successful passage of the measure was it was going to move this percentage of people with this many tax dollars, forget the federal match in relation to what would be spent as a region overall on the total transportation system. He said there was a perception that the voters could get a better bang for their buck somewhere else, taking even the federal match out. It was his hope that as we move forward one kept this in mind. If you work with these opponents using logical ideas, they may very well become supporters.

**Councilor McCaig** said that one of the difficulties was that there was no single bullet that the opposition used on the measure. It was a bad taste in the voters mouth for some reason with a culmination of a variety of different things. Underlying in this was the intent to go back to the voters. We needed the matching funds, there was no way you could tap into those funds without going back to the voters. She had two conflict feelings, one, was that it was too soon to talk about going back to the voters and it worried her that we were doing this, and second, that in the Open Spaces campaign where we did exactly what JPACT was proposing, it failed originally, people felt there was still enough of a core to it that was a good idea, it was moved out of Metro, got a blue ribbon committee together, who put a stamp of approval on it and it took on a life of its own. That model appealed to her because she believed there was more similarities with general support for light rail.

**Mr. Burton** commented in response to it going to the voters, that the ISTEA funding would be coming up, looking at design options going to the federal government. Metro is clearly in a position because of its history and what had been done in the past with these funding mechanisms for light rail ahead of other jurisdictions. Seattle just passed a \$3.9 billion measure. A lot of other jurisdictions that are looking at light rail options are going back to Washington saying, we would like the federal government to make a commitment and we have not gotten our local funding yet. Metro could still do this, go forward with the ISTEA strategy and probably looking at another vote again would be a year to 18 months at best. The coalition must be built first.

**Presiding Officer Kvistad** suggested that a light rail along Hwy. 217 where there was a lot of support would be a real plus and might make up for the terrible by-pass problem.

**Motion:**           **Councilor Monroe** moved that the Council accept JPACT's recommendations on South/North Light Rail.

**Seconded:**       **Councilor Washington** seconded the motion.

**Councilor Monroe** closed by saying that he wondered if everyone understood how remarkable the JPACT process really was and how remarkable regional government in this City was. It was absolutely unique. This kind of process did not happen any place else in the United States where you had public officials from diverse suburban communities and from a core city coming together regularly and made decisions that effected transportation projects throughout the region, made decisions that may effect only one part of the region, and that almost always agreed unanimously after discussion. Most regions of this nation end of disagreeing and counter checking each other. In this region with Metro and their Committees, we had a wonderful opportunity that we exercised in regional cooperation. It had been enjoyable for him to be a part of that and to chair JPACT for the last three years and to work with all of the members of JPACT. He thanked the Council for giving him that opportunity.

**Vote:**           The vote was 6 aye/ 0 nay/ 0 abstain. The motion passed unanimously of those present.

## 10.    **COUNCILOR COMMUNICATION**

**Councilor Morissette** wished everyone a Merry Christmas.

**Councilor Monroe** introduced his wife, Billie, his brother, Dale, and his son, Martin.

**Councilor Washington** said that Multnomah County voted to support the Ridgley proposal with regards to PCPA. More information would be coming forward, he thought the City Council was to take action as well on this item.

**Presiding Officer Kvistad** roasted Councilor Monroe. He said that it had been a true honor and pleasure to serve with Councilor Monroe for four years. There had been ups and downs but especially over the last year they had become good friends. Councilor Monroe would be missed a great deal. It seemed fitting that the Council end with a JPACT unanimous decision and that there were some of Councilor Monroe's JPACT partners and friends at this meeting. He noted the gift that Councilor Monroe had received at JPACT. The Council commissioned a glassed Metro logo for Councilor Monroe in appreciation for his service. It read, "for years of services from your

election in 1992, beginning service 1993 to 1997.” Presiding Officer Kvistad thanked Councilor Monroe.

**Councilor Washington** commented that it had been a pleasure to serve with Councilor Monroe. He had enjoyed working with him and did not consider this to be the end. He knew that there would be things in the community that they would be working on together. Councilor Monroe had always been a person that once his vote was committed, it could be counted on.

**Councilor McLain** added that Councilor Monroe was a community person and had shown that in a number of ways such as the School Board and through the other opportunities he had had to serve in the legislature, etc. He would continue to be a community person and help Metro out when necessary. She thanked him for his partnership and good work.

**Councilor Morissette** thanked Councilor Monroe indicating that everyone would miss all of the expertise he brought to the process both from his Metro background and from his life background, particularly in the transportation area. He would be missed.

**Councilor McCaig** said that she was really going to miss Councilor Monroe but that he would have a great time.

**Presiding Officer Kvistad** announced Councilor Monroe’s reception in the annex.

## 11. ADJOURN

With no further business to come before the Metro Council this afternoon, the meeting was adjourned by Presiding Officer Kvistad at 4:45 p.m.

Prepared by,

Chris Billington  
Clerk of the Council