



Agenda

--- REGULAR COUNCIL MEETING

METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201 503 221-1646
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: DECEMBER 20, 1983

Day: TUESDAY

Time: 7:30 P.M.

Place: COUNCIL CHAMBER

Approx.
Time

Presented By

7:30

CALL TO ORDER
ROLL CALL

1. Introductions.
2. Councilor Communications.
3. Executive Officer Communications.
4. Written Communications to Council on Non-Agenda Items.
5. Citizen Communications to Council on Non-Agenda Items.
6. CONSENT AGENDA

7:55

- 6.1 Minutes of the meetings of November 3 and November 22, 1983.
- 6.2 Contract award to construct a truck wash facility, to service commercial haulers, at the Clackamas Transfer & Recycling Center.

Kirkpatrick/
Winn

7. ORDINANCES

8:00

- 7.1 Ordinance No. 83-165, for the purpose of adopting a Disadvantaged Business Program, and Resolution No. 83-435, for the purpose of approving FY 1983-84 goals for utilization of Disadvantaged and Women-Owned Businesses. (Second Reading)

Kirkpatrick/
Hansen/Carlson

8:10

- 7.2 Ordinance No. 83-166, for the purpose of establishing the Metro Equal Employment Opportunity and Affirmative Action Policies, and Resolution No. 83-436, for the purpose of adopting the goals and objectives in the Affirmative Action Plan as the approved goals for fiscal year 1983-84. (Second Reading)

Kirkpatrick/
Sims

8:20

- 7.3 Ordinance No. 83-167, relating to the Solid Waste Rate Review Committee structure; amending Metro Code Section 5.01.170. (Second Reading)

Hansen/Banzer

COUNCIL AGENDA
December 20, 1983
Page Two

Approx.
Time

Presented By

8. RESOLUTIONS

- | | | | |
|------|-----|---|---------------|
| 8:25 | 8.1 | <u>Consideration of Resolution No. 83-439, for the purpose of declaring Metro's intent to proceed to implement a transfer station in Washington County.</u> | Hansen/Durig |
| 9:00 | 8.2 | <u>Consideration of Resolution No. ⁸⁴83-440, for the purpose of recommending approval of the City of Tigard's request for acknowledgement of compliance with LCDC goals.</u> | Kafoury/Brown |

9. OTHER BUSINESS

- | | | | |
|-------|-----|--|------------------|
| 9:10 | 9.1 | Consideration of a Master Plan for the Washington Park Zoo. | Hansen/Iliff |
| 9:40 | 9.2 | Consideration of Solid Waste Rate Review Committee member appointments. | Hansen/Stuhr |
| 9:50 | 9.3 | FY 1984-85 Budget Schedule and Process. | Kirkpatrick/Sims |
| 10:00 | 9.4 | Consideration of "on-the-job" injury coverage for Metro Councilors. | Kirkpatrick/Sims |
| 10:10 | 9.5 | Ratification of appointments to Council Task Force on Metro/Tri-Met. (Tabled December 1, 1983) | Banzer |

10.20 10. COMMITTEE REPORTS

10:30 ADJOURN



Memo

METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201 503 221-1646
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: 12/19/83

To: Everlee

From: Bonnie

Regarding: 12/19/83 SWPAC Meeting

Committee Member Robert Harris recommended the following:

In the absence of a quorum, it is the consensus of SWPAC members present today, that the Committee recommend ~~to that the~~ the Metro Council ~~that SWPAC should reject item #1 under~~ the proposal for Metro's ownership of a transfer station in Washington County and recommends that Metro proceed with a competitive process which will provide private ownership and operation of a Washington County Transfer Center with adequate regulatory controls and protection of public health, safety and interests.

Present:

Shirley Coffin, Vice Chairman
Robert Harris
Paul Johnson
Gary Newbore
Dave Phillips
Mike Sandberg
Edward Sparks

Amendment to transfer station resolution (new #5)

It is the intent of the Metro Council that the full service contract for the Washington County Transfer Station shall be for a period of at least 5 years and shall be renewed unless the Council determines that the proposed renewal does not meet the criteria set forth in the contract. The Council may attach conditions or limitations to the renewed contract.

Presented at 12-20-83 Council
meeting.

DJB INC. 11515 S.W. 91ST AVENUE PORTLAND, OREGON 97223 U.S.A. (503) 639-2900



Dec. 20, 1983 meeting of Metropolitan Service District Council

Mr. Chairman
Madam Chairperson and Members of the Council

My name is Geraldine L. Ball and I am representing DJB, Inc. and myself, G. L. Ball,

I want to read into the record a copy of a letter, with map attached, which was received by our attorney, Fred Anderson, on June 30, 1982 from Jack D. Sollis, Assistant Attorney General and Attorney-In-Charge.

The letter is dated June 29, 1982 and reads as follows:

Mr. Fred Anderson, Attorney at Law - P. O. Box 23006 - Tigard, Oregon 97223

RE: Haines Street Interchange - DJB, Inc. and G. L. Ball - Washington
County Circuit Court Case # 42-399 - #42-402

Dear Fred:

I really don't understand what your concern is about these cases in as much as they are all completed and the final judgment is entered. I am sending you for your information a copy of the right-of-way map that was used in the acquisition of the properties and that is still the right-of-way that has been acquired by everybody involved and is the right-of-way that will be used by the Highway Division to construct the project. If this is any different than the right-of-way map that you feel an agreement was made on, please let me know.

Very truly yours,

(Signed Jack D. Sollis)
Jack D. Sollis
Assistant Attorney General
and Attorney-In-Charge

JLS:ss
Enclosure
cc: J. B. Boyd

We call your attention to the map as this is the location of the Interchange as proposed on the West Side of I-5 at the time of the Public Hearing and is the location on which the United States Government made their appropriation for the N. Tigard-S. Tigard Interchange.

Please make the letter from Mr. Jack D. Sollis, along with copy of map as attached by him, part of the Metropolitan Service District record.

We want each member of the Council to have a copy of the letter and map so am handing those of you present a copy and ask that a copy be mailed to those not present. Also I have copies for the Staff present. It is important that you all have this information in case someone suggests moving the location of the Interchange. Our attorney advises this cannot be done without a new Public Hearing and starting the entire process over again.

Thank you.



DEPARTMENT OF JUSTICE

HIGHWAY LEGAL
113 Transportation Building
Salem, Oregon 97310
Telephone: (503) 378-4259

June 29, 1982

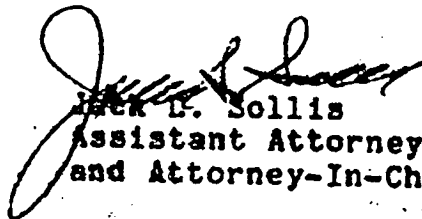
Mr. Fred Anderson
Attorney at Law
P. O. Box 23006
Tigard, Oregon 97223

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DJB, Inc. and G. L. Ball
Washington County Circuit Court Case #42-399
#42-402

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Very truly yours,



Jack L. Sollis
Assistant Attorney General
and Attorney-In-Charge

JLS:ss

Enclosure

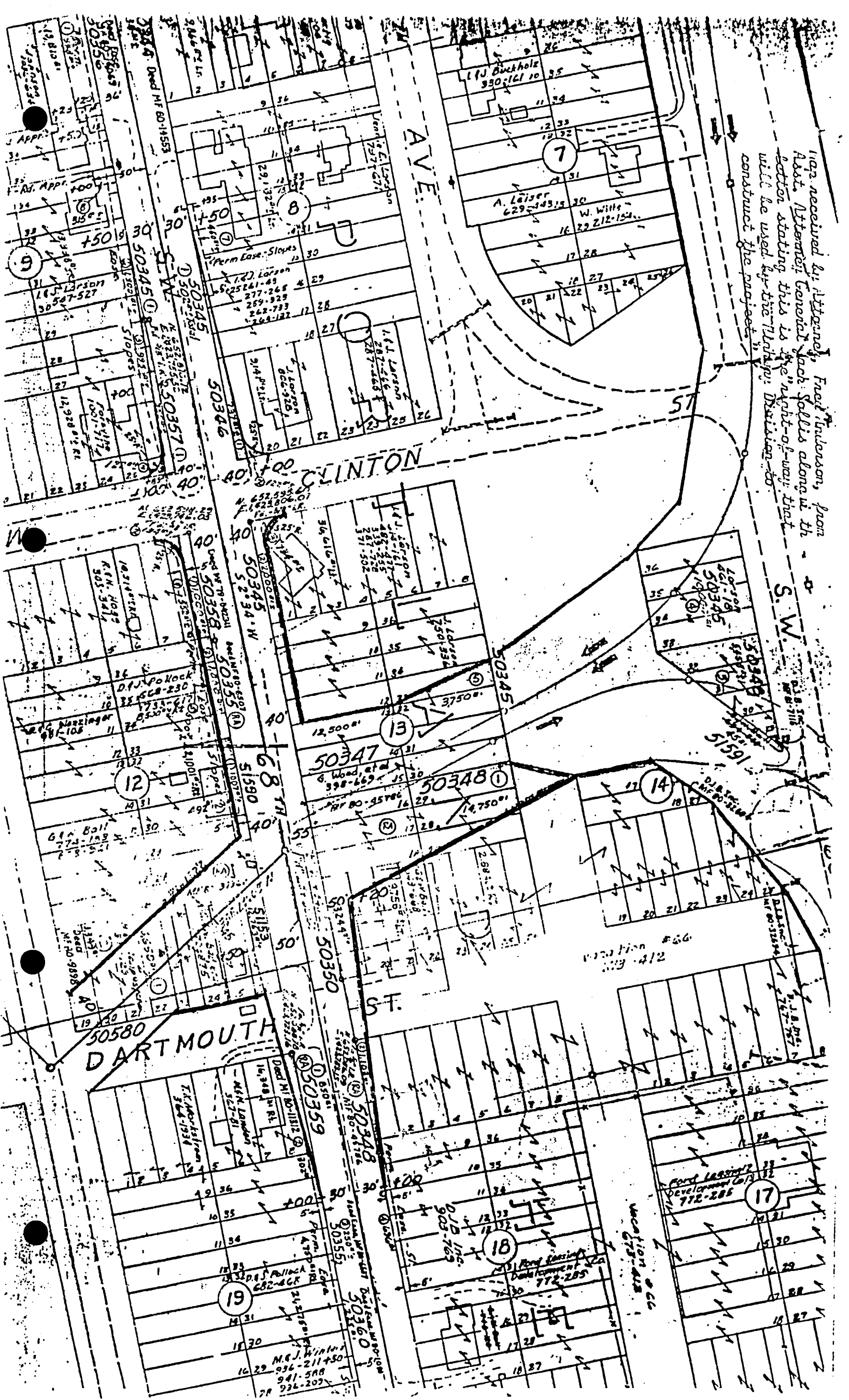
cc: J. B. Boyd

RECEIVED JUN 30 1982

S. W.



map received by letter, Fred Anderson, from
Asst. Attorney General Jack Sallis along with the
action stating this is the right-of-way that
will be used by the Highway Division to
construct the project.



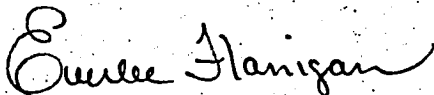
Council Minutes
November 3, 1983
Page 11

Councilor Hansen noted that the Services Committee meeting would be held on November 8.

Councilor Banzer noted that the Zoo Penguinarian would open on November 4.

There being no further business, the meeting adjourned at 9:50 p.m.

Respectfully submitted,



Everlee Flanigan
Clerk of the Council

0350C/313

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

REGULAR MEETING
NOVEMBER 22, 1983

Councilors Present: Councilors Deines, Etlinger, Hansen, Kelley, Kirkpatrick, Oleson, Van Bergen, and Waker.

Councilors Absent: Councilors Banzer, Bonner, Kafoury, and Williamson.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Donald Carlson, Andrew Jordan, Ray Barker, Jennifer Sims, Andy Cotugno, Dick Karnuth, Dan Durig, Norm Wietting, Ed Stuhr, Mel Huie, Phil Fell, Sue Klobertanz, and Dennis Mulvihill.

Testifiers: Ernestine Francisco, Mayor Jack Nelson, Ron Anderson, Gary Newbore, Robert Breihof, and John Charles.

A regular meeting of the Council of the Metropolitan Service District was called to order at 7:35 p.m. by Deputy Presiding Officer Oleson.

1. Introductions.

There were no introductions at this time.

2. Councilor Communications.

Deputy Presiding Officer Oleson announced that the Council's second meeting in December would be held on Tuesday, December 20 instead of Thursday, December 22 because a majority of the Councilors had indicated a preference to hold the meeting earlier in the week given the Christmas holiday.

He also announced that the Presiding Officer had appointed Councilor Kirkpatrick, as member, and Councilor Williamson, as alternate, to the Southwest Corridor Transportation Study Policy Committee.

3. Executive Officer Communications.

There were no Executive Officer Communications.

4. Written Communications to Council on Non-Agenda Items.

There were no written communications to Council on non-agenda items.

5. Citizen Communications to Council on Non-Agenda Items.

Ms. Ernestine Francisco, 11727 S.e. Brookside, Portland, representing the Columbia River Region Inter-League Organization (CRRIO) League of Women Voters, presented and read into the record a letter regarding their observations and views on the conduct of Metro Council meetings (a copy of the letter is attached to the agenda of the meeting).

6.1 Consent Agenda.

The Consent Agenda consisted of the following items:

- 6.1 Minutes of the meetings of September 29 (regular), October 6 (special), October 6 (regular), and October 27 (regular).
- 6.2 Intergovernmental Project Review Report.
- 6.3 Resolution No. 83-434, for the purpose of amending the Transportation Improvement Program (TIP) to incorporate a series of projects sponsored by the Oregon Department of Transportation.
- 6.4 Resolution No. 83-438, confirming nominations to the Tri-Met Special Needs Transportation Committee and approving Special Needs Planning Requirements.
- 6.5 Resolution No. 83-431, adopting guidelines for the expenditure of Council per diem, expense and general materials and services accounts.
- 6.6 Intergovernmental Agreement with Oregon City regarding Clackamas Transfer and Recycling Center (CTRC).
- 6.7 Request for assistance in funding East Washington County Urban Services Study.

Councilor Van Bergen said he had submitted a written request to remove agenda item 6.6 from the Consent Agenda.

Motion: Councilor Kirkpatrick moved adoption of the Consent Agenda, excluding agenda item 6.6. Councilor Waker seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Deines, Etlinger, Hansen, Kirkpatrick, Oleson, Van Bergen, and Waker.

Nays: None.

Absent: Councilors Banzer, Bonner, Kafoury, and Williamson.

Abstention: Councilor Kelley.

Motion carried; Consent Agenda adopted.

6.6 Intergovernmental Agreement with Oregon City regarding Clackamas Transfer and Recycling Center (CTRC).

Motion: Councilor Hansen moved approval of the Intergovernmental Agreement. Councilor Kirkpatrick seconded the motion.

Councilor Van Bergen indicated he was not supportive of the agreement.

Vote: The vote on the motion resulted in:

Ayes: Councilors Etlinger, Hansen, Kelley, Kirkpatrick, Oleson, and Waker.

Nays: Councilors Deines and Van Bergen.

Absent: Councilors Banzer, Bonner, Kafoury, and Williamson.

Motion carried.

Deputy Presiding Officer Oleson introduced Mayor Jack Nelson who was present for agenda item 6.7. Beaverton Mayor Jack Nelson expressed his appreciation to the Council for their assistance in partially funding the East Washington County Urban Services Study. He also read a list of jurisdictions and businesses which had joined to cooperatively finance the study.

7.1 Consideration of Ordinance No. 83-165 for the purpose of adopting a Disadvantaged Business Program; and Resolution No. 83-435, for the purpose of approving FY 1983-84 Goals for Utilization of Disadvantaged and Women-Owned Businesses. (First Reading)

The ordinance was read a first time, by title only.

Councilor Hansen, chair of the MBE Subcommittee, reported on the Subcommittee's work. He said they had met approximately six times and that the product that was formulated was a fair, workable and easily understood document.

Councilor Kirkpatrick reported that no one had testified at the Council Coordinating Committee meeting on November 14 and that the Committee was unanimously recommending adoption of the ordinance. She noted that the Committee would conduct a work session on the ordinance at their December meeting to make any modifications in response to questions or issues raised by Council members.

Donald Carlson, Deputy Executive Officer, reviewed with the Council the essential features of the ordinance, as contained in the agenda of the meeting. Sue Klobertanz, Management Analyst, reviewed the resolution which set forth the FY 83-84 goals for use of disadvantaged and women-owned businesses.

Councilor Van Bergen asked if the kinds of contracts the DBP included such items as short-term securities or depository agreements. In addition, he was concerned about Section 7 of the ordinance which addressed minority-owned banks. He said the DPB program may be in conflict with the adopted investment policies of Metro. Ms. Klobertanz responded that anytime Metro would make a commitment for an expenditure, it would come under the program. Mr. Carlson said if changes or clarifications were required because of a conflict, staff would bring them to the Council Coordinating Committee work session in December.

Councilor Waker questioned whether Section 12(h) would prohibit Metro from accepting a low bid if the contractor did not comply with the DBP requirements, and the enforceability of the forfeiture of the bid bond if a contractor did not comply with the DBP requirements. Mr. Jordan responded that Metro could reject a bid if it did not comply and that the bid bond requirement was the only lever Metro had to ensure that a bidder carried through with the DBP requirements.

Councilor Waker commented that he would prefer that the first policy statement (Section 2(a)(1)) state in effect that Metro was expressing "its strong commitment to provide equal opportunity to disadvantaged and women-owned businesses in contracting". He said the way it read they would be going beyond what he believed was a prudent course. He also said it didn't make sense and was not efficient to include in Section 11(b) language which required a minority prime contractor to subcontract a percentage of the contract work to one or more disadvantaged business contractors.

Ms. Klobertanz said the philosophy behind Section 11(b) was that if a minority prime contractor was bidding a job over \$50,000, he really wasn't a disadvantaged business any longer and should meet the same requirements as any other non-minority prime contractor.

Councilor Waker then commented on Section 7 which addressed the use of minority-owned banks. He said there was only one way to make the "greatest feasible use" of a minority-owned bank and that was exclusive use of their services. He said he believed the intent was to give minority-owned banks an equal opportunity for use.

Councilor Deines said he believed that the low bidder should have to submit evidence of goal compliance or good faith effort at the time the bid was submitted (Section 12(h)) instead of being able to submit the proof no later than five days after the bid submittal date.

Mr. Carlson said that the contractors who sat on the MBE Subcommittee had requested the five day "window" because of time constraints in getting all the information gathered.

Councilor Deines requested that alternative language be presented which would require all DBP information to be submitted with the bid and if not submitted, the bid would not be considered.

Motion: Councilor Kirkpatrick moved adoption of Ordinance No. 83-165. Councilor Deines seconded the motion.

Deputy Presiding Officer Oleson then called for public testimony.

Mr. Ron Anderson, 1529 S.w. 12th Avenue, 97201, stated he had served as a member of the MBE Subcommittee. He complimented

the staff and Councilor Hansen for the work they had done. He said he believed the document was a workable one and supported the Council's efforts to adopt a plan. In response to Councilor Deines' comments regarding the five-day "window", he said contractors were overwhelmed by the amount of documentation which must be submitted with their bids and needed the extra time to comply with requirements.

Mr. Barker, Council Assistant, asked Mr. Anderson what the differences were between the City of Portland's plan and the proposed Metro plan. Mr. Anderson responded that the major difference between the plans was that Metro's plan would use the City of Portland's certification list of MBE's as well as other DOT certifying agencies. He said by in large Metro's plan was a mirror of Portland's plan.

Councilor Etlinger asked if the City of Portland and Multnomah County had the five-day "window" for submission of MBE goal compliance documentation in their plans. Mr. Anderson responded that Multnomah County did have the "window" and Ms. Klobertanz said the City of Portland also had the five-day language.

The ordinance was then passed to second reading on December 20, 1983.

7.2 Consideration of Ordinance No. 83-166, for the purpose of establishing the Metro Equal Employment Opportunity and Affirmative Action Policies; and Resolution No. 83-436, for the purpose of adopting the Goals and Objectives in the Affirmative Action Plan as the approved goals for FY 1983-84. (First Reading)

Councilor Kirkpatrick reported that the Council Coordinating Committee unanimously recommended Council adoption of Ordinance No. 83-166. She said the Committee would hold a work session on the ordinance at its December 12 meeting and the ordinance would come back to the Council for second reading on December 20.

Motion: Councilor Kirkpatrick moved adoption of Ordinance No. 83-166. Councilor Kelley seconded the motion.

Ms. Jennifer Sims, Budget & Administrative Services Manager, presented the staff report, as contained in the agenda of the meeting.

Deputy Presiding Officer Oleson asked Mr. Karnuth how the complaint system worked. Mr. Karnuth, Personnel Assistant, explained the two pronged system for discrimination complaints--for applicants for positions at Metro; and for employees of Metro.

The ordinance was then read a first time, by title only.

The ordinance was passed to second reading on December 20, 1983.

7.3 Consideration of Ordinance No. 83-163, relating to Solid Waste Disposal Charges and User Fees; amending Metro Code Sections 5.02.040, 5.02.050 and 5.01.050; and declaring an emergency. (Read Twice).

Deputy Presiding Officer Oleson noted there were three motions on the floor:

Motion 1: To adopt the ordinance (Hansen/Williamson)

Motion 2: To amend the main motion to delete the last two sentences from Section 1(b) and Section 2(d). (Deines and Etlinger)

Motion 3: To substitute the motion by Councilors Deines and Etlinger to amend the last two sentences in Section 1(b) and Section 2 (d) to read as follows: "The minimum charge for private trips shall be waived for any person delivering one-half cubic yard or more of waste delivered at the extra yardage rate", and to change the base disposal rate from \$9.64 to \$9.70. (Hansen/Kirkpatrick)

Councilor Hansen said the language in Sections 1 and 2 would encourage recycling by offering a reduced rate to those bringing recycled materials to St. Johns or CTRC along with a small amount of material to be landfilled. Councilor Deines argued that the language should not be included. He said public funds should not be used to induce people to bring recyclables to Metro landfills. He said they would not ask a private landfill operator to reduce his rates for that purpose without allowing him to make up the cost somewhere else. Councilor Etlinger responded by saying that just as it was sometimes needed to spend public funds to encourage minority businesses, it was also necessary at times to use public funds to encourage people to do something in the interest of conserving resources.

Deputy Presiding Officer Oleson then asked for public testimony.

Mr. Gary Newbore, representing Killingsworth Fast Disposal, thanked the Council for delaying the matter so Killingsworth Fast Disposal could meet with the staff regarding their concerns. He said in looking at the issue they had found that Metro has many policies--some of which conflicted, some of which have the effect of raising the cost of disposing garbage faster than inflation, and some which discourage private investment. He said policies took time to change and there wasn't enough time to effect those changes before the rates needed to be adopted by the Council. He suggested that the present 1983 rate of \$13.48 a ton at St. Johns remain the same for 1984, and that staff be directed to look at, in the next two to three months, a policy for flow diversion out of St. Johns, and to look at the costs of hauling from CTRC to St. Johns. He also asked that policies which were adverse to private capital be looked at.

Dan Durig, Solid Waste Director, said that staff was in agreement for the most part with Mr. Newbore's comments and were recommending that the base disposal rate at St. Johns and CTRC be raised from the proposed \$9.70 per ton to \$9.80 per ton.

Deputy Presiding Officer Oleson asked Councilor Hansen if he would accept the recommendation as a friendly amendment to his substitute motion. Councilor Hansen responded that he would not because he believed the raise would create an artificial rate at St. Johns.

Vote: The vote on the substitute motion to amend the last two sentences in Sections 1(b) and 2(d) and change the base disposal rate from \$9.64 to \$9.70, resulted in:

Ayes: Councilors Etlinger, Hansen, Kirkpatrick, Oleson, and Van Bergen.

Nays: Councilors Deines, Kelley, and Waker.

Absent: Councilors Banzer, Bonner, Kafoury, and Williamson.

Motion to substitute carried.

Motion to amend: Councilor Etlinger moved to amend the main motion, as previously amended, to change the base disposal rate at CTRC and St. Johns from \$9.70 per ton to \$9.80 per ton. Councilor Kelley seconded the motion.

Mr. Durig commented that there was a need to prolong the life of St. Johns and that diverting material from St. Johns was one way to do that. He said that if the rates at Killingsworth Fast Disposal and St. Johns were comparable, waste would go to the closest landfill available to the hauler, thus keeping waste from St. Johns. He also said that because of the contact with Genstar to operate St. Johns, contract costs rose with increased flow.

Vote: The vote on the motion to amend the main motion to change the base disposal rate from \$9.70 to \$9.80 resulted in:

Ayes: Councilors Etlinger, Kelley, Kirkpatrick, Oleson, Van Bergen, and Waker.

Nays: Councilors Deines and Hansen.

Absent: Councilors Banzer, Bonner, Kafoury, and Williamson.

Motion to amend carried.

Councilor Deines inquired when the contract with Genstar would be renewed. Mr. Durig responded that it would be negotiated in January 1984.

Motion: Councilor Deines moved to amend the main motion to lower the convenience charge from \$2.25 to \$2.00 at CTRC. Councilor Kirkpatrick seconded the motion.

Councilor Deines commented that it did not make sense to set the 1984 rates at this time when it was unknown what the contractor was going to charge until January. He also said it was unknown how much waste was being transferred from CTRC to St. Johns and whether the convenience charge was serving the purpose of diverting flow. He asked that flow figures from CTRC to St. Johns be provided.

Councilor Kelley moved to table the amendment until the Services Committee had had an opportunity to review it. Councilor Kirkpatrick seconded the motion. General Counsel Jordan advised that the effect of tabling the amendment would be to table the entire ordinance. Councilor Kelley then withdrew her motion and Councilor Kirkpatrick her second.

Vote: The vote on the motion to amend the main motion to reduce the convenience charge at CTRC resulted in:

Ayes: Councilors Deines.

Nays: Councilors Etlinger, Hansen, Kelley, Kirkpatrick, Oleson, Van Bergen, and Waker.

Absent: Councilors Banzer, Bonner, Kafoury, and Williamson.

Motion to amend failed.

Deputy Presiding Officer Oleson then called for the question on the main motion, as amended.

Vote: The vote on the main motion, as amended, to adopt Ordinance No. 83-163 resulted in:

Ayes: Councilors Etlinger, Kelley, Kirkpatrick, Oleson, and Van Bergen.

Nays: Councilors Deines, Hansen, and Waker.

Absent: Councilors Banzer, Bonner, Kafoury, and Williamson.

Motion failed for lack of a majority.

Councilor Kirkpatrick put on notice a motion for reconsideration of the main motion as amended, at the next regular meeting of the Council, December 1, 1983.

7.4 Consideration of Ordinance No. 83-167, relating to the Solid Waste Rate Review Committee structure, amending Metro Code Section 5.01.170. (First Reading)

Councilor Hansen reported that during the Services Committee consideration of the appointments to the Rate Review Committee, it was recommended that an increase in the number of members representing the public be made. He said an increase would result in a committee made up of three public members and three members of professions relevant to the Committee's activities.

Motion: Councilor Hansen moved adoption of Ordinance No. 83-167. Councilor Kelley seconded the motion.

Councilors Kirkpatrick and Deines said that they were opposed to increasing the membership. Councilor Kirkpatrick said it was unwise to have a committee made up of an equal number of members. Councilor Deines said he did not believe the committee was worth having and that the roles of SWPAC and the Rate Review Committee were unclear.

The ordinance was then read a first time, by title only.

Motion: Councilor Deines moved to table Ordinance No. 83-167. Councilor Kirkpatrick seconded the motion.

Vote: The vote on the motion to table resulted in:

Ayes: Councilors Deines, Kirkpatrick, Van Bergen, and Waker.

Nays: Councilors Etlinger, Hansen, Kelley, and Oleson.

Absent: Councilors Banzer, Bonner, Kafoury, and Williamson.

Tie Vote, Motion to Table failed.

The ordinance was passed to second reading on December 20, 1983.

7.5 Consideration of Resolution No. 83-437, for the purpose of diverting newsprint from Metro Solid Waste Facilities.

Councilor Hansen reported that the Services Committee recommended adoption of the Resolution.

Motion: Councilor Etlinger moved adoption of Resolution No. 83-437, with the following amendments:

- 1) Substitute Resolve No. 2 with the following language: "A newsprint recovery program shall become a component of the Recycling System Plan".
- 2) Delete Resolve No. 3 and renumber Resolve No. 4 as Resolve No. 3.

Councilor Hansen seconded the motion.

Councilor Van Bergen said he could not vote for a policy that did not tie the staff to it.

Councilor Hansen said when the resolution was first proposed to the Recycling Subcommittee, it was presented as a resolution which would ban newsprint at Metro's disposal sites. He said the hue and cry received from all quarters was that no one wanted a strong statement. As a result, the amended resolution was the strongest statement they could make and be able to do anything. He said it was a small step toward encouraging recycling.

Councilor Deines said the resolution had no teeth in it and questioned whether it was the proper vehicle. He said he would support it and although there wasn't much the Solid Waste Department was going to do to enforce it, he did think the Recycling Subcommittee could do something by emphasizing that newspaper was easily recyclable.

Councilor Kirkpatrick said she would oppose the resolution because she believed it should be considered as part of a complete recycling package.

Deputy Presiding Officer Oleson then asked for public testimony.

Mr. Robert Breihof, Jr., PRROS Recyclers, 1246 S.E. 49th Avenue, 97215, testified in support of the resolution as proposed in the agenda, not as it was amended by Councilor Etlinger.

Vote: The vote on the motion to adopt Resolution No. 83-437, as amended, resulted in:

Ayes: Councilors Deines, Etlinger, Hansen, Kelley, and Oleson.

Nays: Councilors Kirkpatrick, Van Bergen, and Waker.

Absent: Councilors Banzer, Bonner, Kafoury, and Williamson.

Motion carried, Resolution adopted.

8.1 Consideration of Solid Waste Rate Review Committee appointments.

Councilor Hansen reported that the Services Committee recommended that the following people be appointed to the Rate Review Committee: David T. Chen, George Hubel, Alexis Dow, and Douglas K. Plambeck.

Mr. Durig presented the staff report which outlined the process for the selection of the candidates, as contained in the agenda of the meeting.

Motion: Councilor Hansen moved appointment of David Chen, George Hubel, Alexis Dow and Douglas Plambeck to the Rate Review Committee. Councilor Kelley seconded.

Motion to Substitute: Councilor Deines moved to substitute the main motion with a motion not to appoint anyone to the Rate Review Committee. Councilor Kirkpatrick seconded the motion.

Councilor Deines said he would also like to see the Rate Review Committee removed as an advisory committee to the Metropolitan Service District and that the responsibilities of the Rate Review Committee be turned over to SWPAC. General Counsel Jordan advised that to do that it would take an ordinance to amend the Code.

Deputy Presiding Officer asked Mr. Durig if he had any comment on the substitute motion.

Mr. Durig responded that perhaps the two committees could be merged, retitled, a redefined, and a broad enough representation made to satisfy the Council's needs as far as policy advice. He said the Committee shouldn't be eliminated until a review had been conducted.

Councilor Kirkpatrick said she seconded the motion with the intent that if it carried, the Services Committee would take a look at the merits and demerits of the committee.

Mr. Gustafson said he supported a review of the role of the Rate Review Committee and SWPAC but cautioned that the Services Committee had other major issues before it and should dispose of those before they took on a review of the committee.

Councilor Hansen said he thought it was a mistake to start a major discussion on the issue at the Council meeting. He said the problems with the committee should have been raised at the Services Committee, and indicated he would vote against the substitute motion.

Councilor Kelley said she agreed with Councilor Hansen's remarks.

Vote: The vote on the motion to substitute resulted in:

Ayes: Councilors Deines, Etlinger, Kirkpatrick,
Van Bergen, and Waker.

Nays: Councilors Hansen, Kelley, and Oleson.

Absent: Councilors Banzer, Bonner, Kafoury, and
Williamson.

Motion to substitute carried.

8.2 Consideration of Yard Debris Demonstration Grant Report.

Dennis Mulvihill, Waste Reduction Manager, summarized the staff report regarding the Yard Debris Demonstration Grant, as contained in the agenda of the meeting.

He noted that on November 18, the EQC had directed their staff to develop draft rules to be presented in January that would implement a burning ban. He suggested the action might represent the EQC's feelings about the yard debris report and whether or not it provided sufficient information for them to defend the legislative-imposed criteria of whether or not reasonable alternatives exist.

Deputy Presiding Officer Oleson asked if DEQ was jumping the gun by moving ahead with the burning ban.

Mr. Mulvihill said that DEQ had decided there was enough information in the report for them to proceed with the ban.

Mr. Gustafson said that it was a DEQ judgement as to whether a reasonable alternative had been found to burning. He said burning was not a key issue to Metro but of greater concern was the amount of yard debris going into the landfill. He said the Solid Waste System Planning effort should identify yard debris as a significant recyclable material to be addressed. He said there are processing centers in the region which should be maintained, that promotion and education has been helpful and that the next area to be looked into was markets.

Mr. Mulvihill said a broad policy question which must be addressed before concluding the yard debris question was if a limited amount of money was going to be spent on increasing recycling, where was it to be most effectively used? He suggested that the Solid Waste Systems Planning effort would

produce the information which would allow a comparison of roles, costs and gains. He said in the meantime, Metro's promotion and education efforts should be continued.

Councilor Etlinger asked why they couldn't improve the markets and the collection, diversion and processing of yard debris at the same time. Mr. Mulvihill responded that they could do both, if it was affordable.

Councilor Deines commented that if there were no markets, the material would be buried in the landfill. He said the key to recycling was markets.

Motion: Councilor Etlinger moved to refer the topic to the Recycling Subcommittee as part of their System Planning. Councilor Hansen seconded the motion.

Mr. John Charles, Oregon Environmental Council, testified that it was in Metro's interest to participate in DEQ's rulemaking on S.B. 405 and make sure yard debris was determined to be a recyclable material under the bill. He also urged Metro to continue its promotion and education work and seek markets for recyclable material.

Vote: The vote on the motion resulted in:

Ayes: Councilors Etlinger, Hansen, Kelley, Kirkpatrick, Oleson, and Van Bergen.

Nays: Councilors Deines and Waker.

Absent: Councilors Banzer, Bonner, Kafoury, and Williamson.

Motion carried.

9. Committee Reports.

Councilor Oleson said that he, Councilor Kirkpatrick, and Mr. Gustafson had attended a meeting at Representative Glenn Otto's home with Tri-Met leaders on November 21 regarding the Special Legislative Task Force on Regional Government.

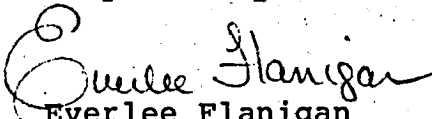
Councilor Hansen reported that there would be a regular Services Committee meeting on December 6 and probably a special Services Committee meeting on December 8 regarding the Washington County Transfer Station.

Council Minutes
November 22, 1983
Page 16

Councilor Kirkpatrick reported on the first meeting of the Southwest Corridor Transportation Policy Committee. She also reported on the November 14 Coordinating Committee's discussion of future funding.

There being no further business, the meeting adjourned at 10:35 p.m.

Respectfully submitted,


Everlee Flanigan
Clerk of the Council

0405C/313

STAFF REPORT

Agenda Item No. 6.2

Meeting Date Dec. 20, 1983

CONSIDERATION OF CONTRACT AWARD TO CONSTRUCT
A TRUCK WASH FACILITY, TO SERVICE COMMERCIAL
HAULERS, AT THE CLACKAMAS TRANSFER & RECYCLING
CENTER (CTRC)

Date: November 23, 1983

Presented by: Buff Winn

FACTUAL BACKGROUND AND ANALYSIS

As a result of Council Resolution No. 83-414, Metro staff proceeded to obtain bids for construction of a four-bay truck wash area at the CTRC.

Bids for the truck wash facility were initially received on August 24, 1983. The roof structure covering the truck wash area was bid under a separate contract the same day. Three firms responded to the initial bid advertisement for construction of the truck wash area. Only a single bid was received for supply and erection of the roof cover. The results of those bids are as follows:

Truck Wash Area Contract

| | |
|----------------------------|----------|
| Colamette Construction Co. | \$66,229 |
| Ralph McDowell Corp. | 72,200 |
| Gervais Construction | 75,090 |

Roof Structure Contract

| | |
|--------------------------|------------------|
| C&S Steel Erection, Inc. | \$26,543 (4-bay) |
| | 22,218 (3-bay) |

The Metro Council directed that the project be re-bid as a result of the low bidder's failure to comply with Metro's MBE policy and the fact that the remaining two bids were considered too high.

The truck wash area was rebid with a three-bay configuration in order to conform with the Oregon City Planning Commission's conditional use permit. Bids were received on November 18, 1983. Five companies responded with the following results:

| | |
|------------------------------|----------|
| Michael J. Watt, Inc. | \$56,494 |
| Ralph McDowell Corp. | 59,850 |
| Gervais Construction Co. | 65,485 |
| Warren Pacific Corp. | 69,777 |
| Terry Stein Construction Co. | 79,849 |

The low bidder, at \$56,494, has indicated approximately 30 percent minority participation and has demonstrated experience in the construction of projects of similar scope and nature.

Metro staff will present the Roof Structure Contract (\$22,218), for consideration of award, to the Contract Review Committee on December 12, 1983.

The total project cost, assuming award to the low bidder, is \$78,712. This is only one percent higher than the original engineers estimate (\$78,000), however, this price would be for a three-bay facility rather than four-bays as originally conceived.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends award to the low bidder for a lump sum price of \$56,494.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On December 12, 1983, the Council Coordinating Committee voted to recommend Council approval of a contract with Michael J. Watt, Inc. in the amount of \$56,494 for the construction of a truck wash facility at the Clackamas Transfer & Recycling Center.

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11/28/83
11/30/83

STAFF REPORT

Agenda Item No. 7.1

Meeting Date Dec. 20, 1983

CONSIDERATION OF ORDINANCE NO. 83-165 FOR
THE PURPOSE OF ADOPTING A DISADVANTAGED
BUSINESS PROGRAM, AND RESOLUTION NO. 83-435
FOR THE PURPOSE OF APPROVING FY 1983-84
GOALS FOR UTILIZATION OF DISADVANTAGED AND
WOMEN OWNED BUSINESSES.

Date: November 2, 1983

Presented by: Donald E. Carlson and
Sue Klobertanz

FACTUAL BACKGROUND AND ANALYSIS

In March 1983 the Metro Council expressed a need to review existing minority business enterprise policies and created the MBE Policy Review Committee, an ad hoc committee, to review Metro's existing MBE policies (Committee make up shown in Attachment A). Subsequent to that time, Metro also received revised federal regulations dealing with utilization of disadvantaged businesses.

The ad hoc MBE Committee met for five consecutive weeks in May and June, reviewing Metro's current MBE Program, potential problem areas and recommending a general method for resolution.

From the Committee recommendation and revised federal regulations, Metro staff drafted a proposed Disadvantaged Business Program which was reviewed and further changed per Committee recommendation in October 1983. The attached draft Ordinance (DB Program) and draft Resolution (FY 1983-84 DBP Goals) were released on October 28, 1983, for review with a first reading and public hearing scheduled for November 22, 1983.

The essential features of this Ordinance are as follows:

1. The DB Program applies to all Metro contracts.
(Intergovernmental Agreements, revenue producing contracts and agreements for receipt of pass-through funds are not included in the definition of contracts for purposes of this program.)
2. The Council is required each June to establish overall program goals for each type of contract (i.e., construction, DOT assisted, procurement, personal service and labor and materials) for the ensuing fiscal year.
3. For each construction contract over \$50,000 the annual goal shall be the contract goal (i.e., if the annual goal

is 10 percent, the contract goal is 10 percent). Contract goals for such contracts must be met through subcontracting work only or through the best effort clause. The best effort clause is essentially the same as now exists except the publication deadline requirement in a minority newspaper is reduced from 20 days to 10 days and language has been revised to be more specific.

4. For all other applicable contracts (construction contracts under \$50,000, DOT assisted contracts, labor and materials contracts, personal services contracts and procurement contracts), there are no contract goals unless so stated in writing by the Liaison Officer prior to the solicitation of bids. If a goal is set for such a contract, it must be complied with through either the main contractor, subcontractors or a best faith effort made.
5. A Liaison Officer must be designated by the Executive Officer to carry out the objectives of this program. The Liaison Officer is required to report directly to the Executive Officer periodically on the administration of this program. The Liaison Officer has the responsibility to assist Department Heads and project managers in the implementation of the program.

The proposed Program has been developed to be clear, concise and easy to administer. It is anticipated to be administered with existing staff (no additional staff is proposed).

A listing of major issues and a comparison of Committee recommendations with the draft Ordinance is included as Attachment B.

The attached Resolution No. 83-435 establishes the DBP goals for FY 1983-84. Because of the timing of the program revision, Metro did not set new goals in June 1983. Instead, this Resolution would, in fact, set goals retroactively to July 1, 1983.

Attachment A to the Resolution restates the goals and provides the methodology for setting the goals.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 83-165 and Resolution No. 83-436.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On December 12, 1983, the Council Coordinating Committee recommended Council adoption of Ordinance No. 83-165, as amended, and Resolution No. 83-435.

The attached Ordinance No. 83-165 reflects changes as recommended by the Council Coordinating Committee at their December 12, 1983 mark-up session.

ATTACHMENT A

MBE POLICY REVIEW COMMITTEE
(as appointed)

Mr. Charles Crews
National Business League
6939 N.E. Grand Avenue, Suite 4
Portland, OR 97211

Ms. Grace Gallegos
IMPACT
8959 S.W. Barbur Blvd.
Portland, OR 97219

Mr. Ron Anderson
Associated General Contractors
9450 S.W. Commerce Circle
Wilsonville, OR 97070

Mr. Don Matsuda
Small Business Administration
1220 S.W. 3rd Avenue
Portland, OR 97204

Mr. Harold Vaughan
City of Portland
1220 S.W. 5th Avenue
Portland, OR 97204

Mr. Kay Rich
Metro's Washington Park Zoo
4001 S.W. Canyon Road
Portland, OR 97221

(also participating)

Mr. Jim Cason
CA-SUN Solar Mechanical
5036 N.E. Holman Street
Portland, OR 97218

ATTACHMENT B

COMPARISON OF COMMITTEE RECOMMENDATION
TO DRAFT DISADVANTAGED BUSINESS PROGRAM

| MBE Questions | Committee Recommendation | Draft Program |
|---|---|---|
| 1. Should the MBE Program apply to all program areas or just those areas required by federal law (USDOT and EPA assisted contracts)? | All Areas | Same |
| 2. Should the Program apply to all types of contracts (construction, consulting, procurement)? | All Types | Same |
| 3. Should certain types of contracts be exempt (e.g., retention of legal counsel, retention bonding consultants, procurement of materials under \$_____, contracts which can or should be performed only by a single person)? | All Types | Same |
| 4. Should subcontracting be required or can a prime MBE contractor meet the goal without subcontracting? Should certain types of contracts be exempt from subcontracting? | Must subcontract on all construction contracts over \$10,000. | Must subcontract on all construction contracts over \$50,000. |
| 5. Should Metro perform certification or continue to use Portland's certification process? | Use Portland | Use Portland and other DOT approved programs. |
| 6. Should "good faith effort" be allowed? If so, should "good faith effort" be the equivalent of goal compliance? | Use good faith; Equivalent | Same |
| 7. Should MBE goal information be provided by the bidders with their bids, or at some later time? If at some later time, should all bidders be required to submit the information or only the apparent low bidder? | 5 day delay | Same |
| 8. What should be the process and timing of overall goal-setting? Annually? Biennially? | Annual | Same |
| 9. Should Metro establish overall goals by project or only by year? | Annual by type | Same |
| 10. Contract goals need be established only where a given contract has "subcontracting possibilities." Who decides whether such possibilities exist and how? | Liaison Officer | Same |

MBE Questions

Committee Recommendation

Draft Program

| | | |
|---|---|--|
| 11. Alternatives to "good faith efforts" are allowed in lieu of a good faith effort requirement if the alternative is equally or more effective. What alternatives exist? Would they be as effective? | No alternatives | Same |
| 12. Should Metro establish an MBE "set aside" program? For what kinds of projects? | No | Same |
| 13. Which types of efforts should be required? How many of the efforts listed in the DOT regulations must be proven to be eligible? | Use Portland List | Same |
| 14. Who should decide whether a minority women-owned firm should be counted against the MBE goal or the WBE goal? | Liaison Officer/ Contractor | Same |
| 15. Is the existing MBE affirmative action program adequate? If not, how should it be revised? | NA | NA |
| 16. Should Metro be able to grant time extensions to contractors to show MBE compliance or good faith efforts (but not later than the time for contract execution)? | Yes, 5-day time flexible. | Same |
| 17. How and where should Metro locate "plan centers"? | Existing centers and as requested. | Issue addressed by administrative procedures. |
| 18. Must joint ventures of two or more already certified MBEs be recertified as a joint venture? | No | Same |
| 19. Can certification occur after bid opening? | No | Same |
| 20. Should the Council allow the Executive Officer to adopt additional regulations? | No | Same |
| 21. What is required for proof of subcontracting? When is proof submitted? | Signed letter of agree- ment required within five days. | Same |

8400B/305
11/03/83

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ESTABLISHING A
DISADVANTAGED BUSINESS PROGRAM

ORDINANCE NO. 83-165

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Purpose and Authority

(a) It is the purpose of this ordinance to establish and implement a program to encourage the utilization by Metro of disadvantaged and women-owned businesses.

(b) This ordinance is adopted pursuant to 49 CFR 23 and is intended to comply with all relevant federal regulations.

(c) This ordinance shall be known and may be cited as the "Metro Disadvantaged Business Program," hereinafter referred to as the "Program."

(d) This ordinance supersedes the Metro "Minority Business Enterprise (MBE) Program" dated October 1980 and amended December 1982.

Section 2. Policy Statement

(a) Through this Program, Metro:

(1) expresses its strong commitment to ~~[using]~~ provide maximum opportunity to disadvantaged and women-owned businesses in contracting;

(2) informs all employees, governmental agencies and the general public of its intent to implement this policy statement; and

(3) assures conformity with applicable Federal regulations as they exist or may be amended.

(b) It is the policy of Metro to provide equal opportunity to all persons to access and participate in the projects, programs and services of Metro. Metro and Metro contractors will not discriminate against any person or firm on the basis of race, color, national origin, sex, age, religion, physical handicap, political affiliation or marital status.

(c) The policies, practices and procedures established by this ordinance shall apply to all Metro departments and project areas except as expressly provided in this ordinance.

(d) The objectives of the program shall be:

- (1) to assure that provisions of this ordinance are adhered to by all Metro departments, employees, subrecipients and contractors.
- (2) to initiate and maintain efforts to increase program participation by disadvantaged businesses.

(e) Metro accepts and agrees to the statements of 49 CFR §23.43(a)(1) and (2), and said statements shall be included in all agreements with subrecipients and in all DOT assisted contracts between Metro or subrecipients and any contractor.

Section 3. Definitions

For purposes of this Ordinance, the following definitions shall apply:

- (1) APPLICANT -- one who submits an application, request or plan to be approved by a DOT official or by Metro as a condition to eligibility for Department of Transportation (DOT) financial assistance; and "application" means such an application, request or plan.
- (2) CONSTRUCTION CONTRACT -- means a contract for construction of buildings or other facilities, and includes reconstruction, remodeling and all activities which are appropriately associated with a construction project.
- (3) CONTRACT -- means a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of this ordinance, a lease or a purchase order of \$500.00 or more is a contract.
- (4) CONTRACTOR -- means the one who participates, through a contract or subcontract, in the Program and includes lessees.
- (5) DEPARTMENT or "DOT" -- means the United States Department of Transportation, including its operating elements.
- (6) DOT ASSISTED CONTRACT -- means any contract or modification of a contract between Metro and a contractor which is paid for in whole or in part with DOT financial assistance or any contract or modification of a contract between Metro and a lessee.
- (7) DOT FINANCIAL ASSISTANCE -- means financial aid provided by DOT or the United States Railroad Association to a recipient, but does not include a direct contract. The financial aid may be provided directly in the form of actual money, or indirectly in the form of guarantees authorized by statute as financial assistance services of Federal personnel, title or other interest in real or

personal property transferred for less than fair market value, or any other arrangement through which the recipient benefits financially, including licenses for the construction or operation of a Deep Water Port.

- (8) DISADVANTAGED BUSINESS -- means a small business concern:
(a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
(b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. Unless the language or context of this ordinance provide otherwise, "disadvantaged business" includes Women-Owned Business Enterprises (WBE).
- (9) JOINT VENTURE -- is defined as an association of two or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge.
- (10) LABOR AND MATERIALS CONTRACT -- is a contract including a combination of personal service and provision of materials other than construction contracts. Examples may include plumbing repair, computer maintenance or electrical repair, etc.
- (11) LESSEE -- means a business or person that leases, or is negotiating to lease, property from a recipient or the Department on the recipient's or Department's facility for the purpose of operating a transportation-related activity or for the provision of goods or services to the facility or to the public on the facility.
- (12) PERSONAL SERVICES CONTRACT -- means a contract for services of a personal or professional nature.
- (13) PROCUREMENT CONTRACT -- means a contract for the purchase or sale of supplies, materials, equipment, furnishings or other goods not associated with a construction or other contract.
- (14) RECIPIENT -- means any entity, public or private, to whom DOT financial assistance is extended, directly or through another recipient for any program.
- (15) SMALL BUSINESS CONCERN -- means a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.
- (16) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS OR DISADVANTAGED INDIVIDUALS -- means those individuals who are citizens of the United States (or lawfully admitted

permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans or Asian-Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act. Certifying recipients shall make a rebuttable presumption that individuals in the following groups are socially and economically disadvantaged. Certifying recipients also may determine, on a case-by-case basis, that individuals who are not a member of one of the following groups are socially and economically disadvantaged:

- (a) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- (b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;
- (c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- (d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and
- (e) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh.

- (17) WOMEN-OWNED BUSINESS ENTERPRISE or WBE -- means a small business concern, as defined pursuant to section 3 of the Small Business Act and implementing regulations which is owned and controlled by one or more women. "Owned and controlled" means a business which is at least 51 percent owned by one or more women or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more women, and whose management and daily business operations are controlled by one or more women.

Section 4. Notice to Contractors, Subcontractors and Subrecipients

Contractors, subcontractors and subrecipients of Metro accepting contracts or grants under the Program shall be advised that failure to carry out the requirements set forth in 49 CFR 23.43(a) shall constitute a breach of contract and, after notification by Metro, may result in termination of the agreement or contract by Metro or such remedy as Metro deems appropriate.

Section 5. Liaison Officer

(a) The Executive Officer shall by executive order, designate a Disadvantaged Business Liaison Officer and, if necessary, other staff adequate to administer the Program. The Liaison Officer shall report directly to the Executive Officer on matters pertaining to the Program.

(b) The Liaison Officer shall be responsible for developing, managing and implementing the program, and for disseminating information on available business opportunities so that disadvantaged businesses are provided an equitable opportunity to bid on Metro contracts. In addition to the responsibilities of the Liaison Officer, all department heads and program managers shall have responsibility to assure implementation of the Program.

~~[(c) The position description of the Liaison Officer is attached to this ordinance as Appendix "A," and may be altered from time to time by the Executive Officer consistent with the requirements of this section.]~~

Section 6. Directory

A directory of certified disadvantaged businesses and certified women-owned businesses shall be maintained by the Liaison Officer to facilitate identifying disadvantaged and women-owned businesses with capabilities relevant to general contracting requirements and particular solicitations. The directory shall be available to contract bidders and proposers in their efforts to meet Program requirements.

Section 7. Minority-Owned Banks

Metro will seek to identify minority-owned banks within the policies adopted by the Metro Investment Committee and make the greatest feasible use of their services. In addition, Metro will encourage prime contractors, subcontractors and consultants to utilize such services.

Section 8. Affirmative Action and Equal Opportunity Procedures

Metro shall use affirmative action techniques to facilitate disadvantaged and women-owned business participation in contracting activities. ~~[There]~~ These techniques include:

(a) Arranging solicitations, time for the presentation of bids, quantities specifications, and delivery schedules so as to facilitate the participation of disadvantaged and women-owned businesses.

(b) Providing assistance to disadvantaged and women-owned businesses in overcoming barriers such as the inability to obtain bonding, financing or technical assistance.

(c) Carrying out information and communications programs on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate.

Section 9. Certification of Disadvantaged Business Eligibility

(a) To participate in the Program as a disadvantaged or women-owned business, contractors, subcontractors and joint ventures must have been certified pursuant to 49 CFR §23.51 through §23.55.

(b) Metro will not perform certification or recertification of businesses or consider challenges to socially and economically disadvantaged status. Rather, pursuant to 49 CFR §23.45(f) and 49 CFR §23.51(c)(2) and (3), Metro will rely upon the certification and recertification processes of the City of Portland, Oregon, the State of Oregon (ODOT), the metropolitan area transit district (Tri-Met), and the Small Business Administration (SBA) and will utilize the certification lists of said agencies in determining whether a prospective contractor or subcontractor is certified as a disadvantaged business. A prospective contractor or subcontractor must be certified as a disadvantaged or women-owned business by any one of the above agencies, and appear on the respective certification list of said agency, prior to the award of a contract in order to be considered by Metro to be an eligible disadvantaged or women-owned business and be counted toward meeting goals.

(c) Prospective contractors or subcontractors which have been denied certification by one of the above agencies may appeal such denial to the certifying agency pursuant to 49 CFR §23.55 and applicable agency regulations. However, such appeal shall not cause a delay in any contract award by Metro.

(d) Challenges to certification or to any presumption of social or economic disadvantage, as provided for in 49 CFR 23.69, shall conform to and be processed under the procedures prescribed by each agency indicated in paragraph (b) of this section.

Section 10. Annual Disadvantaged Business Goals

(a) The Metro Council shall, by resolution each June, establish annual disadvantaged business goals, and separate WBE goals, for the ensuing fiscal year. Such annual goals shall be established separately for construction contracts, labor and materials contracts, personal services contracts, procurement contracts, and DOT assisted contracts regardless of type.

(b) Annual goals will be established taking into consideration the following factors:

- (1) projection of the number and types of contracts to be awarded by Metro;
- (2) projection of the number, expertise and types of disadvantaged businesses likely to be available to compete for the contracts;
- (3) past results of Metro's efforts under the Program; and

- (4) existing goals of other local DOT recipients and their experience in meeting these goals.

(c) Annual goals must be approved by the United States Department of Transportation. 49 CFR §23.45(g)(3).

(d) Metro will publish notice that the overall goals are available for inspection when they are submitted to DOT or other federal agencies. They will be made available for 30 days following publication of notice. Public comment will be accepted for 45 days following publication of the notice.

Section 11. Contract Goals

(a) The annual goals established for construction contracts ~~[over-\$50,000]~~ shall apply as individual contract goals for construction contracts over \$50,000 and shall be met pursuant to Section 11(b) of this ordinance.

(b) Contract goals for construction contracts over \$50,000 may be complied with by prime contractors only by subcontracting a percentage of the contract work, equal to or exceeding the contract goal, to one or more disadvantaged business subcontractors or by showing of good faith efforts to comply pursuant to Section 13 of this ordinance.

(c) The Liaison Officer may set a contract goal for any contract other than construction contracts over \$50,000. The setting of such contract goal shall be made in writing prior to the solicitation of bids for such contract. Contract goals for contracts other than construction contracts over \$50,000 shall be set at the discretion of the Liaison Officer and shall not be tied to the annual goal for such contract type. Contract goals for such contracts may be complied with pursuant to Section 16(a)(2) or Section 13 of this ordinance.

Section 12. Contract Award Criteria

(a) Efforts will be made to assure that prime contracts are awarded to competitors that meet applicable disadvantaged business goals. In order to be eligible for award of contracts containing a disadvantaged business goal, prime contractors must either meet or exceed the specific goal for disadvantaged businesses, or prove that they have made good faith efforts to meet the goal.

(b) All solicitations on contracts for which goals have been established shall require all bidders/proposers to submit with their bids and proposals a statement indicating that they will comply with the contract goal. To document the intent to meet the goals, all bidders shall complete and endorse a Disadvantaged Business Utilization form and include said form with bid documents. The form shall be provided by Metro with bid solicitations.

(c) Agreements between a bidder/proposer and a disadvantaged business in which the disadvantaged business promises not to provide subcontracting quotations to other bidders/proposers are prohibited.

(d) Apparent low bidders who indicate compliance with the goal shall, within five (5) working days of bid opening (or bid submission date when no public opening is had), submit to Metro signed Letters of Agreement between the bidder and disadvantaged business subcontractor and suppliers to be utilized in performance of the contract. A form Letter of Agreement will be provided by Metro.

(e) An apparent low bidder who states in its bid that the goal will be met but who fails to meet the goal or fails to provide Letters of Agreement with disadvantaged businesses in a timely manner, may, in lieu thereof, submit evidence of good faith efforts to meet the goal as provided in paragraph (f) of this section.

(f) Apparent low bidders who will not meet the goal but who state in their bid that they have made good faith efforts to meet the goal shall within five (5) working days of bid opening (or bid submission date when no public opening is had) submit to Metro evidence of such good faith efforts. Evidence of good faith efforts, and Metro's determination of the sufficiency of such efforts, shall be in accordance with Section 13 of this ordinance.

(g) In very limited situations the Liaison Officer may in writing, at his/her discretion, extend the five (5) working day deadline noted in paragraphs (d) and (f) above to allow for additional positive efforts to utilize certified disadvantaged or women-owned businesses prior to contract award. Such extensions shall not exceed a total of ten (10) additional working days.

(h) Except as provided in paragraph (i) of this section, apparent low bidders who state in their bids that they will meet the goals or will show good faith efforts to meet the goals, but who fail to comply with paragraph (d) or (f) of this section, shall have their bids rejected and shall forfeit any required bid security or bid bond. In that event, the next lowest bidder shall, within five days of notice of such ineligibility of the ~~[law]~~ low bidder, submit evidence of goal compliance or good faith effort as provided above. This process shall be repeated until a bidder is determined to meet the provisions of this section or until Metro determines that the remaining bids are not acceptable because of amount of bid or otherwise.

(i) The Liaison Officer, at his or her discretion, may waive minor irregularities in a bidder's compliance with the requirements of this section.

Section 13. Determination of Good Faith Efforts

(a) Pursuant to Section 12 of this ordinance, bidders on contracts to which disadvantaged business goals apply must, to be eligible for contract award, comply with the applicable contract goal or show that good faith efforts have been made to comply with the goal.

(b) A showing of good faith efforts must include written evidence of at least the following:

- (1) Advertisement in a trade association newsletter or general circulation newspaper and through a minority-owned newspaper at least 10 days before bids or proposals are due.
- (2) Written notification to no less than three (3) disadvantaged businesses that their interest in the contract is solicited. Such efforts should include the segmenting of work to be subcontracted to the extent consistent with the size and capability of minority-owned firms in order to provide reasonable subcontracting opportunities. Each bidder should send solicitation letters inviting quotes or proposals from disadvantaged businesses, segmenting portions of the work and specifically describing, as accurately as possible, the portions of the work for which quotes or proposals are solicited from minority firms and encouraging inquiries for further details. Letters that are general and do not describe specifically the portions of work for which quotes or proposals are desired are discouraged, as such letters generally do not bring responses. It is expected that such letters will be sent in a timely manner so as to allow disadvantaged firms sufficient opportunity to develop quotes or proposals for the work described.
- (3) Evidence of follow-up to initial soliciations of interest, including the following:
 - A. the names, addresses, telephone numbers of all disadvantaged businesses contacted;
 - B. a description of the information provided to disadvantaged businesses regarding the plans and specifications for portions of the work to be performed; and
 - C. a statement of the reasons for non-utilization of disadvantaged businesses, if needed to meet the goal.

Section 14. Replacement of Disadvantaged Business Subcontractors

Prime contractors shall not replace a disadvantaged business subcontractor with another subcontractor, either before contract award or during contract performance, without prior Metro approval. Prime contractors who replace a disadvantaged business subcontractor shall replace such disadvantaged business subcontractor with another certified disadvantaged business subcontractor or make good faith efforts to do so.

Section 15. Records and Reports

(a) Metro shall develop and maintain a recordkeeping system to identify and assess disadvantaged and women-owned business contract awards, prime contractors' progress in achieving goals and affirmative action efforts. Specifically, the following records will be maintained:

- (1) Awards to disadvantaged or women-owned businesses by number, percentage and dollar amount.
- (2) A description of the types of contracts awarded.
- (3) The extent to which goals were exceeded or not met and reasons therefor.

(b) All disadvantaged business records will be separately maintained. Required disadvantaged business information will be provided to federal agencies and administrators on request.

(c) The Liaison Officer shall prepare semi-annual reports on disadvantaged business participation to include the following:

- (1) the number of contracts awarded;
- (2) categories of contracts awarded;
- (3) dollar value of contracts awarded;
- (4) percentage of the dollar value of all contracts awarded to disadvantaged businesses in the reporting period; and
- (5) the extent to which goals have been met or exceeded.

Section 16. Counting Disadvantaged Business Participation Toward Meeting Goals

(a) Disadvantaged business participation shall be counted toward meeting the goals on each contract as follows:

- (1) On construction contracts of \$50,000 or more, the total dollar value of a contract subcontracted to disadvantaged businesses is counted toward the applicable contract goal. On such contracts, the dollar amount to be performed by a disadvantaged business or joint venture which is also the prime contractor will not be counted toward the applicable goal for contract award purpose, but will be counted for purposes of Metro compliance with annual goals.
- (2) On contracts other than those indicated in paragraph (1) above, and except as provided below, the total dollar value of a contract to be performed by

disadvantaged businesses is counted toward the applicable goal for contract award purposes as well as annual goal compliance purposes.

- (3) The total dollar value of a contract to a disadvantaged business owned and controlled by both disadvantaged males and non-disadvantaged females is counted toward the goals for disadvantaged businesses and women, respectively, in proportion to the percentage of ownership and control of each group in the business. The total dollar value of a contract with a disadvantaged business owned and controlled by disadvantaged women is counted toward either the disadvantaged business goal or the goal for women, but not to both. Metro shall choose the goal to which the contract value is applied.
- (4) Metro shall count toward its goals a portion of the total dollar value of a contract with an eligible joint venture equal to the percentage of the ownership and control of the disadvantaged business partner in the joint venture.
- (5) Metro shall count toward its goals only expenditures to disadvantaged businesses that perform a commercially useful function in the work of a contract. A disadvantaged business is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine whether a disadvantaged business is performing a commercially useful function, Metro shall evaluate the amount of work subcontracted, industry practices and other relevant factors.
- (6) Consistent with normal industry practices, a disadvantaged business may enter into subcontracts. If a disadvantaged business contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the disadvantaged business shall be presumed not to be performing a commercially useful function. The disadvantaged business may present evidence to Metro to rebut this presumption. Metro's decision on the rebuttal of this presumption is subject to review by DOT for DOT-assisted contracts.
- (7) A disadvantaged business which provides both labor and materials may count toward its disadvantaged business goals expenditures for materials and supplies obtained from other disadvantaged business

suppliers and manufacturers, provided that the disadvantaged business contractor assumes the actual and contractual responsibility for the provision of the materials and supplies.

- (8) Metro shall count its entire expenditure to a disadvantaged business manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale).
- (9) Metro shall count against the goals 20 percent of its expenditures to disadvantaged business suppliers that are not manufacturers, provided that the disadvantaged business supplier performs a commercially useful function in the supply process.

(b) Disadvantaged or women-owned business participation shall be counted toward meeting annual goals as follows:

- (1) Except as otherwise provided below, the total dollar value of any contract which is to be performed by disadvantaged or women-owned businesses is counted toward meeting annual goals.
- (2) The provisions of paragraphs (a)(3) through (a)(8) of this section, pertaining to contract goals, shall apply equally to annual goals.

Section 17. Compliance and Enforcement

(a) Metro shall reserve the right, at all times during the period of any contract, to monitor compliance with the terms of this ordinance and the contract and with any representation made by a contractor prior to contract award pertaining to disadvantaged business participation in the contract.

(b) The Liaison Officer may require, at any stage of contract completion, documented proof from the contractor of actual disadvantaged business participation.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1983.

Presiding Officer

ATTEST:

Clerk of the Council

AJ/gl/0094C/366
12/13/83

[APPENDIX-"A"]

POSITION-DESCRIPTION
DISADVANTAGED-BUSINESS-LIAISON-OFFICER

I. Principal-Duties-and-Responsibilities

The-Liaison-Officer-is-responsible-for-developing,-managing-and implementing-the-Disadvantaged-Business-Program;-for-carrying out-technical-assistance-activities-and-for-dissemination-of information-on-available-business-opportunities-to-ensure-that disadvantaged-business-enterprises-are-provided-an-equal opportunity-to-bid-or-make-quotes-on-Metro-projects.--He/She-is the-primary-person-responsible-for-implementing-Federal requirements-for-federally-assisted-projects-under-49-CFR-23.

II. Reporting-Relationship

The-Liaison-Officer-will-report-to-the-Executive-Officer-on Program-matters,-and-will-work-closely-with-contracting personnel-and-others-who-are-responsible-for-making-management decisions-on-procurement-and-contracting.

III. Specific-Responsibilities

- A. Analyzes-available-planning-tools-to-project-priority areas-for-disadvantaged-business-efforts.
- B. Develops,-monitors-and-services-the-disadvantaged-business-affirmative-action-program.
- C. Proposes-annual-overall-goals-for-Council-adoption-and publishes-public-notice-announcing-them.--Determines contract-goals-designed-to-achieve-annual-goals.
- D. Maintains-a-directory-of-minority-businesses.
- E. Publicizes-business-opportunities-to-disadvantaged businesses.
- F. Provides-disadvantaged-businesses-with-information-in-sufficient-time-to-prepare-bids-and-quotations.
- G. Attends-pre-bid-and-pre-construction-conferences-to explain-disadvantaged-business-requirements-and-responds-to-questions.
- H. Participates-on-bid-and-proposal-review-panels.
- I. Maintains-accurate-and-up-to-date-records-demonstrating disadvantaged-business-efforts-and-accomplishments.
- J. Monitors-contractors'-and-subcontractors'-compliance-with-disadvantaged-business-requirements-and-commitments.]

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING)
FISCAL YEAR 1983-84 GOALS FOR USE)
OF DISADVANTAGED AND WOMEN-OWNED)
BUSINESSES)

RESOLUTION NO. 83-435
Introduced by the Council
Coordinating Committee

WHEREAS, The Metropolitan Service District has adopted Ordinance No. 83-165 which establishes a program to encourage the utilization by Metro of disadvantaged and women-owned businesses; and

WHEREAS, The Metro Disadvantaged Business Program requires establishment of annual disadvantaged business goals and separate women-owned business goals; and

WHEREAS, An analysis of the number and type of contracting opportunities has been completed as shown in Attachment A; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District shall use for the period July 1, 1983, through June 30, 1984, the following annual goals by contract type:

DISADVANTAGED BUSINESS ENTERPRISE

| <u>Contract Type</u> | <u>Annual Goal</u> |
|--------------------------|--------------------|
| Construction | 10% |
| Labor and Materials | 5% |
| Personal Service | 3% |
| Procurement | 5% |
| DOT Assisted (All Types) | 10% |
| Overall Annual Goal | 6.12% |

WOMEN-OWNED BUSINESS

| <u>Contract Type</u> | <u>Annual Goal</u> |
|--------------------------|--------------------|
| Labor and Materials | 5% |
| Personal Service | 3% |
| Procurement | 5% |
| DOT Assisted (All Types) | 3% |
| Overall Annual Goal | 3.25% |

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1983.

Presiding Officer

SK/gl
0196C/355
11/07/83

ATTACHMENT A

METROPOLITAN SERVICE DISTRICT DISADVANTAGED BUSINESS PROGRAM

FISCAL YEAR 1983-84 GOALS AND METHODOLOGY

I. FY 1983-84 Annual Goals by Contract Type

A. Disadvantaged Business Enterprise

| <u>Contract Type</u> | <u>Goal</u> |
|--------------------------|-------------|
| Construction | 10% |
| Labor and Materials | 5% |
| Personal Service | 3% |
| Procurement | 5% |
| DOT Assisted (All Types) | 10% |
| Overall Annual Goal | 6.12% |

B. Women-Owned Business

| <u>Contract Type</u> | <u>Goal</u> |
|--------------------------|-------------|
| Labor and Materials | 5% |
| Personal Service | 3% |
| Procurement | 5% |
| DOT Assisted (All Types) | 3% |
| Overall Annual Goal | 3.25% |

II. Methodology

A. Projection of Number and Type of Contracts to be Executed during FY 1983-84

Based primarily on data for FY 1982-83 and the first quarter of FY 1983-84 the estimated number and dollar value of contracts to be executed July 1, 1983 through June 30, 1984 is as follows:

| Type | Estimated Total Dollar Value | Estimated Number of Contracts |
|---------------------|------------------------------------|-------------------------------------|
| Construction | \$2,000,000 | 5 |
| Labor and Materials | 1,000,000 | 105 |
| Personal Service | 1,500,000 | 100 |
| Procurement | 3,000,000 | 275 |
| DOT Assisted | <u>358,000</u> | <u>15</u> |
| Total | \$7,858,000 | 500 |

B. Comparison with Previous Years

Past efforts indicate that some contract types executed by Metro afford more opportunities for contracting with disadvantaged or women-owned businesses than others. For example, the large dollar amounts spent in the area of procurement are items for sale at the Zoo stores and concession stands. These items--things such as stuffed animals or soda pop--are usually acquired from large national firms which specialize in such items. Conversely, almost all large construction contracts have met the 10 percent goal because of the availability of disadvantaged businesses doing such work.

The actual goal attained for FY 1982-83 is shown in comparison with the FY 1983-84 goals below.

| Contract Type | Actual Goal Attained FY 1982-83 | | FY 1983-84 Goal | |
|-------------------|---------------------------------------|-------|--------------------|-------|
| | | | | |
| Construction | MBE | 30.0% | DBE | 10.0% |
| | WBE | 0% | WBE | 0% |
| Labor & Materials | | -a | DBE | 5.0% |
| | | -a | WBE | 5.0% |
| Personal Service | MBE | 1.4% | DBE | 3.0% |
| | WBE | 2.5% | WBE | 3.0% |
| Procurement | MBE | 6.9% | DBE | 5.0% |
| | WBE | 15.1% | WBE | 5.0% |
| DOT Assisted | MBE | -a | DBE | 10.0% |
| | WBE | -a | WBE | 3.0% |

The major differences between the goals attained in FY 1982-83 and those set for FY 1983-84 are two--a) the DBE goal for construction contracts; and b) the WBE goal for procurement. The reduction in goals for construction contracts is due to an estimated reduction in the number and size of construction contracts to be executed, therefore, reducing the number of subcontracting opportunities; and unusual circumstances in FY 1982-83 where a joint venture of two certified minority business was awarded one large contract, thus affecting year end goal attainment results.

^a These contract types were not tracked separately. Dollar values and goal achieved has been included in the appropriate previous category of construction, personal service or procurement.

The large WBE goal attained in FY 1983 for procurement contracts was due to the execution of one large, long-term service contract. It is not anticipated that any such opportunity would be available in FY 1983-84.

III. Comparison with Other Agencies

In setting the FY 1983-84 overall goals, goals of other agencies within the metropolitan area were reviewed. Other agencies have set goals as follows:

| | <u>City of Portland</u> | <u>Tri- Met</u> | <u>Port of Portland</u> | <u>State of Oregon</u> |
|-------------------|-----------------------------|---------------------|-----------------------------|--------------------------------|
| DBE - Overall | <u>8.28%</u> | <u>10%</u> | <u>10%</u> | |
| Construction | 10% | - | - | <u>10%</u> |
| Labor & Materials | 20% | - | - | |
| Personal Services | 9% | - | - | |
| Procurement | 1% | - | - | |
| DOT Assisted | - | - | - | |
| WBE - Overall | <u>2.65</u> | <u>1%</u> | <u>3%</u> | |
| Construction | 2.5% | - | - | <u>1%</u> |
| Labor & Materials | 2.5% | - | - | |
| Personal Services | 9% | - | - | |
| Procurement | 1.5% | - | - | |
| DOT Assisted | - | - | - | |

It appears, given Metro's geographic position in the metropolitan area, the large number of Zoo-related procurement contracts and the lack of labor intensive service related contracts, that the FY 1983-84 goals appear consistent with other agencies.

SK/srb
0196C/366
11/07/83

CONSIDERATION OF AN ORDINANCE NO. 83-166 FOR
THE PURPOSE OF ESTABLISHING THE METRO EQUAL
EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION
POLICIES, AND APPROVING RESOLUTION NO. 83-436
FOR ADOPTING AFFIRMATIVE ACTION GOALS AND
OBJECTIVES

Date: October 25, 1983

Presented by: Jennifer Sims and
Dick Karnuth

FACTUAL BACKGROUND AND ANALYSIS

The proposed Ordinance will establish Metro policies on Equal Employment Opportunity and Affirmative Action and set the policy framework for a program. The Ordinance requires designation of an Affirmative Action Officer. The Executive Officer is directed to establish staff responsibilities and a complaint procedure. Finally, contractors, subcontractors, and subrecipients are required to comply with the policies.

The proposed resolution will establish a long-term goal and annual goals and objectives for the current year. As provided in the Ordinance, annual goal setting will occur in June each year beginning in 1984. The proposed goals are detailed separately for minorities and women by job category and operating fund. In short, the objectives are to maintain the current status where the goals have been achieved and to reach the goals where they have not been met.

A separate document titled "The Affirmative Action Plan Narrative and Support Documentation" provides the plan documentation. It includes a work force utilization analysis as the basis for goal setting and an assessment of employment practices

The proposed policies and goals and objectives combined with the technical report conform with federal requirements. Metro's "cognizant federal agency" for civil rights purposes is the Urban Mass Transportation Administration (UMTA). As such, UMTA has issued Circular 1155.1 which stipulates the general contents and requirements of an Equal Opportunity Opportunity (EEO) and Affirmative Action program.

On July 2, 1982, Metro was informed that UMTA had previously inappropriately exempted Metro from the need to submit an Affirmative Action Program consistent with the Circular. With

technical assistance from UMTA's Civil Rights Officer sections of an Affirmative Action Plan were drafted and submitted to UMTA on October 7, 1982 and October 28, 1982. Conditional approval, including suggested revisions, was received on March 31, 1982. This put the organization in compliance with UMTA requirements and allowed Metro to continue development and finalization of the Plan. Final approval will be sought from UMTA when the Council adopts the policies and goals.

Daily and ongoing personnel functions have and continue to include attention to equal employment opportunity through affirmative actions. Based upon the assessment of employment practices conducted in plan preparation, it was determined that recruitment and selection should receive more attention and emphasis. As a result, community outreach has been stepped up, with personal contacts being made, informational brochures developed and distributed, follow up agency contacts made and a career day ad placed in a local minority newspaper. Recent internal actions include development and implementation of recruitment procedures, monthly status reports from the Personnel staff, redesign of the employment application form, and monitoring of the screening and interviewing process.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of the Ordinance No. 83-166 and Resolution No. 83-436.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On December 12, 1983, the Council Coordinating Committee recommended Council adoption of Ordinance No. 83-166, as amended, and adoption of Resolution No. 83-436.

DK/srb
0235C/366
11/07/83

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

| | | |
|-------------------------------|---|----------------------|
| AN ORDINANCE ESTABLISHING AN |) | ORDINANCE NO. 83-166 |
| EQUAL EMPLOYMENT OPPORTUNITY |) | |
| AND AFFIRMATIVE ACTION POLICY |) | |
| STATEMENTS |) | |

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Purpose and Authority

(a) It is the purpose of this ordinance to establish policies to encourage, enhance and provide equal employment opportunities and to prevent discrimination in employment and personnel practices.

(b) This ordinance is adopted pursuant to 28 CFR, Part 42, Dept. of Justice and 49 CFR Part 21 Circular C1155.1, U.S. Department of Transportation, Urban Mass Transportation Administration (UMTA), and, is intended to comply with all relevant federal and state laws.

(c) This ordinance shall be known and may be cited as the "Equal Employment Opportunity and Affirmative Action Program," hereinafter referred to as the "Program."

Section 2. Policy Statement

(a) Through this program, Metro:

- (1) expresses its strong commitment to provide equal employment opportunities and to take affirmative action to insure nondiscrimination in employment practices;
- (2) informs all employees, governmental agencies and the general public of its intent to implement this policy statement; and,
- (3) assures conformity with applicable federal regulations as they exist or may be amended.

(b) It shall be the policy of Metro to ensure that Equal Employment Opportunities and practices exist for all applicants and employees without regard to their race, color, religion, national origin, sex or handicap. Equal opportunities and considerations will be afforded in recruiting, selecting, hiring, transferring, promoting, compensating and terminating employees.

(c) It shall be the policy of Metro to implement and maintain a plan of Affirmative Action to overcome the effects of discrimination in all areas and activities of employment. Plan

goals will be developed, updated each fiscal year, monitored and assessed to obtain and place qualified women and minorities in positions which reflect a realistic parity with the comparable existing regional labor force and, to provide a uniform and equal application of established employment procedures and practices for all employees. All managers and supervisors shall be responsible for acting in accordance with the affirmative action plan in the processing and treatment of employees.

(d) The policies, practices and procedures established by this ordinance shall apply to all Metro departments and project areas.

(e) The objectives of the program shall be:

- (1) to assure that provisions of this ordinance are adhered to by all Metro departments, employees, employment agencies, subrecipients, contractors and subcontractors of Metro.
- (2) to initiate and maintain efforts to insure equal employment opportunities to all applicants and employees.

(f) Metro accepts and agrees to the statements of the Department of Transportation, Urban Mass Transportation Administration, Circular UMTA C 1155.1, December 30, 1977, "UMTA Interim Equal Employment Opportunity Policy and Requirements for Grant Recipient".
~~[28-GFR-and-49-GFR, and, to the Civil Rights Act of 1964 et seq. and Oregon Anti-Discrimination Law ORS chapter 659.]~~

Section 3. Definitions

For purposes of this ordinance, the following definitions shall apply:

(a) "Affirmative Action" - a positive program to eliminate discrimination and noncompliance and to ensure nondiscriminatory practices and compliance in the future.

(b) "Equal Employment Opportunity" means employment activities conducted on an equal opportunity basis without discrimination as to race, sex, religion, national origin, marital status or mental/physical handicap not shown to prevent performance of work available.

(c) "Minority" or "Minority-Groups" means:

- (1) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- (2) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

- (3) "American Indians" or "Alaskan Natives," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; and
- (4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas.

(d) "Protected groups" or "class status" means women, handicapped persons, those persons cited in #3 above.

(e) "Discrimination" means that act or failure to act, intentional or unintentional, the effect of which is that a person, because of race, color, or national origin, has been excluded from participation in, denied the benefits of, or has been otherwise subjected to unequal treatment.

Section 4. Notice to Subrecipients, Contractors and Subcontractors

Subrecipients, contractors and subcontractors of Metro accepting contracts or grants under the Program shall be advised that failure to carry out the requirements set forth in this ordinance shall constitute a breach of contract and, after notification by Metro, may result in termination of the agreement or contract by Metro or such remedy as Metro deems appropriate.

Section 5. Affirmative Action Officer

The Executive Officer shall by Executive Order, designate an Affirmative Action Officer and, if necessary, other staff adequate to administer the Program. The Affirmative Action Officer shall report directly to the Executive Officer on matters pertaining to the Program and consistent with this ordinance.

Section 6. Affirmative Action Goals

(a) The Metro Council shall, by resolution each June, establish Affirmative Action Goals to ensure equal employment opportunities. Such annual goals shall be established separately by fund and job category for minorities and women.

(b) Annual goals will be established taking into consideration a work force study and analysis.

Section 7. Responsibilities and Procedures

The Executive Officer shall, by Executive Order, assign responsibilities for the administration and implementation of the Program. He shall establish measures to ensure compliance and record progress toward meeting the goals and objectives. The

Executive Officer shall establish a procedure for receiving and responding to complaints against Metro and its subrecipients, contractors and subcontractors for violations of this Ordinance.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1983.

Presiding Officer

ATTEST:

Clerk of the Council

0235C/366
11/07/83

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

| | | |
|---------------------------------|---|-----------------------|
| FOR THE PURPOSE OF ADOPTING THE |) | RESOLUTION NO. 83-436 |
| GOALS AND OBJECTIVES IN THE |) | |
| AFFIRMATIVE ACTION PLAN AS THE |) | Introduced by the |
| APPROVED GOALS FOR FISCAL YEAR |) | Executive Officer |
| 1983-84 |) | |

WHEREAS, The Metro Equal Employment Opportunity Ordinance No. 83-166 and Affirmative Action Policy Statements have been adopted in Ordinance No. 83-166; and

WHEREAS, An analysis of the region's work force and comparison to the Metro work force has been completed as contained in the document titled "Affirmative Action Plan Technical Report," and that analysis has provided the basis for establishing goals; and

WHEREAS, The goals are an integral part of the Affirmative Action Plan to ensure Equal Employment Opportunities; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District shall use for the period July 1, 1983, through June 30, 1984, the Affirmative Action Goals and Objectives attached in Exhibit A.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1983.

Presiding Officer

DK/srb
0235C/366
11/07/83

EXHIBIT A

METRO AFFIRMATIVE ACTION GOALS

Long-Term Goal

To attain and maintain a Metro employee work force profile which reflects the representation of women and minorities in the Portland Metropolitan Statistical Area (PSMA) by the job categories of officials/managers, professional, technician, office clerical, and service/maintenance by the end of FY 1986-87.

FY 1983-84 Annual Goal^a

To attain a Metro employee work force profile which is reflective of the 1982 reported representation of women and minorities within the work force of the PMSA.

Action Objective 1

By the end of FY 1983-84 maintain the percentage of women and minority employees in the job categories and funds in which the goal has been achieved or exceeded.

Action Objective 2

By the end of FY 1983-84 increase the percentage of women and minority employees in the job categories and funds in which the goal has not been achieved.

Overall Metro Status, Goals & Objectives by Job Category

| <u>Job Category</u> | <u>Percent Women</u> | | | <u>Percent Minorities</u> | | |
|---------------------|----------------------|-------------|------------------------------|---------------------------|-------------|------------------------------|
| | <u>Status</u> | <u>Goal</u> | <u>Objective^b</u> | <u>Status</u> | <u>Goal</u> | <u>Objective^b</u> |
| Officials/Managers | 13.6 | 20.1 | Incr. | 0 | 2.9 | Incr. |
| Professional | 36.2 | 31.6 | Maint. | 2.1 | 4.2 | Incr. |
| Technician | 52.4 | 15.7 | Maint. | 6.3 | 4.4 | Maint. |
| Office/Clerical | 89.1 | 80.5 | Maint. | 15.2 | 4.3 | Maint. |
| Service/Maintenance | 46.4 | 66.9 | Incr. | 6.5 | 8.7 | Incr. |
| Total | 50.0 | 58.0 | Incr. | 6.6 | 5.1 | Maint. |

^aGoals are promulgated as if there were no limitations on job availability. Measurement of objectives will reflect the actual vacancies.

^b Maint. = Maintain
Incr. = Increase

0235C/366
11/07/83

**METRO AFFIRMATIVE ACTION STATUS,
GOALS AND OBJECTIVES BY FUND AND JOB CATEGORY FOR WOMEN**

| <u>Job Category</u> | <u>General Fund</u> | | | <u>Planning Fund</u> | | |
|---------------------|------------------------|-------------|------------------|------------------------|-------------|------------------|
| | <u>Status</u> | <u>Goal</u> | <u>Objective</u> | <u>Status</u> | <u>Goal</u> | <u>Objective</u> |
| | <u>(Percent Women)</u> | | | <u>(Percent Women)</u> | | |
| Officials/Managers | 28.6 | 20.1 | Maint. | 0 | 20.1 | Incr. |
| Professional | 8.2 | 31.6 | Incr. | 21.4 | 31.6 | Incr. |
| Technician | 33.3 | 15.7 | Maint. | 0 | 15.7 | Incr. |
| Office/Clerical | 93.3 | 80.5 | Maint. | 100.0 | 80.5 | Maint. |
| Service/Maintenance | 0 | 66.9 | Incr. | N/A | N/A | N/A |
| Total | 51.2 | 58.0 | Incr. | 38.1 | 58.0 | Incr. |

| <u>Job Category</u> | <u>Solid Waste Fund</u> | | | <u>Zoo Fund</u> | | |
|---------------------|-------------------------|-------------|------------------|------------------------|-------------|------------------|
| | <u>Status</u> | <u>Goal</u> | <u>Objective</u> | <u>Status</u> | <u>Goal</u> | <u>Objective</u> |
| | <u>(Percent Women)</u> | | | <u>(Percent Women)</u> | | |
| Officials/Managers | 0 | 20.1 | Incr. | 14.3 | 20.1 | Incr. |
| Professional | 57.1 | 31.6 | Maint. | 72.7 | 31.6 | Maint. |
| Technician | 100.0 | 15.7 | Maint. | 50.0 | 15.7 | Maint. |
| Office/Clerical | 76.9 | 80.5 | Incr. | 92.3 | 80.5 | Maint. |
| Service/Maintenance | N/A | N/A | N/A | 87.7 | 66.9 | Maint. |
| Total | 55.5 | 50.0 | Maint. | 50.4 | 58.0 | Maint. |

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0235C/366-8
11/07/83

**METRO AFFIRMATIVE ACTION STATUS,
GOALS AND OBJECTIVES BY FUND AND JOB CATEGORY FOR MINORITIES**

| <u>Job Category</u> | <u>General Fund</u> | | | <u>Planning Fund</u> | | |
|---------------------|---------------------------------------|-------------|------------------|---------------------------------------|-------------|------------------|
| | <u>Status</u> (Percent Minorities) | <u>Goal</u> | <u>Objective</u> | <u>Status</u> (Percent Minorities) | <u>Goal</u> | <u>Objective</u> |
| Officials/Managers | 0 | 2.9 | Incr. | 0 | 2.9 | Incr. |
| Professional | 6.6 | 4.2 | Maint. | 0 | 4.2 | Incr. |
| Technician | 0 | 4.4 | Incr. | 0 | 4.4 | Incr. |
| Office/Clerical | 13.3 | 4.3 | Maint. | 0 | 4.3 | Incr. |
| Service/Maintenance | 0 | 8.7 | Incr. | N/A | N/A | N/A |
| Total | 7.3 | 5.1 | Maint. | 0 | 5.1 | Incr. |

| <u>Job Category</u> | <u>Solid Waste Fund</u> | | | <u>Zoo Fund</u> | | |
|---------------------|---------------------------------------|-------------|------------------|---------------------------------------|-------------|------------------|
| | <u>Status</u> (Percent Minorities) | <u>Goal</u> | <u>Objective</u> | <u>Status</u> (Percent Minorities) | <u>Goal</u> | <u>Objective</u> |
| Officials/Managers | 0 | 2.9 | Incr. | 0 | 2.9 | Incr. |
| Professional | 0 | 4.2 | Incr. | 0 | 4.2 | Incr. |
| Technician | 0 | 4.4 | Incr. | 6.9 | 4.4 | Maint. |
| Office/Clerical | 30.8 | 4.3 | Maint. | 7.6 | 4.3 | Maint. |
| Service/Maintenance | N/A | N/A | N/A | 6.6 | 8.7 | Incr. |
| Total | 14.8 | 5.1 | Maint. | 6.2 | 5.1 | Maint. |

DK/srb
0235C/366-9
11/07/83

CONSIDERATION OF AN ORDINANCE RELATING TO
THE SOLID WASTE RATE REVIEW COMMITTEE
STRUCTURE: AMENDING METRO CODE SECTION
5.01.170

Date: November 14, 1983

Presented by: Cindy Banzer

FACTUAL BACKGROUND AND ANALYSIS

This Ordinance has been prepared in accordance with a motion passed by the Regional Services Committee at its November 8, 1983 meeting. The motion was to recommend increasing the membership of the Solid Waste Rate Review Committee by one member from the public. The Committee would then have six members: three from the public and three from professions relevant to the Committee's activities. This change requires an amendment to the Metro Code.

Should this Ordinance pass, amendments to the Bylaws of the Rate Review Committee will also be necessary. These amendments must be made by the Metro Council.

EXECUTIVE OFFICER'S RECOMMENDATION ON SOLID WASTE RATE REVIEW
COMMITTEE STRUCTURE ORDINANCE

The Executive Officer recommends against this Ordinance. The issue of changing the structure of the Rate Review Committee should be carefully reviewed on the basis of a desired objective or some criteria. To change the structure of the Committee for the apparent purpose of accommodating an additional appointment does not appear to be good public policy. Also, the change as suggested would make the Committee an even number which could impede its ability to make decisions and recommendations.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On November 8, 1983, the Regional Services Committee recommended that Council amend Metro Code Section 5.01.170 to allow three public members on the Rate Review Committee, and that Rosalie Williams be appointed to fill the third public member position if the Code is amended.

On December 6, 1983, the Regional Services Committee, during discussion of the Rate Review Committee and Solid Waste Policy Advisory Committee, moved to recommend that the Council table the ordinance amending the Metro Code to expand the Rate Review Committee.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

| | | |
|-----------------------------------|---|----------------------------|
| AN ORDINANCE RELATING TO THE |) | ORDINANCE NO. 83-167 |
| SOLID WASTE RATE REVIEW COMMITTEE |) | |
| STRUCTURE; AMENDING METRO CODE |) | Introduced by the Regional |
| SECTION 5.01.170 |) | Services Committee |

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Metro Code Section 5.01.170 is amended to read as follows:

"(a) The Council shall appoint a [five member] six member Rate Review Committee to gather information and provide recommendations for the establishment of rates.

"(b) Initially, three members shall serve two-year terms and [two] three members shall serve one-year terms, in order to provide continuity in Rate Review Committee membership. Thereafter, Rate Review Committee members shall serve two-year staggered terms.

"(c) The members of the Rate Review Committee shall be as follows:

"(1) One Certified Public Accountant with expertise in cost accounting and program auditing.

"(2) One Certified Public Accountant with expertise in the solid waste industry or public utility regulation.

"(3) One local government administrator with expertise in governmental financing, agency budgeting and/or rate regulation.

"(4) [Two] Three members of the public.

"(d) No representative or affiliate of the solid waste industry and no employee of the District shall serve on the Rate

Review Committee. (Ordinance No. 81-111, Sec. 18)"

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1983.

Presiding Officer

ATTEST:

Clerk of the Council

ES/gl
0304C/366

STAFF REPORT

Agenda Item No. 8.1

Meeting Date Dec. 20, 1983

CONSIDERATION OF OPTIONS FOR IMPLEMENTING
A TRANSFER STATION IN WASHINGTON COUNTY

Date: November 10, 1983

Presented by: Solid Waste Staff

FACTUAL BACKGROUND AND ANALYSIS

Anticipating the eventual closure of landfills in and near the urbanized area, the Solid Waste Management Plan adopted in 1975 recommended that a publicly-owned transfer station be constructed in Washington County.

In 1980, the firm of Price Waterhouse & Company was engaged to evaluate alternatives for establishing a comprehensive solid waste management program. Their findings and recommendations were the basis for the development of the management system which includes public ownership and operation and franchising.

In the spring of 1982 the imminent closure of the landfills serving Washington County prompted a renewed effort to begin implementation of a West Transfer Station. The procedures to implement this facility were discussed at several meetings of the Regional Services Committee.

The procurement process recommended by the Executive Officer was Option 2B under which an RFP would be developed by the Metro staff and a Transfer Station Committee. This RFP would be used to select a firm which would site, design, construct and operate the transfer station. While the Staff Reports indicate that an exclusive franchise would be issued, Option 2B left open the decision of whether the agreement between Metro and the firm selected would be a franchise or a contract. The Executive Officer recommended that the Council adopt a resolution which directed the staff to develop a public process, set up a committee, draft criteria and prepare an RFP to implement a transfer station in Washington County.

In July, the Metro Council passed Resolution No. 82-336 establishing a committee to consider the alternatives for implementing a transfer station. The committee, made up of representatives of local jurisdictions, concluded their deliberations by recommending that Metro proceed with the building of a transfer station, and suggested that the actual procurement approach should be decided by Metro.

The recommendation of the local transfer station committee to support a transfer facility is primarily based upon assuring the public has a place to dispose of their waste. The Hillsboro Landfill, which is the only facility in Washington County serving the general public, is expected to close in three years. Although commercial haulers would still have access to both St. Johns and CTRC, some haulers would experience increased hauling time when the Newberg and Hillsboro Landfills close. These facts, along with the likelihood that any new landfills will require waste be delivered in transfer trailers, resulted in the committee's conclusion to proceed immediately to implement this portion of Metro's plan.

The Regional Services Committee has received the recommendations of the transfer station committee. Considering the facility will be built using a competitive bid process the primary issues that remain to be decided in implementing a transfer station in Washington County are:

1. Should the facility be publicly owned?
2. Should Metro seek a long-term franchise arrangement or contract the operations for a shorter term?

In addition to these two primary issues other factors that need to be considered are:

- Should Metro site the facility?
- Should Metro contract to design the facility or simply approve the concept?
- What are the financial terms required for a long-term commitment?

On Wednesday, October 19, 1983, at a special meeting of the Regional Services Committee, consideration was given to four basic approaches for constructing and operating the Washington County Transfer Station. The options for designing, constructing and operating the facility are:

1. Award a sole source franchise;
2. Request proposals to award a franchise;
3. Request proposals to award full service contracts with an accompanying operation agreement; and
4. Follow the conventional or CTRC approach.

Discussion at the meeting centered on advantages and disadvantages of these approaches. The Committee agreed that the approach should include a competitive process which was not proposed in option 1. The Committee also agreed that option 4 is always an alternative, and since it was used to construct CTRC, it is the approach with which the Council is most familiar. The Services Committee asked the Executive Officer to provide additional

information on the processes that would be utilized in awarding either a franchise, or a full service contract (options 2 and 3).

This report includes an outline presenting the process that would be followed when either awarding a franchise or a full service contract (Table A). The outline shown was developed based upon the assumption that the operator would be involved with the design and the private sector would perform the siting and obtain permits. Both processes could be accomplished within relatively the same time frame.

In addition to the steps required to complete these processes, the corresponding Council decisions are also shown in the far right-hand column of Table A. Many of the decisions specific to the design and operation of the facility under either of these options must be made when the initial proposal documents are prepared. In the case of franchising, there are conditions that may require revisions to the existing ordinance or that may be addressed under the variance provisions in Section 5.01.110.

Some of these revisions are as follows:

1. Section 5.01.060 - Application - Changes in the application requirements will need to be made in order to make the award.
2. Section 5.01.080 - Term of franchise - The term of the franchise should be reviewed. It is also recommended that specific conditions for renewal be adopted, and conditions for cancellation be established.
4. Section 5.01.090 - Transfer of franchises - Council currently cannot unreasonably deny transfer of a franchise. Conditions for approval should be developed.
5. Section 5.01.120 - Responsibilities of franchisees - Any specific conditions for this operation should be developed and approved under this section. Also consideration of waiving hauler participation would be under this section.

After awarding a franchise any revisions to the agreement before the renewal date would be on a negotiated basis since they will require consent of the owner. This is partially true under the RFP/contract process except that Metro can incorporate changes into contract documents when the contract is re-bid.

Table B is a summary of the differences in the two procurement approaches. The primary difference is whether or not the facility is publicly owned. As with any public utility, the benefits of public ownership are that it provides the maximum control to ensure the public's interest for providing service. Lower rates can be achieved through the exemption from paying property taxes and use of

TABLE A

| STEP | OPTION 2 RFP/FRANCHISE | OPTION 3 RFP/CONTRACT | DECISIONS BY COUNCIL |
|--|--|---|---|
| 1. Develop/RFP Establish Evaluation Criteria | <ul style="list-style-type: none"> Qualifications & Experience requirements Price to Design, Construct \$/Ton - to Operate Develop Conditions for Design & long-term operations Identify General Locations | <ul style="list-style-type: none"> Same as Franchise Conditions for Operations Contract | <ul style="list-style-type: none"> Approve Ordinance Changes Applications Process Fiscal Requirements Gatehouse Operation |
| 2. Firm Prepare Proposals | <ul style="list-style-type: none"> Limited Metro Involvement | <ul style="list-style-type: none"> Same as Franchise | <ul style="list-style-type: none"> No Decision |
| 3. Evaluate and Select Firm | <ul style="list-style-type: none"> Review Design & Operation Plan Evaluate Construction Cost Evaluate Long-Term Operations & Cost Impacts Review Qualifications & Experience | <ul style="list-style-type: none"> Same as Franchise | <ul style="list-style-type: none"> No Decision |
| Negotiate with Firm | <ul style="list-style-type: none"> Operational Conditions (as necessary) | <ul style="list-style-type: none"> Not Anticipated at This Time | <ul style="list-style-type: none"> Approve of Ordinance Changes if Necessary |
| 4. Award | <ul style="list-style-type: none"> Franchise Agreement-Long-Term Operations Renewed According to Conditions | <ul style="list-style-type: none"> Contract to site, Design and Construct Contract to Operate | <ul style="list-style-type: none"> Award (final decisions) Approval of plans, and construction and operation cost. |
| 5. Site Selection | <ul style="list-style-type: none"> Private Firm Selects Site (Must be in Metro Pre-determined Area.) Option on Property-Cost Established | <ul style="list-style-type: none"> Same as Franchise Option on Property-Metro Approve of \$ Amount | <ul style="list-style-type: none"> Must be in predetermined area - <u>no</u> decisions |
| 6. Conditional Use Permit | <ul style="list-style-type: none"> Private Firm Obtains Permits | <ul style="list-style-type: none"> Same as Franchise Metro Must Agree with Conditions | <ul style="list-style-type: none"> Metro will issue a statement of need and compliance with Solid Waste Management Plan No Decisions with Franchise Must Comply with Requirements. Council Approval of Changes in Contract |
| 7. Design Facility | <ul style="list-style-type: none"> Firm Designs Transfer Station | <ul style="list-style-type: none"> Same as Franchise Negotiation of changes | |
| 8. Construction | <ul style="list-style-type: none"> Building Erected | <ul style="list-style-type: none"> Building Erected--Site Inspection by Metro | <ul style="list-style-type: none"> No Decision under Franchise |
| 9. Operations Monitor Activities | | | |
| . Waste material accepted | <ul style="list-style-type: none"> Metro approves list--monitors site occasionally | <ul style="list-style-type: none"> Metro operates gatehouse Inspects operation Approves material on day-to-day basis | |
| . Fiscal Administra- tion | <ul style="list-style-type: none"> Metro Reviews Monthly Reports and Conducts Audit | <ul style="list-style-type: none"> Metro Bills Customers¹ and Collects Cash; Monitors Delinquent Billing | |
| . Maintenance & Property Protection | <ul style="list-style-type: none"> Maintenance as Required by Franchise, Performed by Owner | <ul style="list-style-type: none"> Metro Required Maintenance Performed by Contractor | |
| . Operators Cost & Changes | <ul style="list-style-type: none"> Determination of Profits² Operations Cost Submitted to Metro Metro Complete Rate Analysis & Establish Adequacy of Cost Salaries, Equipment, Etc. Rate Review Committee to Review Rate Study--Recommend to Council Metro Renews Franchise and Negotiates Changes | <ul style="list-style-type: none"> Prepare One Rate Study Use \$/Ton of Contractor Rate Study Reviewed by Rate Review Committee Rate Study as Required Metro Makes Changes and Approves cost Metro Re-bid or Negotiate | <ul style="list-style-type: none"> Council Approves Rates |
| . Termination | <ul style="list-style-type: none"> Metro to assume Owners Equipment and operate or close Pull Performance Bond | <ul style="list-style-type: none"> Metro Assume Control Rebid Operations Pull Bond (100% of 1 year Contract) | <ul style="list-style-type: none"> Council Approval |
| . Assignment | <ul style="list-style-type: none"> Metro to approve Change in Owner and/or Operator | <ul style="list-style-type: none"> Metro Must Approve Contractor. Council Approval or New Contractor If Sub-Contracted Metro must approve | |

(1) Subject to a decision by Metro to operate the gatehouse.

(2) Based on Metro Code Chapter 5.01. Subject to changes upon consideration of revisions in Chapter 5.01

TABLE B
MAJOR DIFFERENCES

| | <u>OPTION 2</u> <u>RFP/FRANCHISE*</u> | <u>OPTION 3</u> <u>RFP/CONTRACT</u> |
|---------------------------------------|---|--|
| 1. Operations Contract | Permanent | Temporary |
| 2. Property & Building | Owned Privately | Owned Publicly |
| 3. Fiscal Administration Gatehouse | Private Operation Public Audit | Public Operation |
| 4. Operator's Cost | Regulate Profit | Pay Contractor's Fee |
| 5. Termination | Metro must prove violation | Metro Assume Operation |
| 6. Assignment | Metro must prove reason for denial | Metro Approval |
| 7. Changes to System | Negotiated with Owner during franchise term | Metro Approval Negotiated only during contract period |

* Based on Metro Code, Chapter 5.01

tax exempt financing. Any surplus revenues can be used to expand services or to reduce fees. If the facility is privately owned Metro is relieved of making day-to-day administrative decisions, but still must regulate to protect the interest of public.

Another significant difference in the two options is that a franchise is a relatively permanent arrangement with one firm. Conditions can be written to allow for the public to take control and even buy out the private firm. However, these conditions should be included in the initial franchise agreement.

In summary, the two approaches are very similar in both process and time frame required to accomplish the work. They both allow for substantial participation from private industry and encourage competition to provide incentive to be cost-effective. Bidding is the clearest form of rate regulation, and should be considered important since the facility represents an initial capital cost estimated at \$3-5 million while an operating cost of \$2-3 million per year is anticipated. Owning and contracting provides the most control and flexibility for Metro. Private ownership and franchising restricts Metro's role to one of regulating.

FINDINGS

Staff has completed the analysis of the various procurement approaches available for implementing a transfer station in Washington County. This review has resulted in the following findings:

1. Metro has the legal ability to either franchise or contract for the operation of a transfer station.
2. The basic decision to be made is not one of public versus private operation, but rather the more narrow question regarding ownership of the physical plant. It is currently assumed that under either a franchise or contract, the private sector will design, construct and operate the facility.
3. Neither public nor private ownership will result in a significant capital cost advantage. Likewise, the use of initial capital investment for the purpose of reducing ultimate operating cost should be realized under either option.
4. Under the two basic ownership choices available to Metro, facility ownership by a private firm carries with it the implication that the franchising format would be followed.
5. The granting of a franchise creates a substantially different relationship between the franchisee and Metro than does a contract. A franchise carries with it a grant of authority, tenure and value far in excess of that contained in a contract.
6. In issuing a franchise for a transfer station, Metro is making a long-term commitment to one firm.
7. The Metro solid waste system continues in a state of evolution.
8. Solid waste management in the United States is in its formative stages with substantial changes yet to come in technology and private sector organizational structure as well as new developments in the relationships between private and public agencies.
9. When establishing franchise conditions, Metro should have a reasonably good feel for potential future unknowns.
10. The experience gained during the procurement process at CTRC, and recent statements from the industry, clearly indicate that several firms have an interest in competing for building and operating the WTRC.

11. A transfer station (or any other individual solid waste disposal component) is an integral part of the overall solid waste disposal system.
12. Typically, when a public agency is charged with the responsibility to provide a needed service, public ownership is surrendered only when the public agency lacks either the financial resources, legal authority, knowledge base needed to own or operate a public facility, or is unwilling to assume the required level of risk.
13. The recommendations for an optimum Metro solid waste management structure by the firm of Price Waterhouse & Company completed in October, 1980 included the characteristic that Metro own and operate, or contract for the operation of, all transfer stations.

CONCLUSIONS

Based on an evaluation of the procurement options available to Metro and the preceding findings, the following conclusions are drawn. These conclusions are consistent with those developed independently by the management firm of Price Waterhouse and Company in their recommendations to Metro on a comprehensive management program. Section I of their report is attached and made a part of this document.

1. While the legality of franchising transfer stations under Metro's current authority is clear, it is also clear that Metro has the authority to build, construct and operate or contract for these services. The difference between the siting of a transfer station and landfill is substantial. While landfill sites are limited by their very nature with few parties willing to invest the money and time required to reach the permit stage, the same cannot be said of transfer stations. Based upon the "public resource" aspect of landfills, and the necessity to commit substantial capital in the early stages of development, the long-term commitment inherent in franchising is appropriate for landfills. However, numerous corporations have indicated a desire to enter the transfer station business in the Metro region. Based upon the previous discussion, there are sufficient reasons for the franchising of landfills which are not present in transfer station operations.
2. A fixed-term operations contract provides flexibility to Metro in both a financial and an operational sense. For example, the opportunity to bid the system as a total package in future years is eliminated when a portion is not owned by the agency. The need for system flexibility is constrained when Metro lacks control over the individual system components.

3. The franchisee's interest in the total solid waste system may not always be in harmony with Metro's needs. For example, if an exclusive transfer station franchise were granted for Washington County, a current discussion with another landfill operator, regarding the construction of a smaller reload transfer facility in Washington County for the purpose of directing waste away from St. Johns Landfill could face sustained and lengthy legal opposition. This would not be surprising since the transfer station operator is compensated on the basis of tonnage transferred.
4. Franchising creates a de facto monopoly and then proceeds to regulate in order to protect the public interest. Although it is understandable that this approach be undertaken when considering public utilities such as electric, telephone, gas and water service, it is questionable whether this approach is applicable to a solid waste transfer station. These other utilities require the "physical plant" be spread throughout a specific territory. In the case of a transfer station the "physical plant" location is determined by convenience and hauling efficiencies and not by a set geographical area. It should be noted that the use of franchising for solid waste collection is recognized as serving a valid public purpose.
5. The franchise ordinance, as currently drafted, should be reviewed to bring it into compatibility with previous discussions regarding the siting of transfer stations. In effect, the issues would be better handled through a contract tailored to the particular needs for a transfer station in Washington County rather than the use of the waiver provisions in the Ordinance. It should be noted that the franchise ordinance and any future changes not only apply to existing sites, but would also be used as the benchmark for future limited-purpose landfill siting efforts.
6. Metro has the capability to administer the siting, design and construction of a transfer station as evidenced by the successful operation of the CTRC. An extensive base of knowledge, using this option, is available within the solid waste department. While this knowledge has some transferability to the RFP/contract (option 3) and RFP franchise (option 2) models, a significant relearning process would need to be undertaken. Employing the model used to construct CTRC offers a faster start since all key decisions are not required to be made at the very beginning of the process.

7. A fixed-term contract expires at a predetermined date. This enables Metro to unilaterally add, delete or modify conditions to meet changing needs. A franchise is subject to negotiation which suggests that a more thorough and comprehensive set of conditions must be included at the initial franchise award. Due to the evolutionary nature of both the solid waste industry and Metro solid waste system, it is highly unlikely that all contingencies could be identified and incorporated into the original franchise.
8. Should a franchisee encounter substantial litigation or land use delays and decide to abandon any future efforts based upon the financial burden involved, the time consumed between franchise award and abandonment would be lost to Metro. Because of Metro's authority and responsibility in solid waste disposal, this organization does not have the option of walking away from a frustrating or lengthy siting process.
9. A fixed-term contract with Metro ownership is preferable to a franchise because it requires the contractor to periodically compete with other potential operators. This enables Metro (and the public) to judge whether the public is receiving the most economical price in an open, public process that takes advantage of the competitive market place. A franchise essentially eliminates the question of whether someone else can do the job better or more economically and instead only concentrates on the franchisee's level of compliance.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends that the Metro Council approve a Resolution which recommends a publicly bid fixed-term operations contract with Metro ownership while stressing close cooperation with all affected parties.

While there are benefits to be gained from a franchise arrangement, namely a long-term stable relationship, the flexibility gained through a publicly bid contract process is more beneficial to Metro Solid Waste's needs at this time. If we should decide that the benefits of private ownership/franchising outweigh the current attractiveness of public ownership, we can always divest our holding and institute franchising. However, it is much more difficult to move in the other direction.

This recommendation provides Metro with the flexibility required for responding to future solid waste needs. At the same time, we are in a position to take advantage of the organizational expertise developed during the design, construction and operation of CTRC. The construction of WTRC will be another significant step in the development of our solid waste disposal system.

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Regional Services Committee has held four meetings for the purpose of discussing the implementation of the Washington County Transfer Station. The Committee has considered the recommendations of the transfer station committee established under previous action by the Council. After receiving public testimony and reviewing all available information, the Committee voted in favor of Resolution No. 83-439.

This Resolution states Metro's intent to implement a publicly owned solid waste transfer station, to serve the Washington County area. The facility is to be procured through a public bid process and operated under a contract arrangement. Staff is directed to research and provide information detailing a full service strategy to the Regional Services Committee for future discussion.

The Resolution also commits the staff to develop a process that provides maximum involvement from the solid waste industry and local government, regarding the location and design, and to consult with haulers in the western portion to coordinate current and future site requirements of the collection industry.

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12/2/83

METROPOLITAN SERVICE DISTRICT

RECOMMENDATIONS FOR DEVELOPING
A COMPREHENSIVE MANAGEMENT PROGRAM
TO ADMINISTER A SOLID WASTE
FACILITY FRANCHISE AND DISPOSAL
RATE CONTROL SYSTEM

OCTOBER 17, 1980

SYSTEM MANAGEMENT STRUCTURE

Metro involvement alternatives

Regarding Metro's existing and future scope of activities, there are four basic institutional alternatives:

- Metro ownership and operation;
- Metro ownership and private operation;
- Private ownership and operation;
- Private ownership and Metro operation.

Each alternative has its advantages and disadvantages, and each may be more or less appropriate depending upon the function being performed.

These four institutional alternatives are briefly described below. Additionally, the relative pros and cons associated therewith as well as the conditions which favor each are presented at Exhibit I-1. In reviewing this exhibit, it must be kept in mind that the conditions which favor each alternative are intended to be general in nature, with no presumption as to their relative importance or their applicability to Metro. However, to the extent these conditions do apply to Metro, they should be considered in management's evaluation of each of the following institutional alternatives.

Metro Ownership and Operation. A publicly owned facility (i.e., one owned either by Metro or another governmental unit) would be operated by Metro.

Metro Ownership and Private Operation. A publicly owned facility could be operated privately either by the contractor who built the facility, or by an independent service contractor who had nothing to do with facility design or construction.

Private Ownership and Private Operation. Under this approach a system contractor has full responsibility for financing, design, implementation, continued operation, and ownership of the facility. In reality, this full service contractor is offering Metro a service rather than a facility.

Private Ownership and Metro Operation. This option normally would take the form of a leveraged lease, wherein Metro could lease a facility from private investors who finance the facility in exchange for formal ownership of it and the tax advantages associated therewith.

In addition, there are numerous variations on these four basic institutional alternatives. For example, under the Metro Ownership/Private Operation option, the private operator could be required to make certain leasehold improvements and to acquire operating equipment although Metro would own the land on which the landfill is located.

Regardless of which institutional alternative ultimately is adopted, Metro is responsible for ensuring that needed disposal facilities are provided and are operated in an acceptable manner. As such, Metro must establish regulatory control over these activities. This regulatory program should include (a) developing and implementing ordinances and regulations; (b) establishing inspection, monitoring, and complaint procedures and programs; (c) initiating enforcement procedures and programs as required by the Disposal Franchise Ordinance; and (d) developing bid specifications and awarding contracts or franchises for services to be provided by private firms.

In deciding between private versus public operation and ownership of a given facility, Metro must evaluate factors such as ability to raise capital, the degree of technological risk involved, the management expertise required, and the expected capital and operating costs. The objective of this evaluation

must be to balance these often conflicting factors and, in so doing, to structure the optimum institutional arrangement consistent with public policy.

Concerning the issue of costs, it can be argued that governmental systems should cost less since they do not have to earn a profit nor pay taxes, and the costs of tax-exempt financing are less than that of private capital. On the other hand, a private enterprise must earn a profit and pay various taxes. Additionally, the governmental entity will incur expenses to license and monitor the operations of private companies. The most frequently cited reasons for lower private costs are better management and more efficient use of labor. In all cases, the profit motive is considered a key element in reducing costs. The loss of tax revenues under public ownership and operation also must be taken into account.

As readily can be seen from a review of Exhibit I-1, the primary advantage of Metro ownership is maximum control over the solid waste disposal system with the main disadvantage being the requirement for commitment of public capital. Regarding Metro operation of facilities, the primary advantage again is control whereas the primary disadvantage is the requirement to acquire skilled personnel and the associated future displacement of jobs in the private sector.

Based upon discussions with you and your staff, the following objectives were defined regarding Metro's involvement in the solid waste management system:

1. Assurance that needed facilities are available and that they are operated in an acceptable manner;

2. Maximum control over the flow of solid waste and the ability to direct particular types of waste to specific disposal facilities;
3. Maximum utilization of existing and potential disposal facilities to assure the availability of such facilities as far into the future as possible;
4. Control over the number and qualifications of those private enterprises which enter the solid waste disposal industry to provide for flow control as well as efficient and effective operation of the disposal system to the maximum extent possible; and
5. Control over user charges to assure that they are fair, just and reasonable, and that they promote the other objectives enumerated above.

Additionally, through discussions with you and your legal counsel, it was determined that Metro currently has statutory authority to:

1. Direct all, or a portion, of the solid waste stream to selected disposal facilities in order to maximize the efficiency of the region's Solid Waste Management Plan;
2. Limit the number of disposal sites which are in operation at any point in time, and to optimize the geographic dispersion of such facilities;
3. Restrict entry into the solid waste system and to restrict the services provided by those who are granted entry;

4. Provide a coordinated regional disposal program and Solid Waste Management Plan in cooperation with federal, state and local agencies to benefit all citizens of the District;
5. Provide standards for the location, geographical zones and total number of disposal sites, processing facilities, transfer stations and resource recovery facilities to best serve the citizens of the District; and
6. Insure that rates are fair, just, reasonable and adequate to provide necessary public service, and to prohibit rate preferences and other discriminatory practices.

Optimum management structure

In light of the above, it appears that Metro's objectives best can be met by a solid waste management system that has the following characteristics:

1. Metro will own and operate, or contract for the operation of, all transfers stations;
2. Metro will own and operate, or contract for the operation of, all general purpose landfills;
3. Metro may own and operate, or contract for the operation of, limited use landfills restricted to disposal of demolition material. Metro probably will grant a limited number of franchises for the ownership and operation of such facilities to the private sector;
4. Metro may own, or franchise the ownership and operation of, resource recovery facilities. Under Metro ownership, the operation of such facilities will be contracted to the private sector;

5. Metro will establish the rates to be charged at its own facilities and will regulate the rates charged at the privately owned and operated demolition landfills. The rates charged at these privately owned facilities will be established in accordance with generally accepted rate-making principles and probably will vary from one facility to another;
6. Metro will perform the gatehouse monitoring and billing functions at publicly owned disposal facilities and at resource recovery facilities.

The above management structure properly balances the relative advantages and disadvantages of each institutional alternative presented at Exhibit I-1. In summary, these factors are ability to raise capital, the degree of technological risk involved, the management expertise required, and the expected capital and operating costs. Metro will continue to perform the system-wide planning and monitoring required to ensure that disposal facilities are available when needed and that they are operated in accordance with the Disposal Franchise Ordinance.

We have recommended that Metro own and operate all transfer stations. This function could be provided by the private sector, but there are no overwhelming reasons to do so. The primary purpose of a transfer station is to provide convenient disposal service to the general public in lieu of public access to remote and/or restricted sanitary landfills. As such, quality of service considerations usually are more important than economic criteria. Additionally, in the interest of flow control, a uniform disposal charge should be levied at all transfer stations regardless of their individual capital and operating costs. If all or some transfer stations were privately owned, establishment of a uniform disposal charge would be extremely complex due to the subsidy of one facility by another which invariably would be

required (see Section III for discussion of the uniform disposal charge formula). Under these circumstances, such facilities best are owned and operated by Metro rather than the private sector.

The legality of such a subsidy also must be carefully evaluated. In a preliminary draft memorandum dated April 15, 1980, Metro's legal counsel indicated that:

"As stated in the proposed solid waste disposal franchise ordinance, MSD had limited land and resources for the disposal of solid waste and requires the franchise of disposal sites, transfer stations, processing facilities, and resource recovery facilities in order to provide and protect such resources. Thus, subsidies in connection with this franchise system undoubtedly serve a public purpose and do not violate Article XI, S 9 (of the Oregon Constitution). If MSD does not become a stockholder in a private corporation or encumber general revenues through such subsidies, then Article XI, S 9 is not violated."

Whether Metro or the private sector owns resource recovery facilities will depend upon relative economics and the willingness of private enterprise to own such a facility. As indicated on Exhibit I-1, there are significant tax benefits associated with private ownership of a resource recovery facility. These tax benefits effectively reduce the cost of capital financing and, in turn, the required disposal charge. However, the availability and magnitude of such benefits are project specific. Relative economics may favor Metro ownership in one instance and private ownership in another. In any event, the private sector should operate such a facility, at least for the first few years. Private operation is desirable because of the required management and technical expertise and experience, which normally is not available in the public sector. Who operates a resource recovery facility is an important factor in determining the bond rating, and therefore the interest rate, for any long-term debt incurred to construct the facility.

* * * * *

METROPOLITAN SERVICE DISTRICT
SYSTEM MANAGEMENT STRUCTURE
METRO OWNERSHIP AND OPERATION

| <u>Potential advantages</u> | <u>Potential disadvantages</u> | <u>Conditions which favor alternative</u> |
|---|---|---|
| Tax exempt | Monopolistic | A financial feasibility study shows this to be more cost-effective |
| Nonprofit | Lack of incentive to maximize efficiency | Past history of contractual operations for public service is unsatisfactory |
| Availability of low-interest financing and/or government grants for needed capital acquisitions | Financing and operations often influenced by political constraints | Public predisposition towards government operation of public services |
| Economies of scale | Labor pressures may result in inefficient labor practices and/or strikes | Quality of service provided is valued more highly than economics |
| Metro has administrative control | Restrictive budget policies may inhibit innovation, and reduce efficiency due to inadequate equipment replacement and maintenance | Creation of public jobs is desirable |
| Management and policies are continuous over time, resulting in experienced personnel and permitting long-range planning | Policies of job-support inflate labor costs | Government employees are available to operate facilities |
| Records can be kept over on extended period of time | Community may not have expertise to operate sophisticated capital-intensive facilities | Implementation may be easier because government ownership is compatible with existing public policy |
| | Government may lack expertise to market recovered materials and/or energy | |

METRO OWNERSHIP AND PRIVATE OPERATION

| <u>Potential advantages</u> | <u>Potential disadvantages</u> | <u>Conditions which favor alternative</u> |
|---|--|--|
| Competitive bidding for contracts(s) helps keep prices down | Danger of collusion in bidding | A financial feasibility study shows this to be more cost-effective |
| Metro has administrative control | Metro must regulate contractors | Public predisposition towards both public and private sector involvement in public services |
| Community does not bear entire risk associated with new technology | Metro must identify acceptable firms and negotiate contracts | Qualified private contractors are available |
| Availability of low-interest financing and/or government grants for needed capital acquisitions | Private operators may pursue profits in lieu of service to the community | Flexibility is needed to make changes in operations that would result in labor savings and other cost reductions |
| Economies of scale | Displacement of public employees | Desire of local government to avoid administrative details in operation of disposal facilities |
| | | Community lacks sufficient technical and management expertise for efficient operation of the type of system it would like to implement |

PRIVATE OWNERSHIP AND OPERATION

| <u>Potential advantages</u> | <u>Potential disadvantages</u> | <u>Conditions which favor alternative</u> |
|--|---|--|
| Competition may reduce costs | Metro has no administrative control* | A financial feasibility study shows this to be more cost-effective |
| Local community does not have to finance the system | Danger of collusion among disposal sites to reduce competition and maintain high prices* | Public policy favors private sector involvement in public services . |
| Often easier for private firms to buy land for disposal facilities | Cutthroat competition can result in business failures and service interruptions* | Borrowing power of community and/or voter approvals for bond issues needed for capital improvements are limited or not available |
| Community does not bear entire risk associated with new technology | Overlapping service areas* | Flexibility is needed to make changes in operations that would result in labor savings and other cost reductions |
| Private firms tend to have greater expertise in management of capital-intensive facilities | Community will have no control over fees if only privately owned and operated facilities are available* | Desire of local government to avoid administrative details in operation of disposal facilities |
| | Metro may have to regulate private firms | |
| | Metro may have to identify acceptable firms and grant franchises | |

*Potential disadvantage assumes that there is no regulatory control system. If such a system exists, this disadvantage is eliminated.

PRIVATE OWNERSHIP AND OPERATION

(Continued)

Potential advantages

Potential disadvantages

Conditions which favor
alternative

Private interests may pursue profits in lieu of service to the community

Substandard disposal practices may occur

Displacement of public employees

Public sector lacks sufficient technical and management expertise for efficient operation of the type of system it would like to implement

Qualified private firms are available

PRIVATE OWNERSHIP AND METRO OPERATION

| <u>Potential advantages</u> | <u>Potential disadvantages</u> | <u>Conditions which favor alternative</u> |
|--|---|--|
| Local community does not have to finance the system | Monopolistic | A financial feasibility study shows this to be more cost-effective |
| Metro has administrative control | Lack of incentive to maximize efficiency | Past history of contractual operations for public service is unsatisfactory |
| Often easier for private firms to buy land for disposal facilities | Operations often influenced by political constraints | Public predisposition towards both public and private sector involvement in public services |
| Community does not bear entire risk associated with new technology | Labor pressures may result in inefficient labor practices and strikes | Quality of service provided is valued more highly than economics |
| | Restrictive budget policies may inhibit innovation, and reduce efficiency due to inadequate equipment replacement and maintenance | Government employees are available to operate facilities |
| | Policies of job-support inflate labor costs | Creation of public jobs is desirable |
| | Public sector may not have expertise to operate sophisticated capital-intensive facilities | Borrowing power of community and/or voter approvals for bond issues needed for capital improvements are limited or not available |
| | Government may lack expertise to market recovered materials and/or energy | |

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF DECLARING
METRO'S INTENT TO PROCEED TO
IMPLEMENT A TRANSFER STATION
IN WASHINGTON COUNTY

) RESOLUTION NO. 83-439
)
) Introduced by the Regional
) Services Committee

WHEREAS, Metro has the authority under ORS 268.317 to construct, operate and maintain transfer facilities necessary for the solid waste disposal system of the District; and

WHEREAS, A transfer station to service Washington County is a recommended element of the adopted Solid Waste Management Plan; and

WHEREAS, Metro sought public input regarding a transfer station in Washington County and was subsequently advised by the Washington County Transfer Station Committee that a transfer station facility was needed in this area; and

WHEREAS, The firm of Price Waterhouse Co. was retained in 1980 and recommended that Metro ownership and operation, or contracting for the operation, of all transfer stations best met Metro's identified objectives; and

WHEREAS, Metro is successfully managing a transfer station in the southern portion of the District; now, therefore,

BE IT RESOLVED,

1. Metro declares its intent to build a transfer station and recycling center in Washington County that will provide transfer and recycling services to both the public and commercial haulers.

2. Metro solid waste staff will develop a process which provides maximum involvement from the solid waste industry and local governments regarding the location and design of the transfer station.

3. Metro solid waste staff will consult with haulers in the western portion of the District to coordinate current or future site requirements of the collection industry.

4. Metro will continue to provide the opportunity for all interested and qualified private sector parties to compete on an equitable basis for design, construction, and operation contracts through a comprehensive, public bid process while maintaining public ownership of the physical facilities.

5. Metro solid waste staff will research and provide information detailing a full-service procurement strategy to the Regional Services Committee.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1983.

Presiding Officer

DD/srb
0404C/366
12/07/83

STAFF REPORT

Agenda Item No. 8.2

Meeting Date Dec. 20, 1983

CONSIDERATION OF A RESOLUTION RECOMMENDING
APPROVAL OF THE CITY OF TIGARD'S REQUEST FOR
ACKNOWLEDGMENT OF COMPLIANCE WITH LCDC GOALS

Date: December 1, 1983

Presented by: Mark Brown

FACTUAL BACKGROUND AND ANALYSIS

Metro staff reviewed the Draft Tigard Comprehensive Plan in October 1983 and provided the City with comments. The City adopted its plan on November 9, 1983, and submitted it to LCDC on November 18, 1983, requesting acknowledgment. Based on a final review of the plan documents with the Metro Plan Review Manual, staff finds that there are no acknowledgment issues of major regional concern and, therefore, supports plan acknowledgment by LCDC.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of this Resolution.

COMMITTEE CONSIDERATION AND RECOMMENDATION

As the Tigard plan review would have been the only action item on the Regional Development Committee's agenda on December 2, 1983, the Committee decided to defer consideration of the plan review until the December 20, 1983, Council meeting.

MB/gl
0328C/366
12/1/83

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF RECOMMENDING) RESOLUTION NO. 83-440
APPROVAL OF THE CITY OF TIGARD'S)
REQUEST FOR ACKNOWLEDGMENT OF)
COMPLIANCE WITH LCDC GOALS)

WHEREAS, Metro is the designated planning coordination body under ORS 260.385; and

WHEREAS, Under ORS 197.255 the Council is required to advise LCDC and local jurisdictions preparing Comprehensive Plans whether or not such plans are in conformity with the Statewide Planning Goals; and

WHEREAS, The city of Tigard is now requesting that LCDC acknowledge its Comprehensive Plan as complying with the Statewide Planning Goals; and

WHEREAS, LCDC Goal 2 requires that local land use plans be consistent with regional plans; and

WHEREAS, The city of Tigard's Comprehensive Plan has been evaluated for compliance with LCDC Goals and regional plans adopted by CRAG or Metro prior to June 1983 in accordance with the criteria and procedures contained in the "Metro Plan Review Manual," as summarized in the Staff Report attached as Exhibit "A"; and

WHEREAS, Metro finds that the city of Tigard's Comprehensive Plan complies with LCDC Goals; now, therefore,

BE IT RESOLVED,

1. That the Metro Council recommends to LCDC that the city of Tigard's Comprehensive Plan be acknowledged.

2. That the Executive Officer forward copies of this Resolution and Staff Report attached hereto as Exhibit "A" to LCDC, the city of Tigard and to the appropriate agencies.

3. That, subsequent to adoption by the Council of any goals and objectives or functional plans after July 1983, the Council will again review Tigard's plan for consistency with regional plans and notify the city of Tigard of any changes that may be needed at that time.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1983.

Presiding Officer

MB/gl
0328C/366
12/01/83

EXHIBIT "A"

CITY OF TIGARD ACKNOWLEDGMENT REVIEW

Background

Tigard's Comprehensive Plan is comprised of three documents:

- Vol. 1 - Resource Document
- Vol. 2 - Findings, Policies and Implementation, Strategies
- Vol. 3 - Community Development Code

Tigard's planning area includes certain urban unincorporated areas in Washington County. By urban planning area agreement with the County, the Tigard Comprehensive Plan is the plan by which land use decisions will be made in these areas. The County retains legal jurisdiction over development proposals for the area outside the city limits.

Goal No. 1: Citizen Involvement

The City's citizen involvement process was established in 1973 with the formation of the Neighborhood Planning Organizations (NPO). Between 1974 and 1979 the seven NPOs were actively involved in the preparation of their neighborhood plans. Beginning in 1981, the City undertook the preparation of a community-wide comprehensive plan combining the various NPO plans. The Committee for Citizen Involvement (CCI) in this process was comprised of NPO chairpersons, Planning Commission chairperson, a Council member, a Park Board member and City staff. The City has adopted policies and strategies for an ongoing citizen involvement process revolving around the CCI and NPOs.

Conclusion: There are no acknowledgment issues of major regional concern with Goal No. 1.

Goal No. 2: Land Use Planning

Goal No. 2 requires that the City's comprehensive plan be coordinated with the plans of Washington County and Metro. To comply with the regional aspects of Goal No. 2, the City must have a valid Urban Planning Area Agreement (UPAA) with Washington County and must recognize Metro's authority to require "re-opening" of the City's plan to conform to adopted regional functional plans, i.e., the Regional Transportation Plan (RTP). The City and the County have a valid UPAA and the City's comprehensive plan contains Metro's required "opening language."

Conclusion: There are no acknowledgment issues of major regional concern with Goal No. 2.

Goal No. 3: Agricultural Lands

Not applicable.

Goal No. 4: Forest Lands

Not applicable; forested areas are considered as part of Goal No. 5.

Goal No. 5: Open Space, Scenic and Historic Areas and Natural Resources

Goal No. 5 requires that a certain process be followed as specified in OAR 660-16-00. That process involves the identification of significant resources and the consideration of economic, social, environmental and energy consequences where conflicting uses have been identified. The ultimate policy choices that must be made are to protect the resource site, allow conflicting uses, or limit conflicting uses. This process has been presented in the City's Resource Document.

Through this process, the City has determined that three historic structures are "significant": the Windmill, John F. Tigard House, and Durham Elementary School. In keeping with the procedures under OAR 660-16-00 and the recommendations in the Resource Document, the Historic overlay district designation should be placed on these properties. The City has other historic structures that are still under consideration and have not yet been determined to be significant. Once these other structures are analyzed, the City will proceed with the Historic overlay designation for all properties at the same time.

Conclusion: There are no acknowledgment issues of major regional concern.

Goal No. 6: Air, Water and Land Resource Quality

DEQ and Metro share responsibility for air quality planning in the region and have jointly prepared the State Implementation Plan (SIP) for the Portland area. The City's plan includes policies and strategies to coordinate with the state and Metro in efforts aimed at reducing air pollution.

Metro is the lead agency for "208" water quality planning in the region. The City's plan includes policies to comply with applicable water quality standards and to cooperate with Metro in the improvement of water quality.

The plan also includes findings, policies and strategies recognizing the regional nature of solid waste disposal, and Metro's authority to prepared and implement a solid waste management plan.

Conclusion: There are no acknowledgment issues of major regional concern.

Goal No. 7: Natural Hazards

The City's Resource Document includes an identification of the physical limitations and natural hazards affecting development in the planning area. In turn, the plan contains policies and implementing strategies for areas containing physical limitations and natural hazards. The Community Development Code regulates development in these areas through the provisions of the "Sensitive Lands" overlay district.

Conclusion: There are no acknowledgment issues of major regional concern.

Goal No. 8: Recreation

The City's plan has established a park and recreation standard of 10 acres per 1,000 population. At the present time, the City has approximately 12 acres of park land per 1,000 population. To meet the park and recreation needs of the City to the year 2000, the City utilizes a system development charge to acquire and develop park land. In addition, the Planned Development overlay district is required of all properties containing "Sensitive Lands." This district establishes certain standards for private or shared recreation areas which are required.

Conclusion: There are no acknowledgment issues of major regional concern.

Goal No. 9: Economy

The City has estimated that the increase in employment within the planning area between 1980 and 2000 will be 11,500 jobs. To accommodate this growth in employment, the plan designates 270 vacant buildable acres for commercial development and 224 acres for industrial development. These properties are attractive because of their close proximity to the transportation network, similar land uses and the availability of public facilities. The comprehensive plan contains policies and strategies promoting coordinated economic development of these areas.

Conclusion: There are no acknowledgment issues of major regional concern.

Goal No. 10: Housing

Goal No. 10 requires a demonstration that sufficient buildable residential land has been designated under clear and objective approval standards to meet projected housing needs. Within the Metro area the OAR's stipulate that Tigard must provide for new construction to be at least 50 percent attached single family or multi-family, and a minimum overall density of 10 dwelling units per net buildable acre.

The plan permits outright in the residential zones an overall density of 9.0 dwelling units per net buildable acre. To achieve 10.0 units per net buildable acre the City relies upon the development of 1,260 dwelling units in the professional office and central business district (CBD) zones, and redevelopment in the CBD and Tigard Triangle areas to achieve 383 units. Residential use is permitted by right above the first floor in these areas. As a result, the City has provided for an overall density of 10.0 dwelling units per net acre with a 33 percent single family, 67 percent multi-family housing split on new construction.

Conclusion: There are no acknowledgment issues of major regional concern.

Goal No. 11: Public Facilities and Services

The City has inventoried the existing public facilities and services, and examined the service capabilities within the planning area. In addition, the City has adopted policies and implementing measures providing for the orderly and efficient arrangement of facilities and services.

The service capability analysis does not extend to the sewage treatment facility at Durham. The City has a plan policy to develop a "comprehensive sewer plan" which will identify future capacity needs of the sewer system.

Conclusion: There are no acknowledgment issues of a major regional concern. Metro emphasizes the need to complete the "comprehensive sewer plan" in a timely manner in coordination with the Unified Sewerage Agency.

Goal No. 12: Transportation

Metro's RTP sets forth regional transportation goals and objectives, and recommends improvements to the year 2000. Local jurisdictions must demonstrate consistency with the RTP by December 31, 1983. Metro reviewed the draft plan in October 1983 and noted several areas of inconsistency between the RTP and the City's transportation plan as follows:

- The regional transitways identified in the RTP that affect Tigard should be included in the Tigard plan.
- The regional transit trunk routes serving Tigard identified in the RTP should be specified in the Tigard plan.
- Other streets suitable for subregional transit trunk routes and local transit service should be identified in the Tigard plan as a guide to Tri-Met.
- Pacific Highway should be designated as an "RTP-Principal Arterial."

- The proposed Tigard plan should commit to working with Metro and the affected jurisdictions to resolve the issues surrounding the need for an alignment of potential Major Arterial connections between I-5 and Pacific Highway and Pacific Highway and Murray Boulevard and recognize that amendments to the Tigard plan may be necessary to accommodate the results of that study.
- The Minor Arterial designations attributed to the RTP are premature pending the inclusion of a Minor Arterial and Collector System in the RTP.

Metro and the City are in the process of resolving these inconsistencies.

Conclusion: While the inconsistencies between the RTP and the City's plan remain, the City has indicated that it will work with Metro to resolve these differences. Metro does not object to acknowledgment of Goal No. 12, but emphasizes the need to work with Metro on a solution to these inconsistencies.

Goal No. 13: Energy Conservation

There are no acknowledgment issues of major regional concern.

Goal No. 14: Urbanization

There are no acknowledgment issues of major regional concern.

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12/01/83

STAFF REPORT

Agenda Item No. 9.1
Meeting Date Dec. 20, 1983

CONSIDERATION OF A MASTER PLAN FOR THE
WASHINGTON PARK ZOO

Date: November 18, 1983

Presented by: Warren Iliff

FACTUAL BACKGROUND AND ANALYSIS

On February 24, 1983, the Zoo was authorized by the Metro Council to engage the services of Guthrie, Slusarenko and Leeb; John Warner and Associates; and Edelman Associates for the purpose of developing a Master Plan for the Washington Park Zoo.

Since that time, opinion surveys have been conducted and numerous meetings have been held with private citizens, the Friends of the Washington Park Zoo, Zoo volunteers, Zoo staff and both the Metro Council and the Regional Services Committee in order to get input for the Plan and to review development of it. An interim report was accepted by the Council at its meeting on August 4, 1983.

At the Regional Services Committee meeting on November 8*, the following implementation sequence was presented and discussed:

| <u>PROJECT</u> | <u>PROGRAM SCOPE</u> |
|---|---|
| <u>AFRICA, PHASE I</u> (\$2,934,000) | Animal Exhibits, Holding Facilities Animal Facilities Africa Cafe |
| <u>AFRICA, PHASE II</u> (\$2,500,000) | Animal Exhibits, Holding Facilities Visitor Facilities |
| <u>AFRICA, PHASE III</u> (\$2,589,000) | Animal Exhibits, Holding Facilities Visitor Facilities Relocated Service Road |
| <u>AFRICA, PHASE IV</u> (\$453,000) | African Aviary |
| <u>BEAR EXHIBITS</u> (\$3,135,000) | Animal Exhibits Visitor Facilities Pedestrian Spaces |
| <u>ELEPHANT CENTER</u> (\$2,171,000) | Museum Viewing Hall and Exterior Outdoor Viewing Pedestrian Spaces |

*Some of the cost figures were not included at that time.

AMPHITHEATRE
(\$678,000)

REPTILE/AMPHIBIANS
(\$3,026,000)

MAIN ENTRANCE, PHASE I
(\$4,769,000)

MAIN ENTRANCE, PHASE II
(\$3,748,000)

MAIN ENTRANCE, PHASE III
(\$1,294,000)

CHILDRENS ZOO/EDUCATION CENTER
(\$3,775,000)

FELINE EXHIBITS
(\$2,234,000)

RAILWAY SYSTEM
(\$1,504,000)

CASCADES EXHIBIT:

ORIENTATION BUILDING
(\$1,354,000)

FOREST HABITAT
(\$2,529,000)

STREAM HABITAT
(\$451,000)

POND HABITAT
(\$914,000)

Terraced Seating
Band Shell Wings
Picnic Shelter

Indoor Animal Exhibits
Holding Facilities
Visitor Facilities
Insect Museum

Visitor Orientation Facility
Gift Shop
Pedestrian Spaces

Tropical Aviary
Pedestrian Spaces

Auditorium Building
Administration Building
Pedestrian Spaces

Relocation of Existing Childrens Zoo
Animal Exhibits
Holding Facilities
Education Building Addition and
Renovation
Visitor Facilities

Animal Exhibits
Holding Facilities
Night Country (Nocturnal Cats)
Visitor Programs
Pedestrian Spaces

Station Facility
Visitor Programs
Relocation of Train Loop
Maintenance, Storage Facilities
Refurbishing of Cars

Animal Exhibit
Holding Facilities
Visitor Facilities
Pedestrian Spaces

TALUS HABITAT
(\$1,715,000)

MEADOW HABITAT
(\$2,242,000)

Based on suggestions from the Committee, and from a subsequent meeting with the Friends of the Washington Park Zoo Board, the following changes were made:

1. The Bear Exhibits (West Grotto), including a new underwater viewing enclosure for polar bears, was moved up to the first priority.
2. The Elephant Center, with the exception of the Elephant Museum, was moved to a low priority.
3. The Amphitheatre, with the exception of the "terraced seating" (which is now included in Africa, Phase I), was moved to a low priority.
4. Main Entrance, Phase II, and Main Entrance, Phase I, were reversed in the implementation schedule so that the Tropical Aviary could open before the new entrance was established.
5. Railway System was reduced by eliminating "train loop relocation" and "visitor programs" and reducing program scope for the "station facility."
6. Cascades Exhibit - phasing of Orientation Building, Forest Habitat and Stream Habitat were placed after completion of the Pond, Talus and Meadow Habitats.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of the Zoo Master Plan and the revised "Implementation Schedule" as follows:

| <u>PROJECT GROUPS</u> | <u>PROGRAM SCOPE</u> |
|--|--|
| <u>PRIORITY I GROUP</u> | |
| <u>BEAR EXHIBITS (WEST GROTTTO)</u> (\$2,458,000) * | Animal Exhibitis Visitor Facilities Pedestrian Spaces Bear Walk Cafe |
| <u>AFRICA, PHASE I</u> (\$4,117,000) * | Animal Exhibits, Holding Facilities Visitor Facilities Africa Cafe Amphitheatre Terraced Seating Train Station |

*Commitment of \$4.4 million from 1981/84 Levy Period.

| | |
|---|--|
| <u>AFRICA, PHASE II</u> (\$3,319,000) | Animal Exhibits, Holding Facilities Visitor Facilities |
| <u>PRIORITY II GROUP</u> | |
| <u>AFRICA, PHASE III</u> (\$1,835,000) | Animal Exhibits, Holding Facilities Visitor Facilities Relocated Service Road African Aviary |
| <u>BEAR EXHIBITS (EAST GROTT)</u> (\$913,000) | Animal Exhibits Visitor Facilities Pedestrian Spaces |
| <u>REPTILE/AMPHIBIANS</u> (\$3,026,000) | Indoor Animal Exhibits Holding Facilities Visitor Facilities Insect Zoo |
| <u>MAIN ENTRANCE, PHASE I</u> (\$2,859,000) | Tropical Aviary Pedestrian Spaces |
| <u>MAIN ENTRANCE, PHASE II</u> (\$5,697,000) | Visitor Orientation Facility Gift Shop Pedestrian Spaces |
| <u>MAIN ENTRANCE, PHASE III</u> (\$1,288,000) | Auditorium Building Administration Building Pedestrian Spaces |
| <u>CHILDRENS ZOO/EDUCATION CENTER</u> (\$3,775,000) | Relocation of Existing Childrens Zoo Animal Exhibits Holding Facilities Education Building Addition and Renovation Visitor Facilities |
| <u>FELINE EXHIBITS</u> (\$2,234,000) | Animal Exhibits Holding Facilities Night Country (Nocturnal Cats) Visitor Facilities Pedestrian Spaces |
| <u>RAILWAY SYSTEM/AUSTRALIAN EXHIBIT</u> (\$1,145,000) | Animal Exhibits Maintenance, Storage Facilities Refurbishing of Cars Holding Facilities Visitor Facilities |

ELEPHANT CENTER
(\$1,492,000)

Viewing Hall and Exterior
Outdoor Viewing
Pedestrian Spaces

PICNIC PAVILION
(\$126,000)

Upper Lawn Area
Picnic Shelter

PRIVATE FUNDING GROUP

ELEPHANT MUSEUM
(\$679,000)

Visitor Facilities
Pedestrian Spaces

CASCADES EXHIBIT
(\$9,205,000)

Animal Exhibit
Holding Facilities
Visitor Facilities
Pedestrian Spaces

CHALLENGE FUNDING - PHASE I
(Subtotal \$4,871,000)

POND HABITAT
(\$914,000)

TALUS HABITAT
(\$1,715,000)

MEADOW HABITAT
(\$2,242,000)

CHALLENGE FUNDING - PHASE II
(Subtotal \$4,334,000)

ORIENTATION BUILDING
(\$1,354,000)

FOREST HABITAT
(\$2,529,000)

STREAM HABITAT
(\$451,000)

It is further recommended that the funding of the Cascades Exhibit be a private fund-raising commitment with the understanding that if the \$4,871,000 for the Pond, Talus and Meadow Habitats is raised, Metro will place before the voters the funding of the new Main Entrance, after which private fund-raising would continue for the total development on the Cascades Exhibit resulting in a matching contribution of \$9,205,000 in private funds and a public tax of \$9,844,000 for the new Main Entrance.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On December 6, 1983, the Regional Services Committee recommended Council adoption of the Washington Park Zoo Master Plan.

EF/srb-0346C/366
12/13/83

CONSIDERATION OF SOLID WASTE RATE REVIEW COMMITTEE
MEMBER APPOINTMENTS

Date: October 17, 1983

Presented by: Ed Stuhr

FACTUAL BACKGROUND AND ANALYSIS

The Solid Waste Rate Review Committee was established under subsection 18(1) of the Disposal Franchise Ordinance to advise the Council on solid waste disposal rates. Three of the five positions on the Committee have become vacant, and the term of a fourth member is expiring.

The terms of Mark Gardiner and Robert Wynhausen expire October 22, and they have elected not to seek reappointment. James Dilworth has resigned due to ill health. George Hubel's term also expires October 22, and he has expressed a desire to be reappointed for a second term. The fifth member, Edward Gronke, is now half-way through his two-year term.

To obtain candidates for the selection process, nominations were solicited in August from Metro Councilors, local jurisdictions, CPA societies and former Committee members. All those who were nominated were then contacted and invited to send a resume or qualification summary form as an indication of willingness to serve. A total of 17 people responded positively: six local government administrators, seven CPAs for the two CPA positions, and four members of the public (in addition to George Hubel). A complete list is attached. To select the best candidate for each position, staff evaluated each person's qualifications from the material submitted in terms of the position requirements (e.g., the local government administrator should have experience in government finance, budgeting and/or rate regulation). The results appear as follows:

- staff recommends that George Hubel be appointed for a second term as one of the two public members--his enthusiasm for the Committee's activities and his performance as its current chairman combine with his technical credentials to produce an unqualified recommendation.
- for local government administrator: David T. Chen.
- for CPA (solid waste, public utility experience): L. Parry Ankersen.
- for CPA (cost accounting, program auditing): Alexis Dow.

Mr. Chen is Finance Director for the City of Beaverton. He has substantial experience in government finance and budgeting, and has handled municipal utility rates for 15 years.

Mr. Ankersen is Assistant Controller for the Grantree Corporation in Portland. He was previously an audit manager with Coopers & Lybrand in Portland, with multiple clients in the governmental area (including Metro for the year ended June 30, 1982).

Ms. Dow is a Senior Audit Manager for Price Waterhouse in Portland. She has several years experience in municipal auditing including nonprofit, local governments and CETA programs.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends reappointment of George Hubel to the public position, appointment of David T. Chen to the government administrator position, appointment of L. Parry Anderson to the CPA (solid waste) position, and appointment of Alexis Dow to the CPA (program auditing) position.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On November 8, 1983, the Regional Services Committee voted to recommend the Executive Officer's recommendations for appointment to the Rate Review Committee, with the exception that L. Parry Ankersen be replaced by Douglas K. Plambeck.

On December 6, 1983, the Regional Services Committee reaffirmed its recommendation to appoint David Chen, Douglas Plambeck, Alexis Dow and George Hubel to the Rate Review Committee.

RATE REVIEW COMMITTEE CANDIDATE LIST

October 17, 1983

LOCAL GOVERNMENT ADMINISTRATOR

- | | | |
|----|-------------------|--|
| 1. | Thomas M. Feely | Multnomah County |
| 2. | James P. Wilcox | Multnomah County |
| 3. | Richard Dieterich | City of Forest Grove |
| 4. | David T. Chen | City of Beaverton |
| 5. | Robert W. Rieck | City of Portland |
| 6. | Neal Winters | Tualatin Hills Park & Recreation District |

CPA (Solid Waste, Utility)

- | | | |
|----|---------------------|----------------------|
| 1. | L. Parry Ankersen | Grantree Corporation |
| 2. | John C. Kelly | BPA |
| 3. | Arlie P. Hutchens | Laventhol & Horwath |
| 4. | Douglas K. Plambeck | PGE |

CPA (Cost, Audit)

- | | | |
|----|---------------------|----------------------|
| 1. | William L. Lockyear | Moss Adams |
| 2. | Alexis Dow | Price Waterhouse |
| 3. | Susan K. Sause | Susan K. Sause, P.C. |

PUBLIC MEMBER

- | | |
|----|-------------------|
| 1. | George Hubel |
| 2. | David M. Hudson |
| 3. | Rosalie Williams |
| 4. | Raymond L. Miller |
| 5. | Alan Goetz |

CONSIDERATION OF FY 1984-85 BUDGET SCHEDULE
AND PROCESS

Date: November 30, 1983

Presented by: Jennifer Sims

FACTUAL BACKGROUND AND ANALYSIS

The proposed schedule for consideration and adoption of the FY 1984-85 Budget is attached. Staff will begin work on program information one month earlier this year to allow for more discussion and clarification of needs and interests. It is proposed that the Council again include citizens in the budget process, preferably in a capacity similar to last year. Generally the formulation and adoption process went smoothly for the FY 1983-84 budget, but there was some duplication between the Committee and the full Council. The Council may want to consider convening the full Council as Budget Committee with a separate initial review and recommendation from a citizen committee.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of the attached schedule for preparation of the FY 1984-85 Budget. Further, it is recommended that citizens be included in the budget process in a capacity similar to last year.

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Council Coordinating Committee recommends that the Council follow the same process used in formulating the FY 1983-84 Budget. The Coordinating Committee shall review and consider the proposed budget with an equal number of citizens and Councilors serving on the Committee. In addition, the Committee recommends the Council hold a budget orientation and policy discussion session in conjunction with receipt of the FY 1983-84 Second Quarter Report.

JS/gl
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12/13/83

FY 1983-84 BUDGET SCHEDULE

| | |
|---|------------------|
| Schedule to Coordinating Committee | December 12 |
| Distribute Budget Manual, Program Section | December 21 |
| Executive Officer Reviews Department Programs | January 09 - 13 |
| Distribute Budget Manual, Estimates Section | January 11 |
| Executive Officer Meets with Councilors | January 16 - 27 |
| Council Orientation and Policy Discussion | February 02 |
| Executive Officer Reviews Department Budgets | February 06 - 17 |
| Proposed Budget Released | March 12 |
| Budget Committee Meetings | Mar 12/April 26 |
| Council Approves Budget, Sends to TSCC | April 26 |
| Approved Budget Transmitted to TSCC | May 4 |
| TSCC Hearing | June, 2nd Week |
| 2nd Reading, Council Adopts Budget | June 28 |

JS/gl
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12/13/83

STAFF REPORT

Agenda Item No. 9.4

Meeting Date Dec. 20, 1983

CONSIDERATION OF "ON-THE-JOB" INJURY COVERAGE
FOR METRO COUNCILORS

Date: November 30, 1983

Presented by: Jennifer Sims

FACTUAL BACKGROUND AND ANALYSIS

A recent review of Metro's Workers' Compensation program for volunteers raised the issue of injury coverage for Councilors. The attached memo describes alternatives available and their costs. Workers' Compensation is clearly the superior choice both in terms of the coverage provided and cost.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer has instructed staff to enroll the Council for Workers' Compensation. Unless the Council directs otherwise, coverage will begin January 1, 1984.

COMMITTEE CONSIDERATION AND RECOMMENDATION

Additional information was requested by the Council Coordinating Committee. This will be presented to the Council on December 20, 1983. The Committee has no recommendation.

JS/gl
0352/366
12/13/83



METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

MEMORANDUM

Date: December 2, 1983
To: Don Carlson, Deputy Executive Officer
From: Jennifer Sims, Mgr., Budget & Admin. Services
Regarding: "ON-THE-JOB" INJURY COVERAGE FOR METRO COUNCILORS

In reviewing our coverage for "on-the-job" injury for volunteers, it came to my attention that Metro has some exposure for injury to Councilors while on Metro business. Our current exposure is only in the case of negligence on the part of an employee or agent of Metro. For example, if a Councilor trips over a cord that was negligently left strung out and breaks his/her ankle, the Councilor can sue Metro for medical care and damages. This option is not unique to Councilors, anyone has that choice in those circumstances. Metro would be covered by our liability insurance. However, if that Councilor were injured in a car accident on the way to a meeting, there is no Metro coverage for the Councilor, nor any legal recourse for recovering damages.

I have researched this situation and have the following alternatives to offer:

1. Take no action - In five years there have been no incidents to suggest such coverage is needed. It could be argued that the Councilors should use their per diem to pay for accident insurance or medical coverage if they feel it is important. Also, most, if not at all, of the Councilors have medical coverage through their regular employment or as a dependent on their spouses' coverage. There is no new cost associated with this option.
2. Provide Workers' Compensation for Councilors - SAIF, our current carrier, will insure the Council at a volunteer "wage" rate. This approach would provide full medical coverage for any injury regardless of negligence, occurring in the performance of Council work. Workers' Compensation also provides disability coverage. Anyone covered under this type of program is legally barred from suing Metro for liability. A drawback to this approach is that the disability dollar value would be very low because the "wage" rate used as the basis for premiums would be about \$3.50 per hour. This option would cost under \$10.00 per month.

3. Provide 24-Hour Business Accidental Death and Dismemberment Coverage - Based on the amount of travel and number of meetings involved this would cost about \$50 per year per Councilor. This would include \$50,000 24-hour business only Accidental Death and Dismemberment insurance, \$5,000 excess medical insurance, and \$200 of weekly disability income. This is the minimum coverage available; of course, more coverage could be purchased at a higher premium.

RECOMMENDATION

Councilors are exposed to possible injury while on Metro business. Alternative 2, Workers' Compensation provides the maximum coverage at the least cost. I recommend this option.

JS/kr
0353C/D5