



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: FEBRUARY 23, 1984

Day: THURSDAY

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.

7:45 6. CONSENT AGENDA

- 6.1 Minutes of the meeting of December 20, 1983 and special meeting of January 5, 1984.

Regional Development Committee Recommendations:

- 6.2 Resolution No. 84-446, for the purpose of amending the 1984 Transportation Improvement Program to transfer Urban Mass Transportation Administration Section 9 Funds from Capital Assistance to Operating Assistance, and to add a new restoration (4R) project.

Williamson/Cotugno

- 6.3 Resolution No. 84-447, for the purpose of recommending approval of the City of West Linn's request for acknowledgement of compliance with the Land Conservation and Development Commission goals.

Kafoury/Brown

Regional Services Committee Recommendation:

- 6.4 Resolution No. 84-451, for the purpose of extending the terms of members for the Solid Waste Policy Alternatives Committee.

Hansen/Durig

(over)

Approx.
Time

Presented By

6. CONSENT AGENDA (CONTINUED)

Council Coordinating Committee Recommendations:

6.5 Resolution No. 84-448, for the purpose of entering into an Intergovernmental Agreement establishing the Oregon Regional Councils Association (ORCA) and becoming an active member of ORCA.

Bonner/Huie

6.6 Consideration of support for Citizens Advisory Committee on regional government as outlined by the Columbia-Willamette Futures Forum.

Bonner/Carlson/
Gustafson

6.7 FY 1984-85 Local Government Dues Assessment.

7. RESOLUTION

7:50 7.1 Consideration of Resolution No. 84-450, for the purpose of reviewing Interim Yard Debris Recovery Strategies for 1984-85.

Hansen/Brown

8. ORDINANCES

8:10 8.1 Consideration of Ordinance No. 84-168, relating to FY 1983-84 Budget and Appropriations Schedule; and amending Ordinance No. 83-153. (Second Reading)

Bonner/Sims

8:30 8.2 Consideration of Order and Ordinance No. 84-170, amending the Metro Urban Growth Boundary in Washington County for Contested Case No. 83-2. (First Reading)

Brown

9. OTHER BUSINESS

8:45 9.1 Consideration of the Continuance Items regarding Hillsboro's request for Acknowledgement. (Informational)

Kafoury/Brown

8:50 9.2 Consideration of Budget Committee Appointments.

Bonner/Barker

9:00 9.3 Ratification of waiver of Personnel Rules, Section 8(d) governing recruitment.

Sims

9:10 10. COMMITTEE REPORTS

9:20 ADJOURN

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF PROVIDING FOR)	RESOLUTION NO. 84-454
THE ASSESSMENT OF DUES TO LOCAL)	
GOVERNMENTS FOR FY 1984-85)	Introduced by the
)	Council Coordinating Committee

WHEREAS, ORS Chapter 268 authorizes the Council of the
Metropolitan Service District to:

"charge the cities and counties within
the District for the services and
activities carried out under ORS 268.380
and 268.390."; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District
hereby establishes local government dues assessments within the
District in the amount of \$.50 per capita for fiscal year 1984-85;
and

BE IT FURTHER RESOLVED,

That notification of the assessment be sent to all cities
and counties within the District prior to March 2, 1984.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1984.

Presiding Officer

EF/srb
0781C/373
02/22/84

TO : METROPOLITAN SERVICE DISTRICT COUNCIL
FROM : E. ANDREW JORDAN and ARTHUR L. TARLOW
SUBJ : CTRC SETTLEMENT AGREEMENT
DATE : February 21, 1984

Upon completion of the Clackamas Transfer and Recycling Center (CTRC), a dispute arose between Parker Northwest, the General Contractor, Coast Marine, the Pile Subcontractor, Black & Veatch, the Project Engineer and Metro pertaining to the existence of a changed condition in the subsurface soils and the degree to which each party properly or improperly responded to that changed condition. Coast Marine, alleging that it had incurred substantial increased costs resulting from the changed condition and from the engineer's failure to properly respond, filed suit against the General Contractor, Metro and the engineer for recovery of its increased cost. The General Contractor thereupon claimed that the changed condition did exist and that Metro and the engineer were responsible for not making the Contractors aware of the changed condition and not supervising the project accordingly. Metro's position has been that a changed condition did exist, that it should have been discovered by the engineer prior to construction, that the engineer should have properly supervised the Contractors when the changed condition was identified and that the Contractors were entitled to some additional compensation resulting from the changed condition. The engineer's position has been that it has no responsibility whatsoever.

While the case was being prepared by the four parties for litigation or arbitration, Metro initiated settlement negotiations based upon the belief that the Contractors were entitled to at least some additional compensation. The total amount of the contractor's claims was approximately \$900,000.00 and settlement negotiations have resulted in a tentative agreement between Metro and the two Contractors for the payment by Metro of \$456,000.00, \$188,000.00 of which is money withheld by Metro at the completion of the project. This agreement was proposed by Metro's attorneys with the concurrence of the Executive Officer and Norm Wietting and has been accepted by the Contractors. The terms of the settlement are included in the attached settlement agreement which we now recommend to the Council for approval. Upon such approval, Metro will pay to Parker Northwest, the General Contractor, the amount of

\$456,000.00 and the claims by Coast Marine against Metro will be paid by Parker from that amount.

Black & Veatch, the engineer, has participated in the case, but is not a party to the settlement agreement. In effect, the engineer has refused to accept any responsibility for the increased costs on the project. Though Metro and the two Contractors have tentatively settled the disputes between them, all three parties maintain that additional compensation is due to each from the engineer. The claims are that the engineer was negligent and in breach of its contract in (1) not discovering the subsurface condition prior to construction and (2) not properly supervising the Contractors after the subsurface condition was discovered resulting in substantial delay. It is, therefore, the position of Metro and the two Contractors that all three parties have remaining claims against the engineer which should be pursued.

Based on the above, it is our recommendation that the Council approve the attached settlement agreement between Metro, Parker Northwest and Coast Marine allowing payment of \$456,000.00 by Metro to Parker in exchange for releases of all claims against Metro, and that Metro proceed either separately or in cooperation with Parker and Coast against Black & Veatch for an amount representing their financial responsibility in this dispute. Since a suit is already pending before the Multnomah County Circuit Court involving all the parties, that suit may be the mechanism in which the claim is made. A trial date has already been scheduled for June, 1984.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING)	RESOLUTION NO. 84-455
PARTIAL SETTLEMENT IN PENDING)	
CLACKAMAS TRANSFER & RECYCLING)	Introduced by the
CENTER LITIGATION AND AUTHORIZING)	Executive Officer
ADDITIONAL LITIGATION)	

WHEREAS, Litigation is pending between Metro, Parker Northwest Construction Company, Coast Marine Construction Company, Federal Insurance Company, and Black & Veatch, Inc. regarding construction of the CTRC; and

WHEREAS, A negotiated settlement has been reached between Metro, Parker Northwest, Federal Insurance and Coast Marine, the terms of which are specified in the attached Settlement Agreement; and

WHEREAS, Metro has been damaged by errors or omissions of Black & Veatch in performance of its engineering and supervision contracts on the CTRC; now, therefore,

BE IT RESOLVED,

1. That the proposed Settlement Agreement between Metro, Parker Northwest, Coast Marine and Federal Insurance, attached hereto as Exhibit "A", is approved and payments provided for therein are authorized.

2. That the Executive Officer is authorized to commence or continue litigation against Black & Veatch for amounts determined by the Executive Officer to be owed by Black & Veatch to Metro in

connection with those contracts between Metro and Black & Veatch regarding the CTTC and to retain legal counsel therefor.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1984.

Presiding Officer

AJ/gl
0790C/373
02/23/84

SETTLEMENT AGREEMENT

THIS AGREEMENT made as of this _____ day of February, 1984, by and between the METROPOLITAN SERVICE DISTRICT, hereinafter "Metro," PARKER-NORTHWEST CONSTRUCTION CO., hereinafter "Parker," FEDERAL INSURANCE COMPANY, hereinafter "Federal" and COAST MARINE CONSTRUCTION, INC., hereinafter "Coast."

Metro and Parker entered into a contract, hereinafter "Agreement," on or about June 8, 1982, for the construction of the Clackamas Transfer & Recycling Center, hereinafter "Project."

On or about the same date, Parker and Federal posted a performance and payment bond in connection with the Project.

Coast and Parker entered into a Subcontract Agreement in connection with the Project.

Certain disputes have arisen between the parties and Coast has instituted litigation (Case No. A8303-01675) against Metro, Parker and Federal, among others, in the Circuit Court of the State of Oregon for the County of Multnomah, hereinafter "Litigation."

Metro, Parker, Federal and Coast have reached agreement and desire to resolve all matters in connection with the Project as between themselves.

Metro, Parker, Federal and Coast believe, however, that a substantial amount of the costs, expenses and damages incurred in connection with the Project are attributable to the acts and omissions of Black & Veatch, its partners and its representatives, and the parties hereto desire to reserve any and all claims they have against such parties.

NOW, THEREFORE, IT IS AGREED:

1. Metro agrees to pay to Parker and Coast, upon the execution of this Agreement, the sum of \$456,000.

2. Metro, Parker, Federal and Coast each agree to release the other parties to this Agreement and their officers, agents, employees and sureties, if any, from any and all claims of any kind, whether known or unknown, which have accrued or which may hereafter accrue, arising out of or relating to the Project.

3. It is specifically understood that Metro, Parker, Federal and Coast reserve any and all claims they have against Black & Veatch, its partners and its representatives arising out of or relating to the Project.

4. Parker assigns to Metro its interest in all subcontract and material supply agreements in connection with the Project provided, however, such assignment does not apply to Parker's agreement with Coast. Metro will indemnify Parker and Federal against claims by the City of Oregon City asserted on the landscape bond.

5. Each of the parties will forward, to the extent applicable, notice as required by ORS 18.455(2).

6. The parties hereto declare and represent that they have not been influenced to any extent in making this Settlement Agreement by any representation or statements regarding this matter or any other matters, made by the persons, firms or corporations who are hereby released, or by any person or persons representing them.

7. This Agreement supersedes any and all prior or contemporaneous oral or written agreements of any kind in connection with the Project and shall not be superseded except upon written instrument signed by all parties.

8. This Agreement shall be binding upon the successors and assigns of each of the parties.

DATED this _____ day of _____, 1984.

METROPOLITAN SERVICE DISTRICT

By _____

PARKER-NORTHWEST CONSTRUCTION CO.

By _____

FEDERAL INSURANCE COMPANY

By _____

COAST MARINE CONSTRUCTION, INC.

By _____



Agenda

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

Date: FEBRUARY 23, 1984

Day: THURSDAY

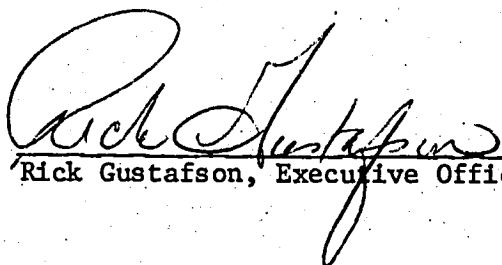
Time: 7:30 P.M.

Place: COUNCIL CHAMBER

C O N S E N T A G E N D A

The following business items have been reviewed by the staff and an officer of the Council. In my opinion, these items meet with the Consent List Criteria established by the Rules and Procedures of the Council. The Council is requested to approve the recommendations presented on these items:

- 6.1 Minutes of the meetings of December 20, 1983 and special meeting of January 5, 1984.
- 6.2 Resolution No. 84-446, for the purpose of amending the 1984 Transportation Improvement Program to transfer Urban Mass Transportation Administration Section 9 Funds from Capital Assistance to Operating Assistance, and to add a new restoration (4R) project.
- 6.3 Resolution No. 84-447, for the purpose of recommending approval of the City of West Linn's request for acknowledgement of compliance with the Land Conservation and Development Commission goals.
- 6.4 Resolution No. 84-451, for the purpose of extending the terms of members for the Solid Waste Policy Alternatives Committee.
- 6.5 Resolution No. 84-448, for the purpose of entering into an Intergovernmental Agreement establishing the Oregon Regional Councils Association (ORCA) and becoming an active member of ORCA.
- 6.6 Consideration of support for Citizens Advisory Committee on regional government as outlined by the Columbia-Willamette Futures Forum.
- 6.7 FY 1984-85 Local Government Dues Assessment.


Rick Gustafson, Executive Officer

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

REGULAR MEETING
DECEMBER 20, 1982

Councilors Present: Councilors Banzer, Bonner, Deines,
Etlinger, Hansen, Kafoury, Kelley,
Kirkpatrick, Oleson, Van Bergen, Waker,
and Williamson.

Also Present: Rick Gustafson, Executive Officer.

Staff: Donald Carlson, Andrew Jordan, Dan Durig,
Doug Drennen, Norm Wietting, Ray Barker,
Jennifer Sims, Dan LaGrande, and Warren
Iliff.

Testifiers: Geraldine Ball, Carl Miller, Shirley
Coffin, and Carol Bailey.

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.

2. Councilor Communications.

There were no Councilor Communications.

3. Executive Officer Communications.

Donald Carlson, Deputy Executive Officer, presented an update on the Future Funding process. He indicated that the Council would be receiving in the very near future a Five-Year Financial Plan for the Zoo which would be used to decide the serial levy amount for the Zoo, as well as proposed long-range financial policies for Metro.

Councilor Oleson requested that information be provided on tax levies being proposed by other jurisdictions on the March and May ballots.

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.

Mrs. Geraldine Ball, 11515 S.W. 91st Avenue, Tigard, representing DJB, Inc. and herself, presented and read into the record a letter regarding the Haines Street Interchange. She requested that all Council members and relevant staff be provided with a copy of the letter and map attached thereto and that the letter be made a part of the record. She indicated that it was important that the Council and staff have the information in case someone suggested moving the location of the interchange. (A copy of the letter is attached to the agenda of the meeting.)

6. Consent Agenda

The Consent Agenda consisted of the following items:

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.

Motion: Councilor Kirkpatrick moved adoption of the Consent Agenda. Councilor Oleson seconded the motion.

Councilor Williamson requested that the minutes of November 3 be corrected to reflect that on Page 8 he voted "no" on the motion to amend and was not absent. (The minutes were further corrected to indicate that Councilor Van Bergen, and not Councilor Williamson, was absent for the vote.)

Vote: The vote on the motion to adopt the Consent Agenda, as corrected, resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Motion carried, Consent Agenda adopted.

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)

Councilor Kirkpatrick reported that the Council Coordinating Committee was recommending several amendments to the ordinance and further that action on the ordinance be deferred until UMTA's comments on the ordinance were received.

Mr. Carlson, Deputy Executive Officer, suggested that the ordinance be referred to the Council Coordinating Committee so that once the comments from UMTA were received, the Coordinating Committee could respond to them and bring the ordinance back to the Council for adoption.

Presiding Officer Banzer said she did not think the Council should wait until the federal government commented. She said she preferred that the Council adopt the ordinance and amend it at a later date if needed.

Councilor Van Bergen agreed with the Presiding Officer. Councilors Kirkpatrick and Hansen argued for deferral of action on the ordinance. Councilor Kirkpatrick said the process to amend the ordinance would add more time to adoption of a final document than would deferral. Councilor Hansen said he was also concerned about the time consuming process involved with amending the ordinance.

Presiding Officer Banzer requested that the ordinance be read a second time.

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

There was no public testimony.

Mr. Carlson noted that the Executive Officer was recommending postponement until the federal comments were received.

Motion: Councilor Hansen moved that action on the adoption of Ordinance No. 83-165 be postponed until federal comments were received and responded to by the Council Coordinating Committee. Councilor Kafoury seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, and Waker.

Nays: Councilors Banzer, Bonner, Oleson, Van Bergen, and Williamson.

Motion carried.

(Note: See after Agenda Item 8.1 for reconsideration of this item)

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 goals and objectives in the Affirmative Action Plan as the approved goals for fiscal year 1983-84. (Second Reading)

Councilor Kirkpatrick reported that the Council Coordinating Committee was recommending adoption of the Resolution and Ordinance, with an amendment.

Jennifer Sims, Budget & Administrative Services Manager, stated the proposed amendment to the ordinance was a technical change to correct the specific federal regulation citation applicable to affirmative action. She pointed out that the ordinance in the agenda packet reflected the proposed change.

Motion to amend: Councilor Kirkpatrick moved to amend Ordinance No. 83-166, Section 2(f) to read as follows:

(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".

Councilor Kafoury seconded the motion.

There was no public testimony.

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

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Motion to amend carried.

Vote: The vote on the main motion to adopt Ordinance No. 83-166, as amended, made by Councilors Kirkpatrick and Kelley on November 22, 1983, resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Motion carried, Ordinance adopted.

Motion: Councilor Kirkpatrick moved adoption of Resolution No. 83-436. Councilor Kafoury seconded.

Vote: The vote on the motion to adopt Resolution No. 83-436, resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Motion carried, Resolution adopted.

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

Presiding Officer Banzer requested that the ordinance be tabled. She said the ordinance was premature and should not be acted upon until the Services Committee had reviewed the overall structure and mission of the Rate Review Committee.

Motion: Councilor Hansen moved to table Ordinance No. 83-167. Councilor Kafoury seconded the motion.

Vote: The vote on the motion to table Ordinance No. 83-167 resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Waker, and Williamson.

Nays: Councilor Van Bergen.

Motion to table carried.

8.1 Consideration of Resolution No. 83-439, for the purpose of declaring Metro's intent to proceed to implement a transfer station in Washington County.

Councilor Hansen reported that the Regional Services Committee had conducted several meetings and had received extensive input on the proposed Washington County Transfer Station. He said as a result of their deliberations, the Committee was recommending adoption of Resolution No. 83-439. He said the basic elements of the resolution were: 1) that Metro would build a transfer facility; 2) that Metro would contract for its operation; and 3) that Metro would retain ownership.

Motion: Councilor Hansen moved adoption of Resolution No. 83-439. Councilor Kafoury seconded the motion.

Councilor Etlinger asked if the Washington County Transfer Station Advisory Committee had studied the economic viability and need for the facility. Councilor Oleson, as the chair of the Washington County Transfer Station Committee, responded that the Committee believed there was a need and that was why they made their recommendation. Dan Durig, Director of Solid Waste, stated that a study had been conducted which looked at two and three facility scenarios. He added that the contract with the City of Portland required that a transfer facility be provided within the City when St. Johns closed. Councilor Etlinger asked why the Washington County and City of Portland stations were not being sited at the same time. Mr. Durig responded that the need in Washington County was greater at this time. He said the public landfill in Hillsboro would be closing in one to three years and that the Newberg landfill would be closing within a year. Councilor Etlinger then asked if Metro would be looking to Washington County for a regional landfill if Wildwood did not occur. Mr. Durig responded that based on the landfill sites previously studied that would be unlikely.

Councilor Deines asked how the staff knew the proposed transfer station fit within a solid waste systems plan, if a systems plan had not yet been adopted by the Council. Mr. Durig responded that it was not realistic to wait until a solid waste system plan was in place and that the proposed facility was a prudent and reasonable decision to make at this time.

Councilor Etlinger reiterated that there was no cost data on the construction of a facility and that he had an obligation to keep the solid waste system's costs down. He said the Council had committed to make its number one priority waste reduction and to not complete any new disposal facilities until a long range recycling program was in place.

Councilor Williamson asked if a station built in the City of Portland would be able to serve Washington County. Mr. Durig responded that the transfer station plan looked at different sites, costs, and service area. He said if a station was built on the west side of Portland, a facility would probably not be needed in Washington County. However, if one was built on the east side, which was most likely because of population and waste generation, then a Washington County station would be needed in addition to an east side station.

Councilor Bonner asked when it was anticipated that a systems plan would be before the Council. Mr. Durig responded that it was hoped that Council approval would occur by the first of the fiscal year. Councilor Bonner said completion of a systems plan would make decisions such as the Washington County Transfer Station easier to make.

Councilor Hansen said he believed that the question of whether a station was needed in Washington County had been resolved. He said there was no option available which would not require a station in Washington County. He said decisions on the process for siting and designing the station would be coming back to the Council and that the Resolution in front of them was not the last of issue. He said if the systems plan indicated a transfer station was unnecessary, the Council would still have time to reverse its decision. In the meantime, he said, they should begin to fill the apparent need in Washington County for a transfer station.

Councilor Etlinger commented that he believed there were other options to resolving the problem in Washington County without building a station.

Presiding Officer Banzer then asked for the recommendation of the Solid Waste Policy Advisory Committee.

Ms. Shirley Coffin, Vice Chair, Solid Waste Policy Advisory Committee, read into the record the statement of consensus of the committee at its December 19 meeting, as follows:

That the Committee recommend that the Metro Council reject 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.

She said that the recommendation was not a formal one because the committee lacked a quorum at its meeting.

Mr. Carl Miller, Miller's Sanitary Service, 5150 S.W. Alger, Beaverton, 97005, submitted and read into the record a letter which argued the advantages of private ownership of a transfer station in Washington County (a copy of the letter is attached to the agenda of the meeting). He urged that the Council not adopt the Resolution before them and to reconsider the proposal submitted by the private industry.

Motion: Councilor Etlinger moved to postpone action on Resolution No. 83-439 until after Council adoption of a Solid Waste Management Systems Plan. Councilor Deines seconded the motion.

Councilor Williamson asked if a cost comparison had been conducted which indicated differences between public and private ownership. Councilor Hansen responded that no comparison was done. He said it was an issue they struggled with and that the joint venture proposal had no dollar amount attached to it. Councilor Bonner added that the staff findings indicated there would be no capital cost advantage for either public or private construction. Councilor Waker said he believed there was an argument for public ownership. He said his own scratchy calculations indicated that franchising was a negative proposition for the public and he could not support it.

Councilor Oleson said delaying action would not be a responsible action by the Council. He said Metro had been criticized by Washington County for years for not taking action on a transfer station and postponement would perpetuate that criticism.

Councilor Etlinger said there wasn't enough information available on costs and postponing would help and not hurt the decision-making process.

Presiding Officer Banzer urged the Council to reject the motion to postpone. She said it was time the Council provided direction on the issue.

Vote: The vote on the motion to postpone action on Resolution No. 83-439 resulted in:

Ayes: Councilors Deines and Etlinger.

Nays: Councilors Banzer, Bonner, Hansen, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Absent: Councilor Kafoury.

Motion failed.

At this time, the Council recessed for ten minutes.

Motion to amend: Councilor Oleson moved to amend Resolution No. 83-439 to replace the language in Resolve No. 5 with the following:

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 five 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 reviewed contract.

Councilor Bonner seconded the motion.

Councilor Oleson said the Council was basically polarized between the franchising and ownership options. He said his amendment was a compromise which would provide for a "full service" contract--a package arrangement where the design, siting, construction and operation would initially be part of the same contract.

Councilor Waker said he was not convinced that the "full service" contract was the way to get the least cost facility for the public and could not support the amendment. Councilor Van Bergen commented that the proposal was an automatic renewable license. He said they should not lose their flexibility over the operation.

Councilor Deines commented that he was opposed to public ownership and was not convinced that the amendment went far enough.

Councilor Oleson argued that the full service contract would allow Metro the flexibility to decide not to renew the contract if a contractor was not performing satisfactorily.

Presiding Officer Banzer noted that she was not sure she was in complete agreement with Councilor Oleson's position but did support a franchise to the joint venture proposers.

Vote: The vote on the motion to amend Resolution No. 83-439 resulted in:

Ayes: Councilors Banzer, Deines, Etlinger, Oleson, and Williamson.

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

Absent: Councilor Kafoury.

Motion to amend failed.

Councilor Deines asked how the transfer station would be financed, if Metro owned it. Mr. Durig responded that DEQ bonds would be used to finance the transfer station, with user fees paying off the debt. Councilor Deines said that the use of DEQ pollution control bonds to finance a transfer station was not a good use of limited funds.

Councilor Hansen argued that transfer stations were an integral part of the region's solid waste disposal system and more specifically that if Wildwood was eventually approved, a condition of the approval was that transfer trucks be used.

Vote: The vote on the main motion to adopt Resolution No. 83-439 resulted in:

Ayes: Councilors Bonner, Hansen, Kelley, Kirkpatrick, Van Bergen, Waker, and Williamson.

Nays: Councilors Banzer, Deines, Etlinger, and Oleson.

Absent: Councilor Kafoury.

Motion carried, Resolution adopted.

Vote: The vote on the motion to postpone action on Resolution No. 83-439 resulted in:

Ayes: Councilors Deines and Etlinger.

Nays: Councilors Banzer, Bonner, Hansen, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Absent: Councilor Kafoury.

Motion failed.

At this time, the Council recessed for ten minutes.

Motion to amend: Councilor Oleson moved to amend Resolution No. 83-439 to replace the language in Resolve No. 5 with the following:

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Councilor Bonner seconded the motion.

Councilor Oleson said the Council was basically polarized between the franchising and ownership options. He said his amendment was a compromise which would provide for a "full service" contract--a package arrangement where the design, siting, construction and operation would initially be part of the same contract.

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Presiding Officer Banzer noted that she was not sure she was in complete agreement with Councilor Oleson's position but did support a franchise to the joint venture proposers.

Vote: The vote on the motion to amend Resolution No. 83-439 resulted in:

Ayes: Councilors Banzer, Deines, Etlinger, Oleson, and Williamson.

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

Absent: Councilor Kafoury.

Motion to amend failed.

Councilor Deines asked how the transfer station would be financed, if Metro owned it. Mr. Durig responded that DEQ bonds would be used to finance the transfer station, with user fees paying off the debt. Councilor Deines said that the use of DEQ pollution control bonds to finance a transfer station was not a good use of limited funds.

Councilor Hansen argued that transfer stations were an integral part of the region's solid waste disposal system and more specifically that if Wildwood was eventually approved, a condition of the approval was that transfer trucks be used.

Vote: The vote on the main motion to adopt Resolution No. 83-439 resulted in:

Ayes: Councilors Bonner, Hansen, Kelley, Kirkpatrick, Van Bergen, Waker, and Williamson.

Nays: Councilors Banzer, Deines, Etlinger, and Oleson.

Absent: Councilor Kafoury.

Motion carried, Resolution adopted.

7.1 Reconsideration of Ordinance No. 83-165, for the purpose of adopting a Disadvantaged Business Program and Resolution No. 83-436, for the purpose of approving FY 1983-84 goals for utilization of Disadvantaged and Women-Owned Businesses.

Motion: Councilor Deines moved reconsideration of the motion to postpone action on Ordinance No. 83-165 and Resolution No. 83-435. Councilor Williamson seconded.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Oleson, Van Bergen, Waker, and Williamson.

Nays: Councilors Kelley and Kirkpatrick.

Absent: Councilor Kafoury.

Motion carried.

Presiding Officer Banzer said she thought it was inappropriate to postpone action on the ordinance and wanted to vote on it that evening. Councilor Deines said he changed his mind about postponement believed they should proceed to take action.

Mr. Carlson and Councilor Kirkpatrick reviewed the amendments recommended by the Council Coordinating Committee, as contained in the agenda of the meeting.

Motion to amend: Councilor Oleson moved to amend Ordinance No. 83-165 to include the Council Coordinating Committee's recommended amendments, as contained in the agenda of the meeting. Council Deines seconded the motion.

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

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Absent: Councilor Kafoury.

Motion to amend carried.

Vote: The vote on the main motion to adopt Ordinance No. 83-165, made by Councilors Kirkpatrick and Deines on November 22, 1983, as amended, resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Absent: Councilor Kafoury.

Motion carried, Ordinance adopted

Motion: Councilor Deines moved adoption of Resolution No. 83-435. Councilor Hansen seconded the motion.

Vote: The vote on the motion to adopt Resolution No. 83-435 resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Absent: Councilor Kafoury.

Motion carried, Resolution adopted.

8.2 Consideration of Resolution No. 83-440, for the purpose of recommending approval of the City of Tigard's request for acknowledgement of compliance with LCDC goals.

This item was referred to the Regional Development Committee for further review, at the request of staff.

9.1 Consideration of a Master Plan for the Washington Park Zoo.

Councilor Hansen reported that the Services Committee had reviewed the Plan during its development several times and was recommending Council adoption of the Washington Park Zoo Master Plan.

Warren Iliff, Zoo Director, introduced members of the Master Plan team and reviewed briefly the highlights of the Plan.

Carol Bailey, Executive Director, Friends of the Zoo, testified on behalf of the Board of Directors, in support of the Master Plan.

Motion: Councilor Hansen moved adoption of the Washington Park Zoo Master Plan. Councilor Van Bergen seconded the motion.

Councilor Williamson commented that because of the brevity of the presentation and the lateness of the hour that he was not prepared to vote on the Plan. Councilor Waker also stated that he had not had sufficient time to review the Plan and was reluctant to vote. Councilor Hansen stated that the Plan was an effort to determine future funding needs and a direction for the Zoo. He said it was not a commitment to spend funds. Councilor Kirkpatrick added that each project outlined in the Plan would be deliberated and decided upon by the Council. She added that if there were Councilors who were hesitant to vote, she would move to delay action.

Motion: Councilor Kirkpatrick moved to postpone action on the Zoo Master Plan until January 5, 1984. Councilor Kelley seconded the motion.

Councilor Williamson suggested that a special briefing be held before the next Council meeting for Councilors who desired more information. Mr. Gustafson agreed with the suggestion and said he would make arrangements for such a briefing.

Vote: The vote on the motion to postpone action on the Zoo Master Plan resulted in:

Ayes: Councilors Kelley, Kirkpatrick, Waker, and Williamson.

Nays: Councilors Banzer, Bonner, Hansen, Oleson, and Van Bergen.

Absent: Councilors Deines and Kafoury.

Abstention: Councilor Etlinger.

Vote: The vote on the main motion to adopt the Zoo Master Plan resulted in:

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

Nays: Councilors Kelley and Waker.

Absent: Councilors Deines and Kafoury.

Abstention: Councilor Williamson.

Motion carried, Master Plan adopted.

Due to the lateness of the hour, the Council agreed to continue the remaining agenda items to a special meeting to be held prior to the first regular Council meeting in January. The items continued were:

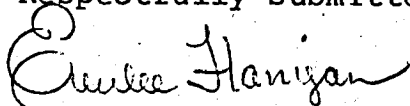
- 9.2 Consideration of Solid Waste Rate Review Committee member appointments.
- 9.3 FY 1984-85 Budget Schedule and Process.
- 9.4 Consideration of "on-the-job" injury coverage for Metro Councilors.
- 9.5 Ratification of appointments to Council Task Force on Metro/Tri-Met.

10. Committee Reports

There were no Committee reports.

The meeting adjourned at 11:35 p.m.

Respectfully submitted,



Everlee Flanigan
Clerk of the Council

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

SPECIAL MEETING
JANUARY 5, 1984

Councilors Present: Councilors Banzer, Bonner, Deines,
Etlinger, Hansen, Kafoury, Kelley,
Kirkpatrick, Oleson, Van Bergen, Waker,
and Williamson.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Donald Carlson, Andrew Jordan, Warren
Iliff, Andy Cotugno, Ray Barker, Doug
Drennen, and Jennifer Sims.

A special meeting of the Council of the Metropolitan Service District was called to order by Presiding Officer Banzer at 5:40 p.m. for the purpose of considering agenda items continued from the December 20, 1983, regular meeting and the December 29, 1983, cancelled meeting.

1. Consideration of approval of a contract with Bishop Contractors, Inc., for completion of the Alaskan Tundra Project.

See after Agenda Item 5 for disposition of this matter.

2. Consideration of Solid Waste Rate Review Committee appointments.

Motion: Councilor Hansen moved appointment of Douglas K. Plambeck, George Hubel, David T. Chen and Alexis Dow to the Solid Waste Rate Review Committee. Councilor Kirkpatrick seconded the motion.

Councilors Kafoury, Van Bergen, and Bonner expressed concern about nominations they had made and the fact that their nominees had not received notification of consideration. Mr. Barker was instructed to review the nomination procedure and propose a policy for committee appointments.

Vote: The vote on the motion resulted in:

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

Nays: Councilor Kafoury.

Absent: Councilors Deines and Waker.

Motion carried.

3. FY 1984-85 Budget Schedule and Process.

Councilor Kirkpatrick reported that the Council Coordinating Committee was recommending: 1) that the same process be adopted that was used for the 1983-84 budget; 2) that a budget orientation for the Council be conducted on February 2, prior to finalization of the staff's budget recommendations; and 3) that citizens be used in the budget process.

Motion: Councilor Kirkpatrick moved adoption of the FY 1984-85 Budget Schedule and Process as recommended by the Council Coordinating Committee. Councilor Williamson seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger,
Hansen, Kafoury, Kelley, Kirkpatrick,
Oleson, Van Bergen, and Williamson.

Nays: None.

Absent: Councilors Deines and Waker.

Motion carried.

4. Consideration of "on-the-job" injury coverage for Metro Councilors.

Jennifer Sims, Budget and Administrative Services Manager, presented the staff report, as contained in the agenda of the meeting. She outlined the three options available to the Council and responded to questions raised at the Council Coordinating Committee meeting:

- a) How would Workers' Compensation interface with other coverage carried by a Councilor? Response--Workers' Compensation would be the first carrier that would take precedence over any other coverage a Councilor might have.
- b) Could personal lawsuits be pursued by a Councilor? Response--Yes, but Councilors could not sue Metro for liability.
- c) What is level of disability? Response--Level of compensation is minimal because it is based only on Metro-related responsibilities. However, other coverage carried by a Councilor would supplement the Workers' Compensation, unless there was a specific exclusion.

Councilor Kafoury said she did not want to be precluded from being able to sue if Metro was liable. Councilor Hansen expressed concern about situations where a Councilor was covered by a union and how union coverage might be affected.

Councilor Waker said he initially raised the issue to make Councilors aware of the need to protect themselves if there were areas where personal insurance might not cover them.

Councilor Williamson requested that Ms. Sims look into the question of Metro's liability if a Councilor did something that might put Metro in the position of being sued.

Presiding Officer Banzer stated that if there was no motion, the Executive Officer's recommendation to provide Workers' Compensation for the Councilors would be implemented.

Councilor Kafoury requested that if it was possible, she would like to be excluded from coverage.

5. Ratification of appointments to Council Task Force on Metro/Tri-Met.

Councilor Waker presented his memorandum of December 15, 1983, regarding the Council Task Force on Tri-Met/Metro Relationship. He proposed a mission for the Task Force which would be: To develop a detailed set of alternatives for public debate on the future relationship of Tri-Met and Metro (a copy of the memo is attached to the agenda of the meeting).

Councilor Kelley expressed concern that the study might not be

broad enough. She suggested that the study be expanded to include: financing, bonding and taxing authority, governance evaluation, and operation and structure comparisons. She said the first charge of the task force should be that they come back with a scope of work and time frames.

Motion: Councilor Etlinger moved to take from the table the ratification of appointments to Council Task Force on Metro/Tri-Met. Councilor Bonner seconded.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Waker, and Williamson.

Nays: Councilors Deines and Van Bergen.

Motion carried.

Presiding Officer Banzer stated that there were two issues which needed to be resolved: the mission or charge of the task force, and the ratification of the appointments.

Motion Councilor Waker moved to adopt the mission of the Task Force as: Develop a detailed set of alternatives for public debate on the future relationship of Tri-Met and Metro, including issues involving legal authority, financial, political, and organizational aspects of the options. Councilor Williamson seconded the motion.

Councilor Kafoury stated she could not support the motion because she believes the study and discussion should occur outside Metro by an unbiased, external organization.

Councilor Deines asked who would be staffing the task force and how it would be funded.

Presiding Officer Banzer responded that Mr. Barker and the Executive Officer would provide assistance.

Councilor Etlinger suggested that the motion be amended to add the utilization of the Project Initiatives Program methodology and that the task force seek to measure all options against their ability to implement the adopted Regional Transportation Plan.

Presiding Officer Banzer suggested that Councilor Etlinger's ideas be forwarded to the Chair of the Task Force. She said the chair should be allowed the flexibility to determine the methodology for the study.

Councilor Bonner stated that a detailed work plan with budget should be reviewed by the Council. He said the Council should commit the resources to fulfill the work plan or the study should be dropped.

Vote: The vote on the motion to adopt a mission for the Council Task Force on Metro/Tri-Met, resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kelley, Kirkpatrick, Oleson, Waker, and Williamson.

Nays: Councilors Kafoury and Van Bergen.

Motion carried.

Motion: Councilor Oleson moved the ratification of Councilors Banzer, Bonner, Kelley, Kirkpatrick, Waker, and Williamson to the Council Task Force. Councilor Bonner seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: Councilors Hansen and Kafoury.

Motion carried.

1. Consideration of approval of a contract with Bishop Contractors, Inc. for completion of the Alaskan Tundra Project.

Andrew Jordan, Legal Counsel, presented the staff report, as contained in the agenda of the meeting. He said the recommendation was to approve a contract with Bishop Contractors, Inc. to complete the Alaskan Tundra Project.

Councilor Kafoury asked why the surety for the company which had defaulted was not presenting Metro with a contract to finish the project or accepting responsibility for liability.

Mr. Jordan responded that the surety's response had been that they were reserving all rights to contend that they were not responsible under the bond. He said the surety was probably investigating the possibility of whether or not Metro had made any errors in awarding the bid in order to get out of their liability.

Councilor Williamson said it seemed to him that Metro should require the surety to present a contract as required by the bond. Mr. Jordan responded that the only way to do that was to go to court. He said that would take time and the project would sit. He said he did not believe there was any way the surety could get out of the bond, although it might require litigation to get fulfillment.

Warren Iliff, Zoo Director, stressed that time was important to the project--that there was a need to protect the investment and money already spent.

Councilor Waker asked if Metro was obliged to go through a public bidding process if a new contract was awarded. Mr. Jordan responded that it was his opinion that it wasn't necessary. He said when default occurred, there was no obligation on Metro's part to go through the public bidding process again. He said that was the surety's responsibility and the requirement had been met.

Motion: Councilor Kafoury moved that the Council accept the recommendation of the Executive Officer to approve a contract with Bishop Contractors, Inc. in the amount of \$1,349,622.00. Councilor Kirkpatrick seconded the motion.

Councilor Van Bergen said he was concerned that Metro may end up paying \$700,000 more than it had budgeted for the project. Mr. Jordan reiterated that Metro would demand payment from the surety company and, if need be, go to court to get the bond company to fulfill its obligation.

Motion Councilor Hansen moved to amend the main motion to
to require that the contractor use 10% disadvantaged
amend: business contractors for all new subcontracts issued under the new contract. Councilor Etlinger seconded the motion.

Rick Gustafson, Executive Officer, said he also was concerned about Disadvantaged Business Enterprises. He said 50-60% of the contract with Bishop would continue with the subcontractors

hired under the original contract. He said the reason for continuing with those subcontractors was to maintain continuity with what had already been done on the project. He said the project had already met its 10% DBP goal with the initial contract. He suggested in lieu of the proposed amendment that regular reports to the Council on the contract's progress, performance and DBP participation be made.

Councilor Williamson commented that the contract may cost Metro more if there was the addition of the amendment to the contract, which the surety might not be willing to pay. Councilors Waker and Kafoury agreed and Councilor Waker said he was satisfied that the 10% goal had been met with the original contract.

Councilor Bonner said that while they had met the minimum requirement of 10% participation, the Executive Officer should try to get as much disadvantaged business participation as possible.

Motion: Councilor Williamson moved the previous question.
Councilor Waker seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Deines,
Etlinger, Hansen, Kafoury, Kelley,
Kirkpatrick, Oleson, Van Bergen, Waker, and
Williamson.

Nays: None.

Motion carried.

Vote: The vote on the amendment to the main motion resulted in:

Ayes: Councilor Hansen.

Nays: Councilors Banzer, Bonner, Deines,
Etlinger, Kafoury, Kelley, Kirkpatrick,
Oleson, Van Bergen, Waker, and Williamson.

Motion to amend failed.

Minutes - Special Council Meeting
January 5, 1984
Page 8

Vote: The vote on the main motion to approve a contract
with Bishop Contractors, Inc. resulted in:

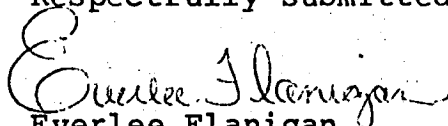
Ayes: Councilors Banzer, Bonner, Deines,
Etlinger, Hansen, Kafoury, Kelley,
Kirkpatrick, Oleson, Van Bergen, Waker,
and Williamson.

Nays: None.

Motion carried, contract approved.

There being no further business, the meeting adjourned at 7:20 p.m.

Respectfully submitted,


Everlee Flanigan
Clerk of the Council

0728C/313

CONSIDERATION OF RESOLUTION NO. 84-446
PURPOSE OF AMENDING THE FY 1984 TRANSPORTATION
IMPROVEMENT PROGRAM TO TRANSFER URBAN MASS
TRANSPORTATION ADMINISTRATION SECTION 9 FUNDS
FROM CAPITAL ASSISTANCE TO OPERATING ASSISTANCE,
AND TO ADD A NEW RESTORATION (4R) PROJECT

Date: January 17, 1984

Presented by: Andrew Cotugno

FACTUAL BACKGROUND AND ANALYSIS

Proposed Action

Approve this recommendation to 1) increase FY 1984 Section 9 Operating Assistance for Tri-Met from \$4,660,886 to \$5,950,228 (an increase of \$1,289,342) and decrease Tri-Met's Section 9 Capital Assistance by \$1,933,565 with a resultant forfeiture of \$644,223, and 2) add a restoration (4R) project on I-5 from South Tigard Interchange to the Willamette River Bridge in Wilsonville.

TPAC has reviewed these amendments and recommends approval of the Resolution.

At the February 9, 1984, JPACT meeting, those members in attendance raised no objection to the proposed Resolution; however, lacking a quorum, no formal recommendation was made.

Background

1. The phasing out of Section 5 Operating Assistance was offset by new legislation which created Section 9 Operating Assistance and Capital funding. This new Operating Assistance Program was reflected in the FY 1984 Transportation Improvement Program (TIP) adopted by Metro Council in September.

The \$6.4 million program estimate was projected annually through FY 1986 and was based on full 100 percent of the FY 1982 Section 5 level apportioned to the region including Clark County. It was predicated on Clark County (C-TRAN) not currently applying for Section 9 funds, but exercising that option as needs arise. This resolution amends the TIP to reflect C-TRAN drawing their share of Operating Assistance and authorizes Tri-Met to draw the maximum allowable amount of Operating Assistance resulting in a forfeiture of capital funds.

The Surface Transportation Act of 1982 provides an FY 1984 allocation as depicted below which includes a continuation of Operating Assistance at a level 20 percent reduced from 1982:

	<u>Operating</u>	<u>Capital</u>	<u>Total</u>
Tri-Met	\$4,660,886	\$ 9,868,489	\$14,529,375
C-TRAN	492,897	810,435	1,303,332
	<u>\$5,153,783</u>	<u>\$10,678,924</u>	<u>\$15,832,707</u>

The Act allowed for a transfer of Capital Assistance funds to Operating Assistance up to the previous 1982 amount of \$6,442,228 for the region. This option can be exercised with a forfeiture penalty of one dollar transferred back to the Urban Mass Transportation Administration (UMTA) (in capital dollars) for every two dollars applied to increasing Operating Assistance.

Tri-Met will apply for FY 1984 Operating Assistance in the amount of \$5,950,228 (\$6,442,228 - \$492,000 (C-TRAN)). This results in a revision to the approved FY 1984 allocation as follows:

	<u>Operating</u>	<u>Capital</u>	<u>Total</u>
Tri-Met	\$5,950,228	\$7,934,924	\$13,885,152
C-TRAN	492,000	811,332	1,303,332
	<u>\$6,442,228</u>	<u>\$8,746,256</u>	<u>\$15,188,484</u>

Forfeiture to UMTA	644,223
	<u>\$15,832,707</u>

2. The Oregon Department of Transportation has requested that a new Federal Aid Interstate restoration project be added to the TIP. This project will cover joint and pavement repair on I-5 from the South Tigard Interchange to the Willamette River Bridge in Wilsonville.

Construction	\$368,000
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EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends the adoption of the Resolution.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On February 6, 1984, the Regional Development Committee unanimously recommended Council adoption of Resolution No. 84-446.

BP/srb
0589C/373
02/09/84

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE)
FY 1984 TRANSPORTATION IMPROVEMENT)
PROGRAM TO TRANSFER URBAN MASS)
TRANSPORTATION ADMINISTRATION)
SECTION 9 FUNDS FROM CAPITAL)
ASSISTANCE TO OPERATING ASSISTANCE,)
AND TO ADD A NEW RESTORATION (4R))
PROJECT)

RESOLUTION NO. 84-446

Introduced by the Joint
Policy Advisory Committee
on Transportation

WHEREAS, Tri-Met is allocated FY 1984 Section 9 Operating Assistance funds in the amount of \$4,660,886; and

WHEREAS, The Surface Transportation Act of 1982 allows for the transfer of Capital Assistance to Operating Assistance to allow Tri-Met to apply for an amount up to a maximum of \$5,950,228 with a penalty of one dollar transferred back to the Urban Mass Transportation Administration (UMTA) for every two dollars increase in Operating Assistance; and

WHEREAS, Tri-Met would like to take advantage of this provision due to declining local revenues; and

WHEREAS, The Oregon Department of Transportation has requested that a new restoration project on I-5 be added to the Transportation Improvement Program (TIP) using Federal Aid Interstate (4R) funds; now, therefore,

BE IT RESOLVED,

1. That the TIP is amended as follows:

a. The transfer of \$1,289,342 from Section 9 Capital Assistance to Section 9 Operating Assistance for Tri-Met;

b. The transfer of \$644,223 of Capital Assistance back to UMTA; and

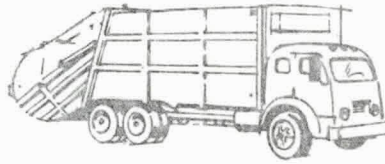
c. The addition of a Federal Aid Interstate project for joint and pavement repair on I-5 from South Tigard Interchange to the Willamette River Bridge in Wilsonville, in the amount of \$368,000.

2. That the Metro Council finds the projects in accordance with the Regional Transportation Plan and gives affirmative intergovernmental project review approval.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1984.

Presiding Officer

BP/srb
0589C/373
02/09/84



Miller's Sanitary Service

Specialized Container Service
Contract—Monthly

5150 S.W. Alger
Beaverton, OR 97005

IN REFERENCE TO YOUR RESOLUTION NO 83-439

If the Price Waterhouse decision of 1980 was the way Metro wanted to go with the Washington County Transfer Station, why did you encourage private industry to think that you were interested in the franchise concept in 1982 and why did you go as far as to get a legal opinion as to whether or not you could do this. Industry was asked to come forth with a proposal early in 1982 which you have before you. It addresses all the reservations you had asked us to address. We have been working with you about 18 months. Were there any other proposals? There were none at the SWAC Meetings or at Washington County Solid Waste Committee Meetings. Have you all read the proposal? Our proposal gives you more authority and latitude than you will ever get in any operating contract that you might put out for bid.

Other advantages: You will not have to put forth any public money and also will not have to worry about the conditions you set forth for the operation of the station. Our proposal gives you these rights. You are saying that you will ask private industry's involvement. What does this mean? We have already given you most of the facts and figures you will use as criteria for your bid. Numbers of loads, tons per day, tons per week, miles to transfer site from any place in the county, miles to present and proposed landfill sites.

What do you want from us? You ask why we, the industry, want this station? I ask you as one operator, if you were spending \$200,000 a year disposal fees, wouldn't you want to have a say in how that money were to be spent. You

promised we would have no additional costs at CRTC in 1984 if we paid transfer and user fees you set for CRTC beginning January 1, 1983, which Transfer Station was not useable. Why has the fee gone up?

We, the industry, think we will be able to make substantial savings in operational cost if you will allow us to use our expertise.

I therefore, recommend you do not elect to use the proposed Resolution #83-439 and that you further explore the concessions of the industry proposal and reconsider that proposal set forth by the industry.

If you can't get from that proposal what you need and want, then you can still do as your resolution suggests--Compare your options.

Thank you.

Any Questions?

Carl R. Muller Pres.

Staff Report - continued--
Consideration Options -
Transfer Station WA CO. ②

Options 2 and 3 provide Metro with greater control over the process. They establish common rules by which each proposal or bid is evaluated. A timeframe for implementation is established and managed. They both provide a guarantee that service will be available.

In following the CTRC approach option 2, Metro has the opportunity to periodically re-bid the operation contract to assure that the public is receiving the best service for the least cost. With Metro ownership, all aspects of construction and operation are controlled through contracts. If contractors do not perform adequately, Metro has the option of replacing them.

Under Option 3, Metro would be entering into a long-term service agreement. The only control mechanism Metro has in providing the service is the franchise. Although this is normally an effective control mechanism, it does not totally guarantee service to the public under all circumstances. Problems such as labor disputes can interrupt service.

The alternatives for proceeding vary, depending on the level of control Council wishes to have over the process.

Staff feels that option 2, the CTRC scenario, provides Metro with the greatest flexibility in assuring a westside transfer station is built and operated in the shortest time frame for the least cost.

*This was sent out before proposal (auditing)
was made Sept 13*

appropriate for acquiring this station--an RFP, a franchise, a license, a permit, a combination? We have a lot of choices and options before us limited only by our imagination and state law. He would encourage the committee to discuss these issues and he would respond to any questions the Committee might have. The report is not all inclusive as far as the possibilities for how we go about procuring this facility. Refer to your staff report during this interval of discussion.

Mr. Jordan said the question of franchising or contracting out this kind of service or owning or operating this kind of facility have very broad underlying issues. They take a good deal of time to review in any depth and to separate the legal issues from the administrative-financial-political concerns involved. Basically, of the three options that have been discussed--under franchising there are advantages and disadvantages. The ordinance says that it will franchise transfer stations. Based upon that policy the ordinance has some terms in it that you may want to look at before you decide to franchise a new transfer station. For example, the ordinance says that all transfer stations shall be franchised, rather than full-service contracted, so if you go to a contracting option you may have to change the ordinance in that respect. Also there is the provision in the ordinance that provides that haulers cannot participate in the ownership operation of a transfer station or disposal facility. In the proposal that's been made to you that part of the ordinance may have to be amended. There are other terms in the ordinance which may not fit the kind of facility that's been proposed to you. The ordinance says that the term of a franchise will be five years or the life of the facility whichever is less. Obviously the capital investment probably is not going to be amortized over a five-year period. I've been asked whether bidding is required in order to grant a franchise and the answer is no, it is not. We can grant an exclusive franchise under the statute of our ordinance without the necessity of competitive bidding. You cannot deny renewal of the franchise without good cause. The major issues have to do with Metro's ability to control the service that's provided in the facility under a franchise. This brings us to what you would do to rectify problems in service such as a closure of the facility and ceasing of operations. Those are difficult legal questions, Mr. Jordan stated and about the only place you could go to resolve this, regardless of the terms of the ordinance, is to court. Any modifications would allow the franchisee to go to court to present his case. He explained other advantages and disadvantages of franchising.

Contracting is another option Metro has but again the ordinance would need to be amended to allow flexibility. It would probably require competitive bidding under normal contract procedures, although you have the authority to exempt a particular facility from competitive bidding if you wish. Contracting is somewhat more flexible and you could probably have less of a duration of the contract. It obviously gives you complete control. If the service provided is substandard or you wish to modify the operation of the facility you can do that almost immediately. There are substantial variations on either of the options.

*This
you did
not require
in CTC.*



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

C O N S E N T A G E N D A

The following business items have been reviewed by the staff and an officer of the Council. In my opinion, these items meet with the Consent List Criteria established by the Rules and Procedures of the Council. The Council is requested to approve the recommendations presented on these items.

- 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.

Rick Gustafson, Executive Officer

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

REGULAR MEETING
NOVEMBER 3, 1983

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

Councilors Absent: Councilor Kafoury.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Donald Carlson, Andrew Jordan, Ray Barker,
and Sonnie Russill.

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

1. Introductions.

There were no introductions.

2. Councilor Communications.

Councilor Williamson said he had distributed a letter inviting Council members to visit Ramsey Lake and the Wildwood site with Peter Staples of the West Hills & Island Neighbors.

Councilor Hansen commented that he was concerned that neither he nor the Services Committee were contacted earlier about the proposed visit. He said that since Ramsey Lake was in his district that he should have been informed of the proposal before the letter was sent. He also said that any such visit should involve the Port of Portland and citizens from North Portland. He said he did not want a signal to go out to the community that Ramsey Lake was being considered as a landfill when the Council had already decided on the Wildwood site.

Councilor Williamson apologized for not talking to Councilor Hansen when the request was initially received. He said he had no inclination to change the decision regarding Wildwood. Several other Councilors stated that the visit would not change the fact that a decision had been made for the Wildwood site as a regional landfill.

Councilor Waker noted that he had inquired about whether or not Councilors were covered by Metro's insurance when travelling on Metro business. He said Ms. Sims had indicated they were not but that staff would be bringing the matter to the Council in the near future.

3. Executive Officer Communications.

Rick Gustafson, Executive Officer, presented highlights of the contents of the First Quarterly Program Progress Reports. (A copy of a compilation of the reports is attached to the agenda of the meeting). He said the purpose of the reports was to assist the Council in their oversight of Metro staff activities, and as a management tool for himself in monitoring the progress of the departments. He said a more detailed presentation of the reports would be made to the Committees of the Council.

He then presented a memo entitled, "Future Funding Decision Schedule" which outlined the work remaining to be completed for the Council's consideration (a copy of the memo is attached to the agenda of the meeting). He also indicated that a summary of the results of a Friends of the Zoo survey was also before the Council for their information (copy attached to the agenda of the meeting).

Councilor Kirkpatrick said she was concerned about the timeline and process. She said the Council had not discussed in depth the issues already presented by the Executive Officer and advised that before they went any further, they should have such a discussion. She said they needed to give the Executive Officer direction.

Mr. Gustafson said the key policy decisions which needed to be made as soon as possible were: 1) what was going to be in a measure presented to the voters, 2) were they going to seek a tax base or a serial levy, and 3) a decision on the long-range financial policies of the Council as far as the General Fund. He said a decision on the amount to be requested could hold until additional information was presented to the Council according to the schedule outlined in the memorandum presented.

Motion: Councilor Deines moved to refer the future funding issue to the Council Coordinating Committee of November 14, 1983 for discussion of the survey and the General Fund and Zoo funding; that all Councilors be invited to attend the Committee meeting; and that

the Committee return to the Council with an analyses of the major assumptions under which the Executive Officer was working and a recommendation as to whether those assumptions are appropriate or should be changed.

Councilor Kirkpatrick seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kelley, Kirkpatrick, Olson, Van Bergen, Waker, and Williamson.

Nays: None.

Absent: Councilor Kafoury.

Motion carried.

Mr. Gustafson then presented the highlights of the results of the Friends of the Zoo survey.

Councilor Bonner said one of the issues was whether the funding measure should be a base or a levy and the survey seemed to indicate support for a tax base for the Zoo. He said he believed the Zoo should have a solid funding base.

Mr. Gustafson said law prohibited them from dedicating a tax base to the Zoo without creating a special service district. He said it may look like they were trying to take on other powers for Metro if they went for a tax base.

Councilor Williamson requested that at the Council Coordinating Committee a timeline be presented for creating a special service district.

Councilor Etlinger said he was leaning toward a 3-year serial levy for the Zoo and that during that time they should work toward proposing a tax base to include parks and recreation along with the Zoo.

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.

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

6.1 Consideration of Ordinance No. 83-164, for the purpose of amending the FY 1983-84 Budget, and Appropriations Schedule, and amending Ordinance No. 83-153. (Second Reading).

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

Councilor Waker asked if the funding was sufficient to continue legal services through the fiscal year. Councilor Kirkpatrick responded that there was sufficient funding to maintain legal services until a long-term decision was made.

Mr. Gustafson reported that the legal services subcommittee was recommending that an in-house general counsel be hired, probably at a different classification than the current one, along with maintaining an outside legal counsel contract.

There was no public testimony.

Vote: The vote on the previous motion, by Councilors Kirkpatrick and Deines on October 27, 1983, to adopt Ordinance No. 83-164 resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Absent: Councilor Kafoury.

Motion carried, Ordinance adopted.

7.1 Consideration of Resolution No. 83-433, for the purpose of approving the Collective Bargaining Agreement between Metro and Laborers International Union, Local 483.

Andrew Jordan, Legal Counsel, reported that the contract was a two-year contract with a one-year wage reopener.

Motion: Councilor Kirkpatrick moved adoption of Resolution No. 83-433. Councilor Williamson seconded the motion.

There was no public testimony.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Absent: Councilor Kafoury:

Motion carried; Resolution adopted.

Councilor Van Bergen requested that the Executive Officer provide a critique of the bargaining team process and recommendations for how the process should be conducted in the future.

8.1 Metro/Tri-Met Relationship.

Presiding Officer Banzer noted that there was a motion on the floor made by Councilors Oleson and Bonner on October 6, 1983:

"That the Council direct the Presiding Officer to appoint a Council task force to work with the Metro staff to consider possible Tri-Met relationship issues and to develop specific proposals in preparation for the 1983 legislative session."

Councilor Oleson made comments regarding his motion and urged support of it. He said the issue would not go away and they needed to determine their role. He said his concern was to achieve the most accountable delivery of regional services and that transportation was certainly a regional service. He said if they did nothing, regional services would continue to be fragmented.

Councilor Etlinger indicated that he had sent each of the Council members a resolution he had drafted. He said he was not yet prepared to introduce it because he didn't believe he had the votes to adopt it. He said he hoped that Metro and Tri-Met could sit down and discuss their relationship with a resolution by 1985.

Motion to
Amend:

Councilor Kirkpatrick moved to amend the main motion to read as follows:

"That the Council direct the Presiding Officer to appoint a Council task force to work with Metro staff, Tri-Met, and community groups to consider possible Tri-Met relationship issues and to develop specific proposals."

Councilor Bonner seconded the motion.

Councilor Bonner said he believed the issue needed to get into the public arena and to provide a more systematic review of the alternatives.

Councilor Kelley said she liked the motion but commented that she would prefer that all the issues were identified before public discussion took place.

Councilor Waker commented that the only issue regarding the matter had already been identified and that was whether the Tri-Met Board should be appointed or elected.

Councilor Hansen said he didn't see a need for community-wide discussion but did see a need to develop proposals for introductions to the legislature in 1985.

Councilor Van Bergen asked if the task force would require a great deal of staff time and whether it competed with the work of the interim legislative committee recently formed.

Councilor Oleson responded that the task force could provide assistance to the interim legislative committee and that they should participate in the discussions of the committee.

Councilor Kirkpatrick commented that in making the motion to amend she did not intend that a great deal of staff time would be required.

Presiding Officer Banzer asked the Executive Officer if he had any comments.

Mr. Gustafson said he did not believe a Council task force was necessary to support the interim committee's activities. He said he recommended that in lieu of a task force they urge the legislative interim committee to discuss the Metro/Tri-Met issue as one of their priorities and assist the committee in promoting citizen involvement.

Councilor Bonner said they needed some reasonably developed options and the task force could set forth more specific proposals for community discussion.

Motion to Councilor Williamson moved to substitute the
Substitute: main motion and motion to amend with the following:

"That the Council direct the Presiding Officer to appoint a Council task force to work with the Metro staff to consider possible Tri-Met relationship issues and to develop proposals for discussion and to then work with Tri-Met and community groups to attempt to develop a consensus.

Councilor Etlinger seconded the motion.

Councilor Etlinger said the motion would commit them to work toward a consensus with the community and Tri-Met.

Presiding Officer Banzer urged that Councilors vote against the motion because procedurally it would be impossible to achieve and substantively it was an inappropriate position for the Council to take. She said a task force should come back to the Council with specific proposals to do something about the issue.

Vote: The vote on the substitute motion resulted in:

Ayes: Councilors Etlinger, Kelley, and Williamson.

Nays: Councilors Banzer, Bonner, Hansen, Kirkpatrick, Oleson, and Waker.

Absent: Councilors Deines, Kafoury, and Van Bergen.

Motion to substitute failed.

Vote: The vote on the motion to amend the main motion which would add the words "Tri-Met and community groups" after "Metro staff" and delete the words "in preparation for the 1985 legislative session" resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger, Kirkpatrick, Oleson, Waker, and Williamson.

Nays: Councilors Hansen and Kelley.

Absent: Councilors Deines, Kafoury and Van Bergen.

Motion to amend carried.

Councilor Etlinger said he wanted to see in the motion a statement that a consensus would be reached by the end of the 1985 legislative session.

Motion to Amend:

Councilor Etlinger moved to amend the main motion to add after the word "proposals", the following language: "with the intent to find an acceptable regional consensus which would be affirmed by the next legislature and resolve the issue no sooner than July 1985".

The motion died for lack of a second.

Presiding Officer Banzer stated that they had been discussing the issue for several months and it was not appropriate for them to buck the issue to the legislature. She said the legislature needed to know what Metro's position was on the issue and the task force would help to define that position.

Vote: The vote on the main motion, as amended, resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger, Hansen, Kirkpatrick, Oleson, and Waker.

Nays: Councilors Kelley and Williamson.

Absent: Councilors Deines, Kafoury, and Williamson.

Motion, as amended, carried.

The adopted motion reads as follows: That the Council direct the Presiding Officer to appoint a Council task force to work with the Metro staff, Tri-Met and community groups to consider possible Tri-Met relationship issues and to develop specific proposals.

Motion: Councilor Oleson moved that the Presiding Officer and Executive Officer jointly communicate the Council's interest in studying the marriage issue to the appropriate interim legislative committees.

Councilor Kirkpatrick seconded the motion.

Vote: The vote on the motion resulted in:

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

Nays: Councilor Williamson.

Absent: Councilors Deines, Kafoury, and Van Bergen.

Motion carried.

8.2. Guidelines for Council Expenditures.

Presiding Officer Banzer noted there was a motion on the floor, made by Councilors Etlinger and Bonner, to amend guideline number 4 under General Council account, as follows:

4. Within the Council General Account up to \$1,200 per year shall be reserved for expenses incurred by the Presiding Officer of the Council in carrying out official duties associated with that office.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger,
Hansen, Oleson, and Waker.

Nays: Councilors Kirkpatrick and Williamson.

Absent: Councilors Deines, Kafoury, Kelley, and Van Bergen.

Motion carried.

Proposed Guidelines:

5. An individual Councilor may request reimbursement from the Council General Account for expenses incurred for general Council business.
6. All requests for reimbursement or expenditure from the Council General account must be approved by the Presiding Officer. The Presiding Officer shall submit a budget for the General Account to the Council Coordinating Committee. The Presiding Officer can authorize expenditures within the limits approved by the Council Coordinating Committee.

The Fiscal Officer shall provide monthly reports to the Council Coordinating Committee. Each request must be accompanied by supporting documentation which shall include the nature and purpose of the expense, the names and titles of all persons for whom the expense was or will be incurred and receipts justifying the expense.

Vote: The vote approving General Council Account Guidelines 5 and 6 resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger,
Kelley, Kirkpatrick, Oleson, and Waker.

Nays: Councilors Hansen and Williamson.

Absent: Councilors Deines, Kafoury, and Van Bergen.

Motion: Councilor Bonner moved adoption of the Council Guidelines for Expenditures, as amended. Councilor Waker seconded the motion.

Vote: The vote on the motion resulted in:

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

Nays: Councilor Williamson.

Absent: Councilor Deines, Kafoury, and Van Bergen.

Motion carried.

9. Committee Reports.

Councilor Williamson noted that there would be no JPACT meeting in November. He said he had distributed to the Council copies of letters to Paul Bay at Tri-Met regarding the Metro/Tri-Met review of the Transportation Development Program (copies of the letters are attached to the agenda of the meeting). He asked if there were any comments on the letters to let him know.

Councilor Kelley said the Development Committee meeting would be held on November 7.