

## MINUTES OF THE METRO COUNCIL MEETING

January 25, 2001

Metro Council Chamber

Councilors Present: David Bragdon (Presiding Officer), Susan McLain, Rex Burkholder, Rod Park, Bill Atherton, Rod Monroe, Carl Hosticka

Councilors Absent: None

**Presiding Officer Bragdon** convened the regular council meeting at 2:00 p.m.

### 1. INTRODUCTIONS

**Councilor Hosticka** introduced Dick Schouten, Washington County Commissioner.

### 2. CITIZEN COMMUNICATIONS

There were none.

### 3. EXECUTIVE OFFICER COMMUNICATIONS

There were none.

### 4. AUDITOR COMMUNICATIONS

There were none.

### 5. MPAC COMMUNICATIONS

**Presiding Officer Bragdon** said the Metro Policy Advisory Committee (MPAC) met last night and reviewed the industrial land survey.

**Councilor Atherton** asked if the industrial land survey included Clark County.

**Presiding Officer Bragdon** said yes, he thought Clark County was included in the study.

### 6. LEGISLATIVE UPDATE

**Jeff Stone, Council Chief of Staff**, said he gave the councilors a list of current legislation being tracked by Metro. He listed items of note: Senate Bill (SB) 433, the Oregon Plan; House Bill (HB) 2022, the biannual budget; HB 2499, the 20-year land supply bill; and HB 2458, the Schrader bill, which was vetoed by the Governor last session and now back in a slightly different form.

### 7. CONSENT AGENDA

7.1 Consideration of Minutes for the January 18, 2001, Metro Council Regular Meeting

**Presiding Officer Bragdon** removed the consent agenda from the agenda.

## 8. ORDINANCES

- 8.1 **Ordinance No. 00-876A**, For the Purpose of Amending the Metro Code Chapter 5.02 to Create a Disposal Charge for Compostable Organic Waste at Metro Transfer Stations and Making Related Changes to the Metro Excise Tax and Metro Code Chapter 7.01

**Motion:** **Councilor McLain** moved to adopt Ordinance No. 00-876A.

**Second:** **Councilor Atherton** seconded the motion.

**Councilor McLain** presented Ordinance No. 00-876A. An executive summary and staff report to the ordinance include information presented by Councilor McLain and are included in the meeting record.

**Presiding Officer Bragdon** opened a public hearing. No one appeared to speak with regard to Ordinance No. 00-876A. Presiding Officer Bragdon closed the public hearing.

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

## 9. RESOLUTIONS

Without objection, **Presiding Officer Bragdon** moved item 9.3 forward on the agenda to allow for a time certain public hearing on Resolution No. 01-3025A at 2:30 p.m.

- 9.3 **Resolution No. 01-3027**, For the Purpose of Appointing Jim Stahly, Dale MacHaffie, and Scott Rosenlund to Three Expiring Terms on the Metro Central Station Community Enhancement Committee

**Motion:** **Councilor Burkholder** moved to adopt Resolution No. 01-3027.

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

**Councilor Burkholder** presented the resolution. A Solid Waste and Recycling Committee Report to Resolution No. 01-3027 contains information presented by Councilor Burkholder and is included in the meeting record. He introduced Mr. MacHaffie and Mr. Rosenlund, who were in the audience.

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

- 9.2 **Resolution No. 01-3026**, For the Purpose of Amending the Metropolitan Transportation Improvement Program (MTIP) to Approve Tri-Met's FY 01 Appropriations

**Motion:** **Councilor Monroe** moved to adopt Resolution No. 01-3026.

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

**Motion to Amend Main Motion:** **Councilor Monroe** moved to substitute Resolution No. 01-3026A for Resolution No. 01-3026. A copy of Resolution No. 01-3026A is included in the meeting record.

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

**Councilor Monroe** said Tri-Met requested the amended language, which read "jobs access transportation hubs" rather than "transit hubs."

**Vote on Motion to Amend Main Motion:** The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed unanimously.

**Councilor Monroe** presented Resolution No. 01-3026A. A Community Planning Committee Report to the resolution contains information presented by Councilor Monroe and is included in the meeting record.

**Vote on Main Motion as Amended:** The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed unanimously.

**Presiding Officer Bragdon** recessed the Metro Council and convened the Metro Contract Review Board.

## 10. CONTRACT REVIEW BOARD

10.1 **Resolution No. 00-3017A**, For the Purpose of Approving Change Order No. 26 to the Waste Transport Services Contract, Contract No. 900848

**Motion:** **Councilor Monroe** moved to adopt Resolution No. 00-3017A.

**Second:** **Councilor Atherton** seconded the motion.

**Councilor Monroe** asked John Houser, Senior Council Analyst, to present Resolution No. 00-3017A.

**Mr. Houser** presented the resolution. A Solid Waste and Recycling Committee Report to the resolution contains information presented by Mr. Houser and is included in the meeting record.

**Councilor Burkholder** asked if Metro employees paid for their parking, because it was not reflected in the budget impact section of the staff report.

**Mr. Houser** said he believed they did, but he was not certain. He would find out and let Councilor Burkholder know.

**Councilor Atherton** added that the parking policy was not standard throughout the agency. Some employees paid for parking, while at some facilities employees did not.

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

10.2 **Resolution No. 00-3018**, For the Purpose of Declaring Certain Property Surplus and Authorizing the Execution of Metro Contract 922569 for a Lease

**Motion:** **Councilor Atherton** moved to adopt Resolution No. 00-3018.

**Second:** **Councilor Burkholder** seconded the motion.

**Councilor Atherton** presented the resolution. A Solid Waste and Recycling Committee Report to Resolution No. 00-3018 contains information presented by Councilor Atherton and is included in the meeting record.

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

**Presiding Officer Bragdon** recessed the Metro Contract Review Board at 2:22 p.m. He reconvened the Metro Council at 2:30 p.m. for the time certain public hearing.

## 9. RESOLUTIONS (Continued)

9.1 **Resolution No. 01-3025A**, For the Purpose of Adopting the Procedures and Criteria for the Priorities 2002 Metropolitan Transportation Improvement Program (MTIP) Update

**Motion:** **Councilor Monroe** moved to adopt Resolution No. 01-3025A.

**Second:** **Councilor Park** seconded the motion.

**Motion to Amend Main Motion:** **Councilor Monroe** moved to substitute Resolution No. 01-3025A (the ivory copy) for Resolution No. 01-3025A (the purple copy). A copy of both versions is included in the meeting record.

**Councilor Monroe said** Resolution No. 01-3025A, copied on purple paper, was approved by the Community Planning Committee. Resolution No. 01-3025A, copied on ivory paper, included changes recommended by the Joint Policy Advisory Committee (JPACT) last week.

**Second:** **Councilor Hosticka** seconded the motion.

**Councilor Monroe** asked Andy Cotugno, Planning Director, to summarize the differences between the two versions.

**Mr. Cotugno** presented Resolution No. 01-3025A. A copy of the Community Planning Committee Report to the resolution contains information presented by Mr. Cotugno and is included in the meeting record.

**Councilor Hosticka** asked about Resolution No. 01-3025A, item seven under "be it resolved." He asked if it was necessary to state that freeway PE or minor freeway interchange improvements may be submitted. Did something previously state that they could not be submitted?

**Mr. Cotugno** said yes, item three in the same section said they were starting with the "Base Package." The base program referred to projects which were ranked highly two years ago, but not funded. All language concerning additions or substitutions was relative to the Base Package (Exhibit B of the resolution). He said while using the money for freeway interchanges had never been explicitly prohibited, it was a long-standing practice that this type of money was not used for freeway construction.

**Presiding Officer Bragdon** said he supported the motion to substitute because it clarified the link between land use and transportation planning and increased public involvement.

**Councilor Hosticka** said generally, he would prefer Metro's legislation to not state unnecessarily that something was acceptable because it called attention to an action that could have been done regardless. However, since JPACT had reviewed and approved the language, he would not try to change it.

**Councilor Monroe** said the partnership between JPACT and the council was alive and well. JPACT listened carefully to the council's recommendations, accepted the limits the council suggested in item four, and accepted that Metro would use the 2040 Growth Concept as primary criteria in determining which projects would receive funding. He noted that JPACT's recommendation was unanimous, and overturned a contentious decision by the Transportation Policy Alternatives Committee (TPAC) to allow the money to fund construction of freeway lanes. He urged the council to support the motion to substitute.

**Vote on Motion to Amend Main Motion:** The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed unanimously.

**Presiding Officer Bragdon** opened a public hearing on Resolution No. 01-3025B.

**Don Baack, Southwest Neighborhoods Incorporated (SWNI)**, commended the council for requiring local jurisdictions to adopt their project lists by resolution. He said requiring resolutions would force staff and elected officials to better research projects before they were proposed.

**Dick Schouten, Washington County Commissioner**, said he supported the criteria and process goals. He noted that he was speaking for himself, as the Washington County Commission had not discussed the resolution as a board. He noted a wording error in the sixth bullet of Exhibit A, "that complete a logical gap in the system."

**Councilor McLain** proposed removing the word "logical."

**Presiding Officer Bragdon** agreed and asked staff to correct the typographical error. He noted that a public hearing was held during committee last week, during which ten citizens testified. He closed the public hearing.

**Councilor Monroe** asked staff to fix a typographical error on page three of the resolution, under item five: "the list of proposed new ~~or~~ substituted projects. . . ." He said this would be a difficult process, but he believed it would be a successful process, as the local jurisdictions submitted, winnowed, ranked, and finally decided on the projects.

**Councilor Burkholder** clarified that the set of criteria developed at the Community Planning Committee last week was essentially the same as JPACT's criteria, just written in different words.

**Councilor Park** thanked Presiding Officer Bragdon and Councilor Burkholder for working on the amendments brought forward to the Community Planning Committee and JPACT. The amendments helped focus the discussion on coordination of the land use and transportation systems. He noted that the council must comply with the Urban Growth Management Functional Plan (Functional Plan), and said the success of linking transportation planning with the 2040 Growth Concept would depend on how many jurisdictions complied with Metro's Functional Plan.

**Councilor Atherton** asked Mr. Cotugno if regular highway funds could be used to retrofit culverts to improve fish passage in urban streams.

**Mr. Cotugno** said the base program list did not include any culvert blockage projects. However, Metro or any other jurisdiction could apply for funds for culvert projects on major roads, within the \$2 million application limit. He said regular highway funds could also be used to replace culverts.

**Councilor McLain** said it was important for staff to rate each project based on how it stood alone, how it fit into the regional system, and how it contributed to the creation of whole communities.

**Presiding Officer Bragdon** said he supported the motion. Councilor Burkholder was correct that the objectives outlined by the council were similar to the objectives expressed by the region through JPACT. The difference was that the council was now stepping forward and directing money to be spent in support of those expressed objectives.

**Councilor Monroe** closed by saying this would be a very difficult process, but the process worked better under JPACT's system than it did any place else in the county. Because of the Metro and JPACT system, there was a higher level of communication, cooperation and consensus building in this region than anywhere else in the nation. He urged an aye vote.

**Vote on Main  
Motion as  
Amended:**

The vote was 7 aye/ 0 nay/ 0 abstain, and the motion passed unanimously.

**Presiding Officer Bragdon** recessed the Metro Council and reconvened the Metro Contract Review Board.

## **10. CONTRACT REVIEW BOARD (Continued)**

### **10.3 Deliberation on Appeal by A. Noble, Inc. of Executive Officer Rejection of Appeal of Award of Contract for Refuse Handling and Recycling Services at Oregon Zoo**

**Presiding Officer Bragdon** reviewed the appeal process, a copy of which is included in the meeting record.

**Lisa Umscheid, Senior Assistant Counsel**, gave a brief procedural background of the appeal and the Office of General Counsel's recommendations. She said A. Noble, Inc. was one of three firms who submitted bids to the Oregon Zoo for a contract for the collection and disposal of garbage. The Oregon Zoo awarded the contract to Waste Management. A. Noble, Inc. appealed the decision to the Executive Officer, who rejected the appeal. A. Noble, Inc. then wrote a letter dated December 1, 2000, appealing the Executive Officer's decision to the Metro Contract Review Board. A copy of the letter is included in the meeting record. The Office of General Counsel recommended that the Contract Review Board reject the appeal. It was counsel's opinion that the legal issues raised in the appeal lacked legal merit.

**Robert Noble, Vice President, A. Noble, Inc.**, said A. Noble, Inc. was a general contractor that had been bidding on government contracts for the past ten years. He introduced Jeff Keathley, Sales Manager for A. Noble, Inc. and asked Mr. Keathley to present the appeal.

**Mr. Keathley** thanked the council for the opportunity to speak. He reviewed the reasons for their appeal. First, the Oregon Zoo's Request for Proposals (RFP) #35 stated two goals: to reduce the amount of waste

going to landfills, and to reduce cost. A. Noble, Inc.'s bid quoted a savings of over \$69,000 over a three year period, without sacrificing service levels or the level of recycling. Secondly, the RFP stated that the contract would be awarded to an independent contractor. Only A. Noble, Inc. met that qualification. Thirdly, contracts could not be awarded to companies with unsatisfactory Department of Transportation (DOT) records. He brought copies of the DOT records for A. Noble, Inc. and Waste Management for the council to review. He noted that A. Noble, Inc. originally bid on the Oregon Zoo's RFP #23 and was rejected. The zoo said it would modify the bid request to get more bidders, but RFP #35 was identical to RFP #23, and the highest bidder won the contract again. He said the zoo's analysis of their bid contained mathematical errors, and he added that no one contacted A. Noble, Inc. for clarification of the tipping fees they quoted. He said the zoo failed to give consideration to the fact that A. Noble, Inc. was a women-owned, minority business, and a small, emerging company.

**Presiding Officer Bragdon** asked Judy Munro, Oregon Zoo, to respond.

**Judy Munro, Facilities Management Manager, Oregon Zoo,** reviewed the selection process and explained why the contract was awarded to Waste Management. She said the zoo chose to do an RFP instead of a low bid process because of its commitment to resource conservation. RFP #23 did not yield the best outcome, and the bids were higher than the zoo had budgeted. As a result, the zoo modified its request and submitted RFP #35. The second RFP included different percentage allocations and requested more explanation on how the company would partner with the zoo to better conserve resources. The zoo received three proposals, which were reviewed by a team of three people: Ms. Munro, a representative from Metro Regional Environmental Management Department, and an outside expert. Based on the RFP criteria, they agreed that Waste Management submitted the best proposal. She said the tip fees in A. Noble, Inc.'s proposal were not explained during the proposal process. Also, A. Noble, Inc.'s new proposal did not adequately address how the zoo could achieve greater diversion from the waste stream. Waste Management's proposal included creative ideas on how to work with the zoo's Green Team to recover more recyclable materials. Also, Waste Management was able to provide seven day service with very few restrictions, and gave a good description of how they would integrate into the zoo's operations, based on a similar contract they have with Oregon Health Sciences University (OHSU).

**Presiding Officer Bragdon** opened a public hearing. No one came forward to speak with regard to the appeal by A. Noble, Inc. Presiding Officer Bragdon closed the public hearing. He asked Mr. Noble and Mr. Keathley if they wished to rebut Ms. Munro's statement. Following their rebuttal, there would be a question and answer period.

**Mr. Noble** said he had been a general contractor for 12 years, whereas Waste Management had not been a contractor since 1992. The regulations clearly stated that only contractors could apply. He had asked for a definition of "contractor" but no one at Metro or the zoo would answer. He noted that Waste Management could not maintain its DOT safety rating, and asked why no one was concerned about that. He added that Waste Management refused to give A. Noble, Inc. a price to tip at Arlington or Troutdale. He closed by saying A. Noble, Inc. specialized in the satellite system, and passed on the savings to the generator.

**Mr. Keathley** closed by asking for the opportunity to grow their small, emerging business. He noted that he had 18 years of experience in solid waste, combined with Mr. Noble's 13 years of experience in transportation. He thanked the council for the opportunity to speak.

**Presiding Officer Bragdon** said the Contract Review Board had the option to accept the appeal and instruct the Executive Officer to bid the contract again, or deny the appeal.

**Councilor Atherton** asked Ms. Umscheid for a legal definition of "contractor."

**Ms. Umscheid** said Mr. Noble twice raised the issue of how to define "independent contractor." The appellant appeared to believe that "independent contractor" referred to independence versus prior connection to the agency. In fact, the phrase "independent contractor" was a legal phrase, and simply meant that the firm receiving the contract would not become agency employees. She said she did not understand Mr. Noble's question about having a general contractors license. The RFP required that the selected firm must have all necessary permits, and that standard would be applied to Waste Management.

**Councilor Atherton** asked if the material being picked up was compostable.

**Ms. Munro** said that was under a separate contract. RFP #35 addressed the zoo's yard debris, vegetative waste, and waxed cardboard, which yielded compostable material, recyclable material, and waste.

**Councilor Atherton** said if the council's expected adoption of lower fees for compostable waste would change the proposal's ranking.

**Ms. Munro** said no, because vegetative waste was only a small portion of the zoo's recyclable material.

**Councilor Atherton** asked about the savings Mr. Keathley quoted over three years.

**Ms. Munro** said Mr. Keathley was referring to their first proposal. In their second proposal, it was difficult to analyze the exact savings, but it appeared to be only a few thousand dollars a year. The RFP weighted that portion of the proposal 25 percent.

**Councilor McLain** asked in terms of process, if a person reviewing a proposal made a mathematical error, how would the one submitting the proposal seek a correction?

**Ms. Munro** said that the mathematical error was in the first proposal, which was rejected. It was a clerical error that did not affect the outcome. To her knowledge, the second proposal did not include mathematical errors.

**Councilor McLain** said safety was important to a bid process. She asked Ms. Munro if she had looked into Mr. Noble's allegation about Waste Management's safety record.

**Ms. Munro** said they required all parties submitting proposals to be properly licensed and permitted. She assumed that the licensing and permitting process would give due consideration to a firm's safety record. She said Mr. Noble raised this issue during the appeal process. She had never received a complaint or heard concerns about Waste Management's safety record.

**Councilor Park** said Councilor McLain raised an interesting point. Alleging potential safety problems was a serious issue. He asked if A. Noble, Inc. had the proper licenses and permits to handle the zoo's waste.

**Mr. Noble** said yes, A. Noble, Inc. was a licensed hazardous hauler. He said the company met all the criteria at the time of the bid.

**Councilor Park** asked if staff was satisfied that the licenses and permits outlined in the RFP were met at the time the proposals were submitted.



**Ms. Umscheid** said the question of permits was not part of the appeal, therefore legal counsel did not conduct an independent investigation. It was her understanding from reviewing the evaluator's responses that the decision was made on several factors, of which permitting was only one.

**Scott Moss, Assistant Administrative Services Department Director**, said Lee Barrett, Commercial Program Coordinator, City of Portland, did contact his office and indicated that A. Noble, Inc. did not have a license to haul refuse in the City of Portland. Mr. Moss spoke with Mr. Keathley, who said they would resolve that issue. It was not part of the appeal process.

**Councilor Park** said it may not have been a part of the appeal process, but was it not a part of the RFP process? He said based on Mr. Moss's comments, it sounded like A. Noble, Inc. had not completed all the necessary steps before submitting its application. He asked for a correction if he was wrong.

**Councilor McLain** said on the question of safety, she felt any criteria should include safety.

**Ms. Munro** said the zoo valued safety highly, and it would be a strong criteria if they thought there were any potential problems. The hauler did not come on zoo grounds, with the exception of dropping off one dumpster before the zoo opened. The zoo had no safety or service concerns with Waste Management.

**Councilor McLain** said the Metro Council has supported women and minority businesses over the years. She asked legal counsel if all of the Metro Code requirements for encouraging women and minority owned businesses were followed.

**Ms. Umscheid** said there were certain types of contracts in which there were preferences for women owned businesses and emerging business enterprises. This was not one of those contracts.

**Presiding Officer Bragdon** asked Mr. Keathley to elaborate on the \$69,000 savings he quoted.

**Mr. Keathley** said the \$69,000 savings was on RFP #23, and covered three years (the potential life of the contract). It was a one-year contract, with two renewals.

**Presiding Officer Bragdon** asked Ms. Munro if her analysis of their bid corroborated that savings.

**Ms. Munro** said the savings were in the first RFP, which was rejected because of the zoo's budget. Based on rough calculations, it appeared that Waste Management's bid came to \$85,498 for one year, compared to Mr. Noble's bid of \$84,465. The calculations took into consideration the rebates that were offered, based on unit pricing and an estimate of how many drop boxes the zoo would use.

**Presiding Officer Bragdon** asked Mr. Keathley to explain.

**Mr. Keathley** said the \$69,000 savings was in the first process. He felt it was a significant savings, but Executive Officer Burton disagreed. He said they raised their rate in the second proposal for two reasons: 1) they knew who would win the bid again, and 2) they were working on a program for composting, and they wanted to make sure there was enough funding available to successfully pursue the program. They believed Metro and the Oregon Zoo would be excited about an opportunity like that.

**Presiding Officer Bragdon** clarified that for the bid that currently under appeal, the difference in savings was \$1,000 a year.

**Mr. Keathley** said that was correct.

**Presiding Officer Bragdon** asked what Ms. Munro meant in the contract when she used the term "independent contractor." Did she mean licensed building contractor, someone with a particular type of certificate, or simply that they were not an employee of Metro?

**Ms. Munro** said the term "independent contractor" was included in the public contract, not the scope of work. It was standard language and meant the firm would be a contractor, separate from Metro.

**Presiding Officer Bragdon** said in using that definition, Ms. Munro meant that a party that contracted with Metro. By that definition, would Waste Management be an independent contractor?

**Ms. Munro** said that was correct.

**Mr. Keathley** said the actual proposal document did state, "contractors submitting proposals clarify that they are, or are not, an Oregon resident contractor under ORS 279.029."

**gffgg**

**Councilor Park** said Ms. Munro earlier mentioned opportunities for recycling. While cost was important, the citizens of the region and state had also stated that recycling was important. He asked Ms. Munro to elaborate on the recycling opportunities presented by Waste Management.

**Ms. Munro** said the zoo recycled a lot of glass. Waste Management recognized that the zoo could change its procedures and recycle its white glass through a local market, rather than ship it to California. Also, Waste Management offered an opportunity to be part of a trial program for vegetative waste, and suggested ways for the zoo to accomplish that successfully. They also offered to participate in the zoo's Green Team, bringing new ideas for recycling, helping with education, and participating in the zoo's annual Smash, Trash and Recycle Day. These ideas were not articulated in Mr. Noble's proposal.

**Councilor McLain** said when a bid was appealed, it was important to review the bid process and proposal process. Based on what she heard today, the processes could be improved, particularly with regard to safety. She said an appeal meant that part of the process was not clear and did not seem equitable, even if it was. She asked Mr. Moss and Ms. Munro to review the processes and report to council on how they could be improved. She said at this time, the criteria was very flexible, and she believed the zoo had fulfilled the process. She could not go against the Executive Officer's decision that the process was completed and that the award was appropriate. She thanked Mr. Noble and Mr. Keathley for appearing before the council.

**Councilor Atherton** asked Mr. Noble about his statement that Waste Management would not accept his hauling to their facilities in Arlington.

**Mr. Noble** said that was correct, and had happened numerous times.

**Councilor Atherton** asked legal counsel if this was a legal issue Metro should address.

**Marvin Fjordbeck, Senior Assistant Counsel**, said he had not heard about this before today, but he was not aware of any legal issue. He did not know to which facility A. Noble, Inc. sought to dispose of its items, but Waste Management was free, as a general rule, to contract with whom it pleased.

**Councilor Atherton** said if Waste Management was operating facilities licensed by Metro, they were required to accept all haulers bringing legitimate loads.

**Mr. Fjordbeck** said that was true, but Metro did not license the Arlington facility. One of the items before the council later that month would be the regional transfer stations, and one of the requirements of those regional transfer stations would be that they accept all comers. However, that had not been the requirement thus far for the local transfer stations.

**Presiding Officer Bragdon** said it was also beyond the scope of the appeal before the Contract Review Board. Any dispute between Waste Management and A. Noble, Inc. vis-a-vis hauling and access to facilities did not directly relate to the contract between Metro and whoever hauls from the zoo. It was a valid issue that may be worth pursuing in another venue, but it was not germane to the case before them.

**Mr. Fjordbeck** said that was correct.

**Councilor Burkholder** said the zoo was looking for more than a hauling contract; they were looking for help reducing in-house waste. A. Noble, Inc. submitted a good hauling contract at a good price, but the zoo wanted something different. He agreed with Councilor McLain that the process should be reviewed to make sure that the zoo's goals are clearly presented, so that this type of confusion does not happen in the future. He said he would support the Executive Officer's denial of the appeal.

**Motion:**                      **Councilor McLain** moved to reject the appeal.

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

**Councilor McLain** asked A. Noble, Inc. to provide a list of suggestions on how to improve Metro's requests for proposals.

**Presiding Officer Bragdon** clarified that the motion was to reject the appeal and would uphold the Executive Officer's action.

**Councilor Atherton** asked how long it would take the zoo to restructure and reissue the RFP to address the issues raised today, such as safety and the issue of "independent contractor."

**Ms. Munro** said this was the second time the zoo had requested proposals; the first time was in June 2000. With regard to the term "contractor," unless the Office of General Counsel was willing to change the public contract, the zoo could not accommodate Mr. Keathley's concern. She understood that the permitting process through the transport addressed the safety concerns.

**Vote:**                         The vote was 6 aye/ 0 nay/ 0 abstain. Councilor Hosticka was absent.  
The motion passed.

**Presiding Officer Bragdon** said the appeal was rejected, but they appreciated Mr. Noble and Mr. Keathley's time. He hoped the council's discussions would help the process work better next time. He asked Mr. Noble to follow up with Ms. Munro or Ms. Umscheid about his concerns over Waste Management's safety record after council adjourned.

**Presiding Officer Bragdon** adjourned the Metro Council Review Board and reconvened the Metro Council.

## 11. COUNCILOR COMMUNICATIONS

**Councilor McLain** said she and John Donovan, Council Public Outreach Coordinator, drafted an outline for committee reports, as requested by Presiding Officer Bragdon. She would give each councilor a copy.

### ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Bragdon adjourned the meeting at 4:08 p.m.

Prepared by,

Chris Billington  
Clerk of the Council

### ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JANUARY 25, 2001

| <b>DOCUMENT NUMBER</b> | <b>DOCUMENT DATE</b> | <b>DOCUMENT DESCRIPTION</b>   | <b>AGENDA ITEM</b>       |
|------------------------|----------------------|---|--------------------------|
| 012501c-01             | 1/24/2001            | Solid Waste and Recycling Committee Report, Resolution No. 01-3027  | Res. No. 01-3027         |
| 012501c-02             | 1/25/2001            | Resolution No. 01-3026A   | Res. No. 01-3026A        |
| 012501c-03             | 1/24/2001            | Community Planning Committee Report, Resolution No. 01-3026A  | Res. No. 01-3026A        |
| 012501c-04             | 1/24/2001            | Solid Waste and Recycling Committee Report, Resolution No. 00-3017A   | Res. No. 00-3017A        |
| 012501c-05             | 1/24/2001            | Solid Waste and Recycling Committee Report, Resolution No. 00-3018  | Res. No. 00-3018         |
| 012501c-06             | 1/25/2001            | Resolution No. 01-3025A (ivory copy)  | Res. No. 01-3025B        |
| 012501c-07             | 1/12/2001            | Resolution No. 01-3025A (purple copy)   | Res. No. 01-3025B        |
| 012501c-08             | 1/24/2001            | Community Planning Committee Report, Resolution No. 00-3025A  | Res. No. 01-3025B        |
| 012501c-09             | 1/23/2001            | A. Noble, Inc. Appeal Process   | Appeal by A. Noble, Inc. |
| 012501c-10             | 1/23/2001            | Memo to David Bragdon, et al. From John Houser RE: Contract Appeal by A. Noble, Inc.  | Appeal by A. Noble, Inc. |
| 012501c-11             | 12/1/2000            | Letter to Mike Burton from Robert Noble, A. Noble, Inc. RE: Appeal by A. Noble Incorporated of Contract Award RFP# OOP-35-ZOO Re: Appeal response to Metro letter dated November 27, 2000 | Appeal by A. Noble, Inc. |