



# Agenda

EXECUTIVE SESSION AND  
--- 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: JULY 26, 1984

Day: THURSDAY

Time: 7:00 P.M. -- Executive Session  
7:30 P.M. -- Regular Council Meeting

Place: COUNCIL CHAMBER

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## EXECUTIVE SESSION

7:00 Executive Session regarding Wildwood decision.

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## REGULAR MEETING

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.

8:00

6. APPROVAL OF MINUTES
  - 6.1 Minutes of the meetings of June 7 and June 28, 1984.

7. ORDINANCE

8:05

- 7.1 Consideration of Ordinance No. 84-176, relating to Council organization and procedure, amending Code Sections 2.01.030, 2.01.060, 2.04.030, and repealing Code Section 2.04.015. (First Reading)

Barker

8. RESOLUTIONS

8:15

- 8.1 Consideration of Resolution No. 84-480, for the purpose of endorsing the recommendations of the Diesel Exhaust Study Task Force.

Williamson/  
Brandman

8:25

- 8.2 Consideration of Resolution No. 84-481, for the purpose of extending the deadline for petitions for Locational Adjustment to the Urban Growth Boundary received prior to July 1, 1984.

Baxendale

8:35

9. COMMITTEE REPORTS.

8:45

ADJOURN

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

SPECIAL MEETING  
June 7, 1984

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

Councilors Absent: Councilor Waker.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Ray Barker, Steven Siegel, Sonnie Russill, Andy Cotugno, Dan LaGrande, Katie Dowdall, and Jennifer Sims.

A special meeting of the Council of the Metropolitan Service District was called to order at 5:35 p.m. by Presiding Officer Kirkpatrick for the purpose of discussing 1) a report on the Council/Executive Officer Workshops, 2) the General Fund Definition, and 3) the Intergovernmental Resource Center Update/Proposal.

1. Report on Workshops.

Mr. Gustafson stated that he was pleased with the work of the workshop facilitators, Lenny Borer and Isaac Regenstreif, and that the results would be useful. He said two proposed resolutions were before the Council as a result of the workshops; one adopting a Mission for Metro and one adopting Priorities and Objectives.

Presiding Officer Kirkpatrick stated that she would like the Council to review the two resolutions regarding the Mission and Priorities and make any changes before it was formally presented to the Council on June 28.

Review of Resolution No. 84-476 (Mission and Purposes)

Councilor Bonner asked if the number two Purpose "Encourage public discussion regarding the provision of regional services" pertained to authorized services or to additional regional services which might be provided by Metro. Mr. Gustafson responded that he had understood the workshop discussion to mean that Metro would provide the authorized services but would also encourage public discussion for the provision of any regional service.

Councilor Bonner suggested that the words "which are not now authorized" be added to the end of Purpose number two. He said it was also his understanding from the workshops that the proposed Purpose was a way for Metro to get involved in services not currently authorized.

Councilor Hansen suggested that in lieu of Councilor Bonner's language that the word "all" be inserted before the words "regional services", and that the number two Purpose would read: "Encourage public discussion regarding the provision of all regional services. He said that would allow the Council to discuss authorized as well as not currently authorized regional services. He said they could encourage the forums for the discussions without necessarily becoming the agency which would provide the services.

Councilor Bonner argued that if they were going to amend the Purpose that it should be clear that the Council was speaking to services not currently authorized.

Motion: Councilor Bonner moved that the number two Purpose be amended to read as follows: "Encourage public discussion regarding the provision of regional services Metro is not now authorized to provide." Councilor Van Bergen seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Bonner, Kirkpatrick, Oleson, and Van Bergen.

Nays: Councilors Banzer, Hansen, Kafoury, and Williamson.

Absent: Councilors Deines, Kelley, and Waker.

Motion failed due to tie vote.

Motion: Councilor Hansen moved to amend Purpose number two to read as follows: "Encourage public discussion regarding the provision of all regional services". Councilor Van Bergen seconded the motion.

Vote: The vote on the motion resulted in:

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

Nays: None.

Absent: Councilors Deines, Kelley, and Waker.

Motion carried.

Review of Resolution No. 84-477 (Priorities and Objectives)

Mr. Gustafson stated that five priorities were developed through the workshops. He said he was recommending that a sixth priority be added: "Administer Effectively the Existing Services of Metro". He said while the other priorities related to the specific needs over the next two years, maintaining a strong administration, good financial reports, and existing commitments in Solid Waste and Zoo were also important. He also noted that some of the objectives had been reworded and those changes were reflected in the resolution before the Council.

Councilor Kafoury requested that Objectives for the Priority proposed by Mr. Gustafson be developed prior to Council adoption of the resolution. Presiding Officer Kirkpatrick requested that Councilor Bonner work with Mr. Gustafson to develop the objectives.

Councilor Van Bergen stated that he was concerned about Priority "D" especially the objectives. He said he was concerned about creating a CRAG II which might take away some of Metro's authority. Mr. Gustafson responded that the objectives did not force a commitment to the IRC proposal, which Councilor Van Bergen was referring to. He said the Objectives of Priority D merely committed to strengthening the relationship with local and regional jurisdictions.

Councilor Bonner stated that he agreed with the Objectives of Priority "E". He said he was concerned though that the objectives might not get the attention they should.

Councilor Deines stated that unless there was state legislation which established a relationship between Metro and local governments, that they would not be able to accomplish the objectives. Councilor Van Bergen agreed.

Councilor Bonner commented that prior to the preparation of the 1985-86 budget a review of the priorities and objectives should occur. Mr. Gustafson stated that once the Priorities and Objectives were adopted, progress would be reported to the Council through the Quarterly Report process.

2. General Fund Definition.

Mr. Gustafson presented his memorandum entitled, "Redefinition of Existing General Fund and Proposed Five Operating Fund System", contained in the agenda of the meeting.

He said presently Metro had had four funds: General Fund, Solid Waste, Zoo, and Intergovernmental Resource Fund. He said it was proposed to create a General Fund which would provide those services that are the direct responsibility of Metro and mandated by State Law and which should appropriately be funded by General Fund monies. He said the General Fund would then be treated as all other funds, and any support service costs attributed to the General Fund would be paid to a newly created Support Services Fund. He said presently the General Fund is created by a series of charge backs to each of the separate funds. He said the proposal for the General Fund would be that it have its own source of revenue in order to fund services.

He then reviewed a schedule of work which needed to be accomplished on the issue (a copy of the schedule is attached to the agenda of the meeting).

He said they needed to reach an agreement on the amount and sources of funding for the General Fund.

He indicated that another issue which needed to be discussed was whether additional funds should be included in the cost of general government to support Metro Priority "D", "Strengthen the relationship with local and regional jurisdictions for solving mutual problems", and Priority "E", "Identify regional service needs and analyze options for their provision in cooperation with contractual groups."

Councilor Deines commented that they should have a pretty definite idea of what they wanted to do before they asked for funds.

Councilor Bonner stated that he was supportive of requesting additional funds for the General Fund in order to study regional services.

Mr. Gustafson stated that at the next Council meeting a presentation of the financial impacts of creating a General Fund would be made.

Councilor Kafoury stated some "what if" discussions needed to occur also. She said if the mandatory dues for IRC did not

occur or if the taxing authority for a General Fund did not occur, they needed to have some fall-back positions. Mr. Gustafson stated that his preference would be that the Council get an understanding of what their long term interests were and then as they started putting together the details, a transition strategy would need to be developed.

C. Intergovernmental Resource Center Update/Proposal.

Steven Siegel, IRC Administrator, stated that the objectives of the IRC proposal were to reach an understanding with member jurisdictions on a meaningful long-term relationship and on a funding mechanism for the IRC (a copy of the proposal is contained in the agenda of the meeting). He said a committee comprised of representatives of the dues paying jurisdictions was proposed to be established whose functions would be to: 1) recommend or approve a base work program and budget for the IRC; 2) to recommend or establish committees or task forces which would serve as the regional consensus building forums for all of the issues or subject areas in the work program that required that type of involvement; and 3) to monitor and amend the budget and work program as necessary throughout the year. He said funding for the IRC was proposed to be through the continuation of the mandatory dues.

He said there were two options for how the work program and dues would be set. The first would be the JPACT-like model of having member jurisdictions select their own representatives for the steering group and that the group would recommend a work program and dues level to the Metro Council. The other option, he said, would be the Boundary Commission model, where the steering committee would approve the work program and budget.

He said mandatory dues would require a statutory change to eliminate the sunset clause in the current legislation and that Tri-Met and the Port of Portland should be included as mandatory dues paying agencies.

He said if the Council approved the concept, he and the Executive Officer would meet with the local government group they had been meeting with to date to finalize a memorandum which would be used in the discussions between the Metro Council and the local elected officials. After that, he said, an agreed to proposal would be presented to Glenn Otto's Special Task Force and proposed legislation presented to the 1985 Legislature.

Councilor Oleson stated that he had always had reservations about how much the Council had given up to the JPACT process and would not support anything that went any further in terms of watering down the influence of the Metro Council.

Mr. Gustafson responded that there were two options to the one that was being outlined: 1) no legislation at all and a request that contributions be on a voluntary basis, and 2) request continuing mandatory dues with a sunset clause. He said it was up to Metro to structure something that would pass the legislature and that the proposed outline was an attempt to address the need to maintain and fund the local government coordination function at Metro.

Councilor Williamson stated that he did not want to see the committee institutionalized into state law. He said he would prefer that the Metro Council approve the membership and appoint the members, as was done with JPACT.

Presiding Officer Kirkpatrick stated that the essence of the proposal was that Metro should not go to the legislature and propose an extension of the dues without having the consensus of the local jurisdictions.

Councilor Bonner asked if it was possible to go to the legislature and ask for some source of funds for the general fund which would support the IRC functions and discontinue the dues all together.

Mr. Gustafson responded that that would be possible but it raised the issue of whether it was appropriate to use the general funds of Metro for the purpose of fulfilling the coordination function. He said there was a good argument for having the various jurisdictions contribute financially to the state mandated service Metro is suppose to provide in the area of local government coordination.

(At this time, Presiding Officer Kirkpatrick recessed the Special Meeting until after the disposition of the Regular Council meeting business. At 8:10 p.m. the Special Meeting was reconvened and discussion of the IRC continued.)

Mr. Gustafson pointed out that it was not necessary for the Council to commit to any portion of the proposal that evening. He said the object of the session was to get the Council to understand the key issues. He said he hoped the Presiding Officer would select some Councilors to work with her to meet with local elected officials.

Presiding Officer Kirkpatrick asked if in the discussions carried on at the staff level had it been proposed to include the coordination as a part of the general fund function and funding. Mr. Siegel responded that they had not made such a proposal.

Councilor Deines stated that support for the IRC should come from the local governments. He said he would find it difficult to go to the legislature and request funding for both Metro's general government and for those programs which benefited the local jurisdictions.

Councilor Hansen stated that he seriously doubted he would be able to support the IRC proposal. He said his concerns had not been addressed or solicited and that a great deal more work needed to be done.

Mr. Gustafson responded that it was important to understand the issue before a position was taken on it. He said the proposal provided a leadership role for Metro in getting legislation through to maintain the coordination function at Metro. He said the Council could choose to discontinue the coordination function if they so desired.

Councilor Waker stated that he had hoped the organization would eventually provide some sort of forum for the consolidation of some of the services currently provided. He said consideration should be given to getting some of the service district representatives on the steering committee.

Mr. Siegel responded that at some point there might be the possibility of the steering committee establishing a task force which could be charged with an issue such as the consolidation of a particular service, and that the task force membership could be made up of service district representatives.

Mr. Gustafson pointed out that the forum could be a place where consolidation of districts could be discussed but that it would in no way preclude the option for the Metro Council to form its own task force to investigate the consolidation of services.

Councilor Van Bergen commented that he preferred the statute as currently written, with a sunset clause.

Councilor Waker said he didn't like what currently existed because, although it might get Metro funding, it didn't provide Metro the necessary consensus building with local governments which would in turn provide the potential to make beneficial changes for the public. He said he supported the concept being presented.



Mr. Gustafson stated that throughout the region, the most successful program was JPACT. He said it was a very effective consensus building tool and that they were proposing the JPACT model because of its success. He said the proposal simply sought the advice of local jurisdictions as to how much Metro was going to charge them for the services Metro provided.

Councilor Van Bergen countered that there had not been once instance that he could recall that the Council entered into any real discussion of any of the plans that came from JPACT and said no. He said they abided by the advice of JPACT to the point of servancy.

Mr. Gustafson responded that JPACT was the designated Metropolitan Planning Organization required by the federal government and that JPACT had not dictated any authority which was statutorily Metro's.

Councilor Van Bergen stated that he was not after JPACT, but was concerned that the concept being proposed was modelled after JPACT. He said he did not want to see the concept applied to other functions Metro might want to get into.

Mr. Gustafson stated that the proposal did not propose that Metro give up any of its authority or responsibility, that the proposal was to set up a mechanism to continue the coordination effort.

Councilor Bonner expressed concern that the steering committee would be able to set the agenda for what was studied. He suggested that funds be sought from the state legislature to make sure that Metro could study issues that the steering group would never agree to study. He said if the JPACT model was used, and he believed a good majority of the Council was comfortable with JPACT, that it would be something they could try and fine tune if needed.

Mr. Gustafson asked if the Council desired further information at the June 28 meeting. Councilor Waker suggested that the staff meet with Councilor Hansen and other Councilors to discuss the philosophy behind the proposal. Councilor Kelley suggested that a charge for the steering committee be written more precisely so it could be understood exactly what was expected of it. Councilor Bonner suggested that Presiding Officer Kirkpatrick put together a group of Councilors to carry the battle to the Council with Councilors.

Councilor Van Bergen stated that the proposal needed to be more specific. Mr. Gustafson responded that specific actions required of the Council were to develop a legislative proposal and language regarding the funding for the IRC, and that an ordinance needed to be adopted by the Council creating the steering committee. He said it was difficult to be more specific about the coordination effort because it depended upon how effective the steering committee was.

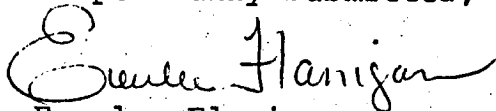
Councilor Bonner stated that it was difficult to buy into something that wasn't more specific. Mr. Gustafson said that in developing specifics the Council needed to be sensitive to what might strike a sensitive cord with legislators or local government officials and that it didn't sink before it even got off the ground.

Councilor Van Bergen said he understood that any enabling legislation needed to be general in scope, but that he was concerned that before a plan was endorsed that he have a pretty good idea of what was going to be done with it once it was passed.

Presiding Officer Kirkpatrick stated that she would put some Council members to work with the Executive Officer and Mr. Siegel in terms of working with other Councilors and other elected officials before the next meeting on the issue.

There being no further business, the meeting adjourned at 9:15 p.m.

Respectfully submitted,



Everlee Flanigan  
Clerk of the Council

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

REGULAR MEETING  
June 7, 1984

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

Councilors Absent: Councilor Oleson.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Ray Barker, Jennifer Sims, Dan LaGrande,  
Sonnie Russill, Katie Dowdall, and Steven  
Siegel.

A regular meeting of the Council of the Metropolitan Service  
District was called to order at 7:40 p.m. by Presiding Officer  
Kirkpatrick.

1. Appointment of Councilor to District 10 Vacancy.

Motion: Councilor Waker moved the appointment of Larry Cooper  
to the District 10 position on the Metropolitan  
Service District Council. Councilor Kafoury seconded  
the motion.

Vote: The vote on the motion resulted in:

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

Nays: None.

Absent: Councilor Oleson.

Motion carried.

Mr. Cooper was then given the oath of office by Presiding  
Officer Kirkpatrick.

2. Introductions.

There were no introductions.

3. Councilor Communications.

There were no Councilor Communications.

4. Executive Officer Communications.

Mr. Gustafson stated that he had received certification of the vote on the Zoo Serial Levy. He said the vote indicated a substantial victory in all three counties.

He also reported on the Multnomah County Planning Commission's action of June 4 regarding an amendment to the Multnomah County Framework Plan (outlined in a memorandum entitled "Revised Landfill Siting Criteria Recommended by Multnomah County Planning Commission", attached to the agenda of the meeting). He said the Planning Commission had essentially approved a revised criteria that would make it possible to site a landfill in an agricultural area to be sited under the public service designation.

Councilor Waker asked how soon the Multnomah County Board of Commissioners would act on the recommendation. Mr. Gustafson responded that as far as he knew there was no required time within which the County needed to act.

Councilor Kelley questioned the language on page 7 of the proposed ordinance, Section 11.15.7065(B)(5), and asked if it would be a problem.

Mr. Gustafson responded that he could not answer her question specifically but that staff had indicated that the results of the Planning Commission's action would not preclude the ability to gain a permit for the Wildwood landfill site. He said he would provide an analysis of the final action by the Planning Commission, and a response as to when the Board of Commissioners might take action.

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

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

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

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

7. Consideration of Ordinance No. 84-173, relating to the  
FY 1983-84 Budget and Appropriations Schedule, and amending  
Ordinance No. 83-153. (First Reading)

Jennifer Sims, Budget and Administrative Services Manager, briefly presented the staff report, as contained in the agenda of the meeting. She noted that the ordinance had not yet been presented to the Council Coordinating Committee.

Motion: Councilor Kelley moved adoption of Ordinance No. 84-173. Councilor Williamson seconded the motion.

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

Councilor Waker noted that one of the adjustments was for \$5,000 for the Columbia-Willamette Futures Forum and asked if the requirement that other jurisdictions financially participate in the Columbia-Willamette Futures Forum committee had been met. Mr. Gustafson responded that Tri-Met and the Boundary Commission had agreed to financially participate.

Councilor Van Bergen requested that further information be provided regarding the additional Social Security and fringe costs. Ms. Sims responded that each year fringe costs were estimated and each department's final fringe costs varied, which required an adjustment at the end of the fiscal year. She said the Social Security adjustments were the result of an audit by the Social Security Administration which revealed the requirement for additional payments for calendar year 1981.

The ordinance was passed to second reading on June 28.

8. Committee Reports.

Councilor Bonner stated that the Coordinating Committee would meet on June 18.

Councilor Hansen noted that the Services Committee would meet on June 12 and would be discussing the Landfill Chapter of the Solid Waste Systems Plan.

Councilor Williamson said that JPACT would meet on June 14.

Councilor Williamson introduced Jim Gardner, Councilor-elect from District 3. He also invited Councilors to a special meeting of the City Club to be held on June 13 regarding Tri-Met.

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Councilor Kelley reported that the Development Committee would meet on June 11.

Councilor Waker noted that the staff was organizing a tour of the transfer station and the landfill for Washington County elected officials who are going to be directly or indirectly involved in the Washington County Transfer Station.

Presiding Officer Kirkpatrick requested that Councilor Cooper sit on the Regional Development Committee. She said she would fill the vacancy on JPACT.

There being no further business, the regular meeting of the Council adjourned at 8:10 P.M.

(Note: The Council continued their discussion on the IRC Proposal at this time. See minutes of the Special Meeting.)

Respectfully submitted,



Everlee Flanigan  
Clerk of the Council

1496C/313

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

SPECIAL MEETING  
June 28, 1984

Councilors Present: Councilors Bonner, Deines, Hansen, Kafoury,  
Kirkpatrick, and Van Bergen.

Councilors Absent: Councilors Banzer, Cooper, Kelley, Oleson,  
Waker, and Williamson.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Don Carlson, Steven Siegel, Sonnie Russill,  
Dan Durig, Patty Kubala, Andy Cotugno, and  
Dennis Mulvihill.

A special meeting of the Council of the Metropolitan Service District was called to order at 5:40 p.m. by Presiding Officer Kirkpatrick for the purpose of informally discussing: 1) General Fund Definition, 2) Intergovernmental Resource Center Proposal, and the Landfill and Transfer Chapters of the Solid Waste Management Plan Update.

General Fund Definition

Mr. Gustafson presented his memorandum dated June 20, 1984 regarding "General Government Cost Projections and Allocation of Support Service Costs", contained in the agenda of the meeting. He stated that General Government costs ranged from \$658,360 to \$770,011 based on the 1984-85 budget, and that a new source of funds for General Government would save the Solid Waste, Zoo and IRC Funds the transfers they now make to General Government.

Councilor Hansen commented he thought it was reasonable that the Funds pay some portion of the General Government costs. Mr. Gustafson said it was legal for the Funds to pay for the cost of General Government except for the disallowed general government costs imposed by Federal regulations.

Mr. Gustafson said the purpose of presenting the cost projections and allocation of support service costs was to be able to explain to the legislature how Metro budgeted its money and the need for a general fund revenue source. He said he wanted to jointly develop a process for public discussion concerning the problem.

He also explained that in order to fulfill the Metro Priorities D and E an additional \$180,000-\$300,000 would be needed.

Councilor Bonner stated that he believed the fulfillment of Priorities D (Strengthening relationships with local governments) and E (Investigating and evaluating regional service needs for the metropolitan area) was a key ingredient to the general government fund.

Mr. Gustafson said there was pressure to address the areas covered by the Priorities D and E and it was appropriate to request resources to carry out the priorities.

Councilor Deines cautioned that the more dollars sought, the less likely the chance Metro would get them. He said that the dues should be continued because local governments should pay for the services rendered to them. He said he did not see Metro as a general purpose government and that one of the fundamental issues the Council needed to decide was whether it was a general purpose government or a service district.

Presiding Officer Kirkpatrick encouraged Councilors to discuss the question of whether Metro should expand its services with people in their districts. Councilor Bonner said they needed to know whether people wanted Metro to be anything more than strictly a service district. He said the original legislation set them up as a general purpose government but only gave them a few services to perform and relatively little ability to do anything else because of the lack of resources.

Mr. Gustafson stated that Metro would not become a general purpose government overnight by pursuing funds for general government purposes. He said the questions the Council needed to answer were: should Metro seek funds for the general government purposes, and should Metro seek funds to analyze and evaluate services which it might be able to provide.

Mr. Gustafson stated that at the next Council meeting he would be discussing sources of revenue for general government costs and further public input into the issue.

#### Intergovernmental Resource Center Proposal

Steven Siegel, IRC Administrator, summarized the discussion of the last Council meeting on the issue. He also explained the proposed legislative changes and presented an outline of a proposed Metro ordinance which would establish a local officials advisory committee (contained in the agenda of the meeting).

Councilor Hansen stated he would like to see Council involvement and input early in work program development. He said a specific



mechanism should be developed to assure Council participation. Mr. Gustafson responded that the Metro Council controlled the budget and work program of the IRC and that on-going progress reports would keep the Council informed and aware of the IRC's activities.

Councilor Bonner asked if there wasn't a conflict between the IRC proposal and the Council restructuring proposal as to task forces of the Council. Mr. Siegel responded that there was a difference between establishing the task forces under the IRC as opposed to the Metro Council, and that both options existed for the Metro Council. He said the Council under the IRC process could establish a task force and on a consensus basis using dues, or the Metro Council could independently decide to study something under its authority, set up its own task force, and use its own revenue source.

Councilor Kafoury said she would like local government discussion of the two options presented at the last meeting; final approval of the budget and work programs by the local governments, or recommendation to the Council on the budget and work programs. Mr. Siegel stated the two options were still before the local governments but the proposal before the Council, for the local governments to recommend the dues and work program, was offered as the Metro proposal which would be taken to the local governments as the preferred option of the Metro Council. He said the Council needed to coalesce around an option which it would present during negotiations with the local governments.

Presiding Officer Kirkpatrick suggested that the legislation include mandatory dues for Tri-Met, the Port, and perhaps the State. Mr. Siegel stated that they intended to include the Port and Tri-Met.

Councilor Bonner commented that although he was nervous about the proposal, he was convinced that it was the right way to go.

Council Deines stated that he would take the proposal to some local government officials and solicit comments.

Mr. Siegel stated that if there was general agreement by the Council, they would present the proposal to the staff group representing the local governments. He also noted that Pete Harvey, the City Manager of Lake Oswego, had sent a letter commenting that he felt that the cities and counties were under-represented in the proposal.

Councilor Van Bergen stated that satisfactory criteria needed to be established and defined for the proposed legislative change. He said he liked the "sole discretion provision" as it currently existed.

Landfill and Transfer Chapters of Solid Waste Management Plan Update.

Patty Kubala, Solid Waste Staff, distributed a proposed prioritization of policy issues regarding the Solid Waste Management Plan Update, Landfill and Transfer Sections (attached to the agenda of the meeting).

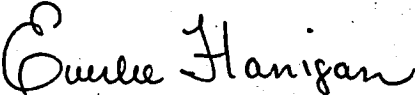
She said the Services Committee had begun to list the policy issues brought up in the reports and the focus of the discussion was that prioritization of the policies needed to occur, an agreement on what the issues were, what issues may need public input, and what kind of a process should be used to review the material.

She then reviewed the major points of the Landfill and Transfer Chapters of the Solid Waste Management Plan Update.

Due to time constraints, Presiding Officer Kirkpatrick continued the presentation to 5:30 P.M., Thursday, July 5, 1984.

The special meeting was adjourned at 7:10 p.m.

Respectfully submitted,

  
Everlee Flanigan  
Clerk of the Council

1556C/313  
7/3/84

Vote: The vote on the motion resulted in:

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

Nays: None.

Abstention: Councilors Banzer and Deines.

Absent: Councilors Cooper and Williamson.

Motion carried, Resolution adopted.

7.2 Consideration of Resolution No. 84-476, for the purpose of adopting the Mission and Purposes of the Metropolitan Service District.

Motion: Councilor Bonner moved adoption of Resolution No. 84-476. Councilor Kafoury seconded the motion.

Vote: The vote on the motion resulted in:

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

Nays: None.

Absent: Councilors Cooper and Williamson.

Motion carried, Resolution adopted.

7.3 Consideration of Resolution No. 84-477, for the purpose of adopting priorities and objectives for the Metropolitan Service District for the next two years.

Motion: Councilor Bonner moved adoption of Resolution No. 84-477. Councilor Kafoury seconded the motion.

Councilor Waker suggested that in Objective 1, Priority C, the words "cost effective" be added.

Motion to Amend: Councilor Waker moved to amend the main motion to add the words "cost effective" to Objective 1 of Priority C, to read as follows: Achieve maximum use

of the St. Johns Landfill site through cost effective reduction, diversion and operational techniques. Councilor Kafoury seconded the motion.

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

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

Nays: None.

Absent: Councilors Cooper and Williamson.

Motion to amend carried.

Mr. Gustafson stated that it was his intent to use the six priorities adopted by the Council as the mechanism for monitoring progress in achieving the Council's priorities. He also said that if the Council's priorities changed, then the Resolution should be amended so he could appropriately manage the staff to meet the priorities.

Councilor Deines stated he would vote against the Resolution because he did not believe there was anything that would discipline the Council to stay within the stated Priorities and Objectives. Councilor Van Bergen stated that he disagreed with Councilor Deines. He said he had confidence in the staff that if the Council seemed to be approaching a situation where they may be at variance with a policy, Council would be advised of it and may have to accommodate it.

Vote: The vote on the motion resulted in:

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

Nays: Councilor Deines.

Absent: Councilors Banzer, Cooper, and Williamson.

Motion carried, Resolution adopted.

Presiding Officer Kirkpatrick noted that Councilor Banzer had requested that Agenda Item 8.3 be considered prior to Agenda Item 8.1 because she needed to leave the meeting early and wanted to vote on it.

8.3 Consideration of Ordinance No. 84-173, relating to the FY 1983-84 Budget and Appropriations Schedule, and amending Ordinance No. 83-153. (Second Reading)

Jennifer Sims, Budget and Administrative Services Manager, stated that all of the changes to the FY 1983 Budget had been reviewed by the Coordinating Committee at their meeting of June 18, 1984. She pointed out there were a typographical error in Exhibit B of the ordinance under Finance & Administration. She said the Revised Appropriation Schedule for Capital Outlay should read \$113,065 and not 0.

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

There was no public testimony.

Vote: The vote on the motion to adopt Ordinance No. 84-173, made by Councilors Kelley and Williamson on June 7, 1984, resulted in:

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

Nays: None.

Absent: Councilors Cooper, Oleson, and Williamson.

Motion carried, Ordinance adopted.

8.1 Consideration of Ordinance No. 84-174, amending Section 3.01.040 of the Code of the Metropolitan Service District. (First Reading)

Motion: Councilor Kafoury moved adoption of Ordinance No. 84-174. Councilor Bonner seconded the motion.

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

Councilor Kafoury reported that the Regional Development Committee recommended adoption of the ordinance as amended. She stated a letter had been distributed from Bob Stacey of 1000 Friends of Oregon which supported the ordinance as amended by the Development Committee (a copy of the letter is attached to the agenda of the meeting).

There was no public testimony.

The ordinance was passed to second reading on July 5, 1984.

8.2 Consideration of Ordinance No. 84-175, relating to Public Contract Procedures and amending Code Sections 2.04.001, 002, 003, 005, 010, 015, 020, 030, 035, 040, and 045. (First Reading)

Motion: Councilor Bonner moved adoption of Ordinance No. 84-175. Councilor Kelley seconded the motion.

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

Councilor Bonner stated that the changes were basically housekeeping measures and that the Coordinating Committee recommended adoption.

There was no public testimony.

The ordinance was passed to second reading on July 5, 1984.

8.4 Consideration of Ordinance No. 84-172, for the purpose of adopting the annual budget of the Metropolitan Service District for Fiscal Year 1984-85, making appropriations from funds of the District in accordance with said annual budget, creating a St. Johns Final Improvement Fund, and levying ad valorem taxes. (Second Reading).

Councilor Kafoury stated that a revised Exhibit B had been distributed to the Council (attached to the agenda of the meeting).

Ms. Sims stated that since the first reading of the ordinance three items had been reviewed and approved by the Coordinating Committee: the additional salary requirements for the General Counsel, the additional costs for implementation of the Pay & Classification Plans, and \$4,000 for the Council for travel. She said another item, which was not included in the staff report, was \$1,255 for the purchase of a printer to go with the Pixel computer which had been budgeted in the current fiscal year and had not been purchased. She said a carryover of the \$1,255 would allow the purchase in FY 1984-85. She said the revised Exhibit B reflected the proposed change.

Motion to Amend: Councilor Kafoury moved to amend Ordinance No. 84-172 to substitute the revised Exhibit B for the originally submitted Exhibit B. Councilor Waker seconded the motion.

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

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

Nays: None.

Absent: Councilors Banzer, Cooper, Deines, Oleson, and Williamson.

Motion to amend carried.

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

There was no public testimony.

Vote: The vote on the motion to adopt Ordinance No. 84-172, made by Councilors Kafoury and Bonner on May 3, 1984, as amended, resulted in:

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

Nays: None.

Absent: Councilors Banzer, Cooper, Deines, Oleson, and Williamson.

Motion carried, Ordinance adopted.

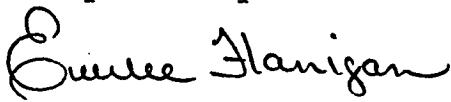
9. Committee Reports.

There were no committee reports.

Presiding Officer Kirkpatrick reported that she had attended a Youth Services Consortium meeting and had accepted on behalf of the Council a commemoration for the Council's help during the year. She also mentioned that Councilors Waker, Kelley, and herself had attended the Legislative Interim Committee session held on June 22.

There being no further business, the meeting adjourned at 8:45 p.m.

Respectfully submitted,

  
Everlee Flanigan  
Clerk of the Council.

CONSIDERATION OF RESOLUTION NO. 84-480 FOR THE  
PURPOSE OF ENDORSING THE RECOMMENDATIONS OF THE  
DIESEL EXHAUST STUDY TASK FORCE

---

Date: June 20, 1984

Presented by: Richard Brandman

FACTUAL BACKGROUND AND ANALYSIS

Proposed Action

This action will endorse the recommendations of the Diesel Exhaust Study Task Force, with amendments approved by TPAC and JPACT. The recommendations are:

- That the Department of Environmental Quality (DEQ) and the Metropolitan Service District (Metro) urge Congress and the Environmental Protection Agency (EPA) to retain or accelerate the effective date of the 0.2 gm/mi exhaust particulate standard for diesel automobiles promulgated in the January 24, 1984, Federal Register.
- That Metro and DEQ urge Congress and EPA to enact strict exhaust emission standards for diesel trucks and buses at the national level.
- That DEQ analyze the potential air quality benefits and then consider testing diesel trucks and buses in the DEQ vehicle inspection program. If testing is cost-effective, DEQ should revise the Particulate State Implementation Plan to include this measure.
- That DEQ coordinate with Tri-Met on new bus purchases to ensure air quality concerns are addressed. This coordination should take place prior to Metro's Transportation Improvement Program (TIP) approval of any bus purchase grant.
- That DEQ monitor the demonstration project in southern California which is testing the feasibility of retrofitting transit buses with trap oxidizers to reduce particulate levels. Tri-Met should seek funding in FY 1986 to purchase trap oxidizers if the potential air quality benefits are cost-effective.
- That DEQ monitor sales of diesel automobiles and reconvene the Diesel Exhaust Study Task Force if diesel sales become greater than 10 percent of new automobile sales.



TPAC and JPACT have reviewed this report and unanimously recommended approval of the resolution, as amended (see Attachment A).

### Background and Analysis

Metro and DEQ have implemented air quality plans to meet state and federal standards for ozone and carbon monoxide. Because of the significance of the automobile as a source of these pollutants, Metro was designated by the Governor as the lead agency in those planning efforts.

In addition, DEQ has adopted a plan for particulates that did not show attainment of the particulate standard by the 1987 deadline without the implementation of additional control strategies. This status has resulted in new industries wishing to locate in the region having to purchase costly "emission offsets" from other industries. In response, DEQ has been examining and implementing control strategies for major sources of particulate including backyard burning, wood heating and industry.

When the sales of diesel automobiles and trucks rose substantially in the late 1970s, diesel vehicles became a potential "major source" of particulate. Because of our transportation planning and forecasting responsibilities, and our previous role in examining transportation-related air quality problems, Metro assisted DEQ in analyzing the potential effect to air quality of an increased number of diesel vehicles in the region.

To assist in analyzing the results of the analysis and in making policy recommendations, the Metro Council and DEQ jointly appointed the Diesel Exhaust Study Task Force. In brief, the Task Force found that projected increases in the use of diesel vehicles will moderately degrade air quality and that measures should be implemented to mitigate their impact. The major conclusions of the Task Force are found in the attached Executive Summary.

### EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 84-480.

### COMMITTEE CONSIDERATION AND RECOMMENDATION

The Regional Development Committee has considered the Resolution and has forwarded it to the Metro Council without a recommendation. The Resolution failed by a tie vote. At issue was the first recommendation of the Task Force, described in Attachment A, concerning the need for a stricter exhaust standard for diesel automobiles.

RB/srb  
1462C/382  
07/12/84

POTENTIAL IMPACTS TO AIR QUALITY  
RESULTING FROM THE INCREASED  
USE OF DIESEL VEHICLES IN THE  
PORTLAND METROPOLITAN AREA

EXECUTIVE SUMMARY

METROPOLITAN SERVICE DISTRICT  
OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

June 1984

This study was funded in part by a grant from the U.S. Environmental Protection Agency.

## Introduction

Until recently, transportation/air quality planners have focused their attention on efforts to reduce pollution from gasoline automobiles. These efforts have led to a significant reduction in carbon monoxide, hydrocarbon and particulate emissions from those vehicles.

However, in the late 1970s and early 1980s, there was a significant increase in the number of diesel automobiles and trucks sold in the United States. While new diesel automobiles emit comparatively small amounts of carbon monoxide and hydrocarbons, they do emit more than 17 times the amount of particulate as each new gasoline automobile on the road (Table 1). Recognizing this, the Metropolitan Service District (Metro) and the Oregon Department of Environmental Quality (DEQ) undertook an analysis to determine the potential impact to air quality in the year 2000 from the increased use of diesel vehicles.

Table 1

### EXHAUST PARTICULATE EMISSION RATES (grams/mile)

<u>Source</u>	<u>1984 Vehicles</u>
Gasoline Autos	0.02
Diesel Autos	0.34
Gasoline Trucks	0.26
Diesel Trucks	1.61
Diesel Buses	2.40

The analysis first examined the effect on air quality considering only the impacts of increased numbers of diesel automobiles and trucks. Recognizing that emissions from gasoline vehicles would be decreasing during this same time frame, the analysis then examined the combined impact on air quality from all mobile sources.

To assist in reviewing the analysis and in making policy recommendations, Metro and DEQ formed the Diesel Exhaust Study Task Force. The Task Force was composed of representatives of the public and private sectors. Their recommendations are found at the end of this report.

#### A. Conclusions

There has been a significant downward trend in the sale of diesel automobiles since 1982. If sales of diesel automobiles stay relatively low and average approximately 4 percent of all

new car sales through the year 2000, there will be a moderate degradation of air quality in the Portland metropolitan area attributable to them.

- Regionwide, particulate emissions from diesel automobiles and trucks would increase by 77 percent over 1980 levels.
- Fine particulate concentrations from diesel vehicles in downtown Portland would increase by 7 percent, or 0.72 ug/m<sup>3</sup>.
- Average visual range would decrease by 2 percent, or .83 kilometers.
- Visibility of Mt. St. Helens and Mt. Hood would decrease by two days per year, or 6 percent and 3 percent, respectively.
- If sales of diesel automobiles increase beyond 4 percent of the automobile fleet, there would be further degradation of air quality.
- The analysis also found that diesel trucks are now and will continue to be the major contributor of mobile source particulate emissions through the year 2000. (Sixty-five percent of mobile source emissions are from diesel trucks in the year 2000.) For this reason, strict controls on diesel trucks will yield more air quality benefit than controls on diesel automobiles.
- Diesel buses are a significant contributor to mobile source particulate emissions in downtown Portland. In addition, research found that vertical exhaust stacks on transit buses reduced odors at curbside by a factor of eight over buses with horizontal exhaust.
- Although emissions from diesel vehicles are increasing, there will be a large reduction in particulate emissions from gasoline vehicles due to the phase-out of leaded gasoline. If diesel and gasoline particulate emissions are considered together, there will be a slight net improvement in air quality from those sources, unless the percentage of diesel automobiles increases to more than 10 percent of the automobile fleet.
- If emissions from all other sources of particulate (road dust, space heating, etc.) are taken into account, air quality will moderately degrade unless new particulate control strategies are implemented.

#### B. Recommendations

The Portland metropolitan area currently exceeds both state and federal particulate air quality standards and will continue to do so unless additional particulate control strategies are

implemented. One effect of this status is that new industries wishing to locate in the Portland metropolitan area must purchase costly emission "offsets" from other industries or area sources and install extensive pollution control equipment. (These actions ensure that the total amount of emissions in a region do not increase from a new or expanding industry.)

The decision regarding whether or not to consider the decrease in emissions from gasoline vehicles as an "offset" to the increase in emissions from diesel vehicles is, therefore, an important policy question. If the decrease is considered as an offset, the rationale for recommending strict diesel emission control standards is diminished. However, if the increase in emissions from diesel automobiles were treated similarly to those from a new industry, they would be considered a "major source" by DEQ and, therefore, be subject to the requirement for obtaining emission offsets and installing extensive pollution control equipment.

In Portland, the Diesel Exhaust Study Task Force, which was composed of representatives from the public and private sectors, recommended that the decrease in emissions from gasoline vehicles not be considered an offset and that strict emission standards be applied to diesel automobiles, trucks and buses. The rationale for this recommendation was based on a consideration of equity. Almost all other major sources of particulate in the region (industry, woodstoves, backyard burning, etc.) have been required to strictly control their emissions to the point where little additional air quality benefit is possible from them. Diesel vehicles represent one of the few significant particulate sources remaining to control to help the region achieve its air quality objectives.

Based on the conclusions of the study, the Task Force recommended to the Metro Council and the Director of DEQ:

- That DEQ and Metro urge Congress and EPA to retain or accelerate the effective date of the 0.2 gm/mi exhaust particulate standard for diesel automobiles promulgated in the January 24, 1984, Federal Register.
- That DEQ and Metro urge Congress and EPA to promulgate similar exhaust particulate emission control standards for diesel trucks and buses at the national level.

The Task Force also recommended:

- That DEQ analyze the potential benefit to air quality from testing diesel trucks and buses in the DEQ vehicle inspection program. DEQ should consider testing these vehicles in their inspection program if the benefits are significant.

- That DEQ should monitor the current demonstration project in southern California which is testing the air quality benefits of retrofitting transit buses with trap oxidizers. If the program is successful, DEQ should discuss with Tri-Met retrofitting their bus fleet.
- That DEQ should consult with Tri-Met when they purchase new buses to ensure that air quality concerns are addressed, and that this coordination should take place prior to Metro's TIP approval of any bus purchase grant.
- That DEQ monitor sales of diesel automobiles, and if those sales become greater than 10 percent of all new automobile sales, reconvene the Diesel Exhaust Study Task Force to determine if further actions are warranted.

The recommendations of the Task Force have been reviewed by two policy advisory committees of the Metropolitan Service District. The recommendations have been strengthened to add the following:

- That DEQ and Metro shall consult with EPA and UMTA to explore revising bus design specifications to effectively address air quality concerns.
- That DEQ should complete their analysis of the benefit of testing diesel buses and trucks by March 31, 1985. If the benefit is cost-effective, DEQ should revise the Particulate State Implementation Plan to include this measure.
- That Tri-Met seek funds in FY 1986 to purchase trap oxidizers if their potential air quality benefits are found to be cost-effective.

RB/srb  
1438C/372  
07/12/84

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ENDORSING THE	)	RESOLUTION NO. 84-480
RECOMMENDATIONS OF THE DIESEL	)	
EXHAUST STUDY TASK FORCE	)	Introduced by the Joint
	)	Policy Advisory Committee
	)	on Transportation

WHEREAS, The Portland Air Quality Maintenance Area is in violation of state and federal particulate air quality standards; and

WHEREAS, The region will continue to violate this standard unless additional particulate control strategies are adopted; and

WHEREAS, Continued violation of this standard will require that new industries wishing to locate in the Portland Air Quality Maintenance Area (or existing industries wishing to expand their production) must purchase costly emission offsets; and

WHEREAS, The Diesel Exhaust Study conducted by the Metropolitan Service District (Metro) and the Oregon Department of Environmental Quality (DEQ) found that projected increases in the use of diesel automobiles and diesel trucks will moderately degrade particulate air quality in the metropolitan area; and

WHEREAS, A Diesel Exhaust Study Task Force was initiated and charged with recommending to the Metro Council and the Director of DEQ measures to mitigate potential adverse air quality impacts from diesel vehicles; and

WHEREAS, The Task Force recommended appropriate measures to reduce particulate air quality impacts from diesel vehicles; now, therefore,

BE IT RESOLVED,

1. That the Metro Council endorses the recommendations as

shown in Attachment A.

2. That Metro transportation staff coordinate with DEQ, Tri-Met and other concerned agencies to fulfill the recommendations of the Task Force.

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

\_\_\_\_\_  
Presiding Officer

RB/srb  
1462C/382  
06/29/84



## ATTACHMENT "A"

### RECOMMENDATIONS OF THE DIESEL EXHAUST STUDY TASK FORCE

- That DEQ and Metro urge Congress and EPA to retain or accelerate the effective date of the 0.2 gm/mi exhaust particulate standard for diesel automobiles promulgated in the January 24, 1984, Federal Register.
- That DEQ and Metro urge Congress and EPA to promulgate similar exhaust particulate emission control standards for diesel trucks and buses at the national level.
- That DEQ analyze the potential benefit to air quality from testing in the DEQ vehicle inspection program all diesel trucks and buses not registered under apportioned registration agreements provided for by ORS 481.645 (i.e., not registered in multiple states). DEQ should consider testing these vehicles in their inspection program if the benefits are significant.
- That DEQ should monitor the current demonstration project in southern California which is testing the air quality benefits of retrofitting transit buses with trap oxidizers. If the program is successful, DEQ should discuss with Tri-Met retrofitting their bus fleet.
- That DEQ should consult with Tri-Met when they purchase new buses to ensure that air quality concerns are addressed, and that this coordination should take place prior to Metro's Transportation Improvement Program (TIP) approval of any bus purchase grant.
- That DEQ monitor sales of diesel automobiles, and if those sales become greater than 10 percent of all new automobile sales, reconvene the Diesel Exhaust Study Task Force to determine if further actions are warranted.

#### ADDITIONAL RECOMMENDATION OF TPAC

- That DEQ and Metro shall consult with EPA and UMTA to explore revising bus design specifications to effectively address air quality concerns.

#### ADDITIONAL RECOMMENDATIONS OF JPACT

- That DEQ should complete their analysis of the benefit of testing diesel buses and trucks by March 31, 1985. If the benefit is cost-effective, DEQ should revise the Particulate State Implementation Plan to include this measure.
- That Tri-Met seek funds in FY 1986 to purchase trap oxidizers if their potential air quality benefits are found to be cost-effective.



# 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: JULY 5, 1984

Day: THURSDAY

Time: 7:30 P.M.

Place: COUNCIL CHAMBER

Approx.  
Time

Presented By

- |      |  |                    |
|------|--|--------------------|
| 7:30 | CALL TO ORDER<br>ROLL CALL   |                    |
|      | 1. Introductions.  |                    |
|      | 2. Councilor Communications.   |                    |
|      | 3. Executive Officer Communications  |                    |
|      | o General Fund Financing   |                    |
|      | o 1984-85 Priorities and Objectives  |                    |
|      | o Washington County Transfer Station Report  |                    |
|      | 4. Written Communications to Council on Non-Agenda Items.  |                    |
|      | 5. Citizen Communications to Council on Non-Agenda Items.  |                    |
|      | 6. ORDINANCES  |                    |
| 8:15 | 6.1 <u>Consideration of Ordinance No. 84-174</u> , amending Section 3.01.040 of the Code of the Metropolitan Service District. (Clarifying a portion of the Code relating to Urban Growth Boundary Locational Adjustment Standards) (Second Reading) | Kafoury/<br>Siegel |
| 8:25 | 6.2 <u>Consideration of Ordinance No. 84-175</u> , relating to Public Contract Procedures and amending Code Sections 2.04.001, 002, 003, 005, 010, 015, 020, 030, 035, 040, and 045. (Second Reading)  | Bonner/<br>Sims    |
| 8:35 | 6.3 <u>Consideration of Ordinance No. 84-176</u> , relating to Council Organization and Procedure, amending Code Sections 2.01.030, 2.01.060, 2.04.030 and repealing Code Section 2.04.015. (First Reading)  | Barker             |
|      | 7. OTHER BUSINESS  |                    |
| 8:45 | 7.1 Consideration of waiver of Personnel Rules.  | Sims               |
| 8:55 | 8. COMMITTEE REPORTS   |                    |
| 9:00 | ADJOURN  |                    |

CONSIDERATION OF ORDINANCE NO. 84-174 FOR THE  
PURPOSE OF CLARIFYING A PORTION OF THE CODE OF  
THE METROPOLITAN SERVICE DISTRICT, SECTION  
3.01.040 - URBAN GROWTH BOUNDARY LOCATIONAL  
ADJUSTMENT STANDARDS

---

Date: May 23, 1984

Presented by: Steve Siegel

FACTUAL BACKGROUND AND ANALYSIS

Recent Urban Growth Boundary (UGB) cases have brought to light a certain lack of clarity with regard to use of the phrase "...severe negative impacts on service...", as it is used in the standards for petition approval. In order to remedy this situation, Metro staff is proposing the attached amendment to Section 3.01.040(a)(4) of the Metropolitan Service District Code.

Drafts of this proposal have been previously reviewed by the local jurisdictions and recent participants to the locational adjustment process. The attached proposal incorporates the comments received during that process.

As a housekeeping matter, the citation at 3.01.040(c)(3) which reads "...of section 5.07.040(a)" should be changed to read "...of section 3.01.040(a)."

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval.

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Regional Development Committee recommended approval of the Ordinance with the following amendments:

1. Bullet #2 under Section 3.01.040(a),
  - The efficient provision of urban services to an area inside the UGB would be impractical without making the subject change.  
  
be substituted with
  - Retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB.

2. Under Section 3.01.040(a)(4) add "it is factually demonstrated that" following "unless."

SS/MB/gl  
1270C/382  
06/14/84

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING SECTION ) ORDINANCE NO. 84-174  
3.01.040 OF THE CODE OF THE )  
METROPOLITAN SERVICE DISTRICT )

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The Code of the Metropolitan Service District (Metro) is amended as follows (language to be removed is bracketed; language to be added is underlined):

3.01.040(a)

(4) Retention of agricultural land. When a petition includes land with Class I-IV soils that is not irrevocably committed to non-farm use, the petition shall not be approved unless it is factually demonstrated that: [the existing location of the UGB is found to have severe negative impacts on service or land use efficiencies in the adjacent urban area and it is found to be impractical to ameliorate those negative impacts except by means of the particular adjustment requested.]

- Retention of the agricultural land would preclude urbanization of an adjacent area already inside the UGB, or
- Retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB.

3.01.040(c)

(3) The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors (1), (2), (3) and (5) of Section [5.07.040(a)] 3.01.040(a).

Section 2. In support of the amendment in Section 1 of this Ordinance, the Council hereby adopts the Findings in Exhibit "A" of this Ordinance which is incorporated by this reference.

Section 3. Persons who participated orally or in writing in the proceedings leading to adoption of this amendment may appeal this

Ordinance under the provisions of ORS 197.830 to 197.845.

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

\_\_\_\_\_  
Presiding Officer.

ATTEST:

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

SS/MB/gl  
1270C/382  
06/14/84

EXHIBIT "A"

FINDINGS AND CONCLUSIONS

Amending Section 3.01.040 of the Code of  
the Metropolitan Service District.

1. Metro's UGB Locational Adjustment Procedures were acknowledged by the Land Conservation and Development Commission (LCDC) in October 1981.
2. The UGB Locational Adjustment Procedures are intended for use in cases dealing with net changes in the UGB of 50 acres or less.
3. Recent experience has shown a certain lack of clarity with regard to that portion of the petition approval standards relating to the Retention of Agricultural Land; specifically use of the phrase "...severe negative impact on service...."
4. Goal 14 requires, in part, with regard to urban growth boundaries that the "...change of the boundaries shall be based upon consideration of the following factors: ...(6) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority...."

The amendment to the standard includes consideration of the retention of agricultural land and specifies certain circumstances under which rural land could be converted to urban uses. Under this standard, agricultural land will be retained unless it can be shown that the conversion is necessary for the urbanization of land already inside the UGB or the efficient delivery of services.

5. Goal 3 requires that the conversion of agricultural land to urbanizable land shall be based upon the five factors contained in the goal.

The five factors contained in Goal 3 were addressed in the Findings attached to Metro Ordinance No. 81-105 which was previously acknowledged. Those findings are incorporated by this reference, and are deemed to be unaltered by this amendment.

6. The procedures and requirements contained in Goal 2 must be followed in the review and revision of plans and implementing ordinances.

Local governments and interested parties were given the opportunity to participate in the process of amending this standard. This process included the circulation of a questionnaire on March 15, 1984, review of a draft of the proposed amendment on April 13 and May 17, 1984, and the opportunity for public comment at meetings on May 7 and June 11, 1984.

## Conclusion

This amendment provides clarification of the retention of agricultural land standard, and specifies the circumstances under which an amendment to the UGB may be approved. This amendment is responsive to and in keeping with the applicable statewide planning goals.

MB/srb  
1270C/373  
05/17/84



MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

REGULAR MEETING  
June 28, 1984

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

Councilors Absent: Councilors Cooper and Williamson.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Don Carlson, Andy Cotugno, Steven Siegel,  
Jennifer Sims, and Sonnie Russill.

A regular meeting of the Council of the Metropolitan Service District was called to order at 7:40 p.m. by Presiding Officer Kirkpatrick.

1. Introductions.

There were no introductions.

2. Councilor Communications.

Motion: Councilor Banzer moved that Agenda Item No. 7.4 be considered before Agenda Item 7.1. Councilor Bonner seconded the motion.

Vote: The vote on the motion carried unanimously by voice vote.

3. Executive Officer Communications.

Mr. Gustafson reported that the Court of Appeals had upheld the Land Use Board of Appeals decision regarding Wildwood. He said staff had not yet had an opportunity to analyze the results of the decision but indicated that if the decision was not appealed, it would end the process for the land use permit issued by Multnomah County in 1982. He said Metro would have to return to the County, if the County was successful in amending their Comprehensive Plan, to request a new conditional use permit.

He said a letter had been distributed to the Council from the Tax Supervising and Conservation Commission certifying the budget without objection or recommendation (a copy of the letter is attached to the agenda of the meeting).

Mr. Gustafson also noted that Eleanore Baxendale would begin as Metro's General Counsel on July 2. He also noted that Everlee Flanigan, Sue Klobertanz, Warren Iliff, and Patty Kubala were leaving Metro.

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

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

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

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

6. Consent Agenda

The Consent Agenda consisted of the following items:

- 6.1 Minutes of the meeting of May 24, 1984.
- 6.2 Resolution No. 84-473, for the purpose of amending the 1984 Transportation Improvement Program to include an updated program of projects using Section 9 Funds.
- 6.3 Resolution No. 84-474, for the purpose of amending the Transportation Improvement Program to include Cornell Road Bridges Improvement Project.
- 6.4 Resolution No. 84-475, for the purpose of authorizing application for federal funds for a 16(b)(2) Special Transportation Project (Robison Jewish Home) and amending the Transportation Improvement Program.
- 6.5 Resolution No. 84-471, for the purpose of amending Classification and Pay Plans for the Metropolitan Service District.
- 6.6 Contract for the purchase, installation and service of a telephone system.

Motion: Councilor Kafoury moved adoption of the Consent Agenda. Councilor Hansen seconded the motion.

Vote: The vote on the motion resulted in:

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

Nays: Councilor Deines.

Absent: Councilors Cooper and Williamson.

Motion carried.

7.4 Consideration of Resolution No. 84-478, for the purpose of restructuring Council meetings and reorganizing Committees of the Metropolitan Service District.

Councilor Bonner presented the highlights of the resolution and noted that the Council Coordinating Committee had voted three to one to recommend Council adoption.

Motion: Councilor Bonner moved adoption of Resolution No. 84-478. Councilor Kafoury seconded the motion.

Councilor Hansen stated he was concerned about several items in the resolution including the references to task forces, whether they were Council task forces or citizen task forces; and the timing of the resolution as it pertained to two major issues facing the Council, the IRC and the Solid Waste System Plan. He said he didn't want to see those issues jeopardized in the process of experimenting with a new procedure.

Councilor Kelley stated that she was concerned that with the abolition of the Committees there would not be the arena for informal discussion or discussion of new ideas. She suggested that implementation of the resolution be delayed until January 1, 1985 in order to allow the time to resolve the issues raised by Councilor Hansen.

Motion Councilor Kelley moved to amend the main motion  
to to insert an effective date of January 1,  
Amend: 1985. Councilor Banzer seconded the motion.

Councilor Bonner stated that he was against delaying implementation because there had already been a considerable amount of attention paid to the matter by the Coordinating Committee. He said while there were disagreements about the restructuring, he did not believe delay would reduce the disagreement.

Presiding Officer Kirkpatrick stated that if the Resolution passed without the amendment, it was her intention to implement the provisions of the Resolution the first of August. She said she would not support the amendment.

Councilor Deines stated he supported the amendment. He said he did not want to have to bring twelve Councilors along in the process of reviewing the Solid Waste Systems Plan and what the Council did after January 1 was fine with him because he would not be a member of the Council.

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

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

Nays: Councilors Bonner, Kafoury, Kirkpatrick, Van Bergen, and Waker.

Absent: Councilors Cooper and Williamson.

Motion failed due to tie vote.

Councilor Bonner suggested that because of the split on the Council, the matter be continued. He said in the meantime perhaps some of Councilor Hansen's concerns could be addressed.

Motion: Councilor Van Bergen moved to continue consideration of the Resolution to the July 5, 1984 meeting of the Council. Councilor Kafoury seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Bonner, Deines, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, and Van Bergen.

Nays: Councilors Banzer and Waker.

Absent: Councilors Cooper and Williamson.

Motion carried.

7.1 Consideration of Resolution No. 84-479, for the purpose of expressing appreciation to Mr. Joe Angel and Burger King for services rendered to the region.

Motion: Councilor Kafoury moved adoption of Resolution No. 84-479. Councilor Bonner seconded the motion.

STAFF REPORT

Agenda Item No. 7.1

Meeting Date July 26, 1984

CONSIDERATION OF ORDINANCE NO. 84-176 RELATING TO  
COUNCIL ORGANIZATION AND PROCEDURE, AMENDING CODE  
SECTIONS 2.01.030, 2.01.060, 2.04.015 AND 2.04.030

---

Date: July 17, 1984

Presented by: Ray Barker

FACTUAL BACKGROUND AND ANALYSIS

The attached ordinance is submitted as a result of the adoption of Resolution No. 84-478 on July 5, 1984. Resolution No. 84-478 directs the preparation of changes to the Metro Code to implement the restructuring of Council meetings and the reorganization of committees.

The ordinance changes the Council's regular meeting schedule from the first and fourth Thursday to the second and fourth Thursday of each month, provides for the submission of agenda items from JPACT directly to the Council, and substitutes the Council Management Committee for the Contract Review Committee to approve contracts greater than \$10,000 but less than \$50,000. (Note: The Contract Review Committee is the only named committee established by ordinance.)

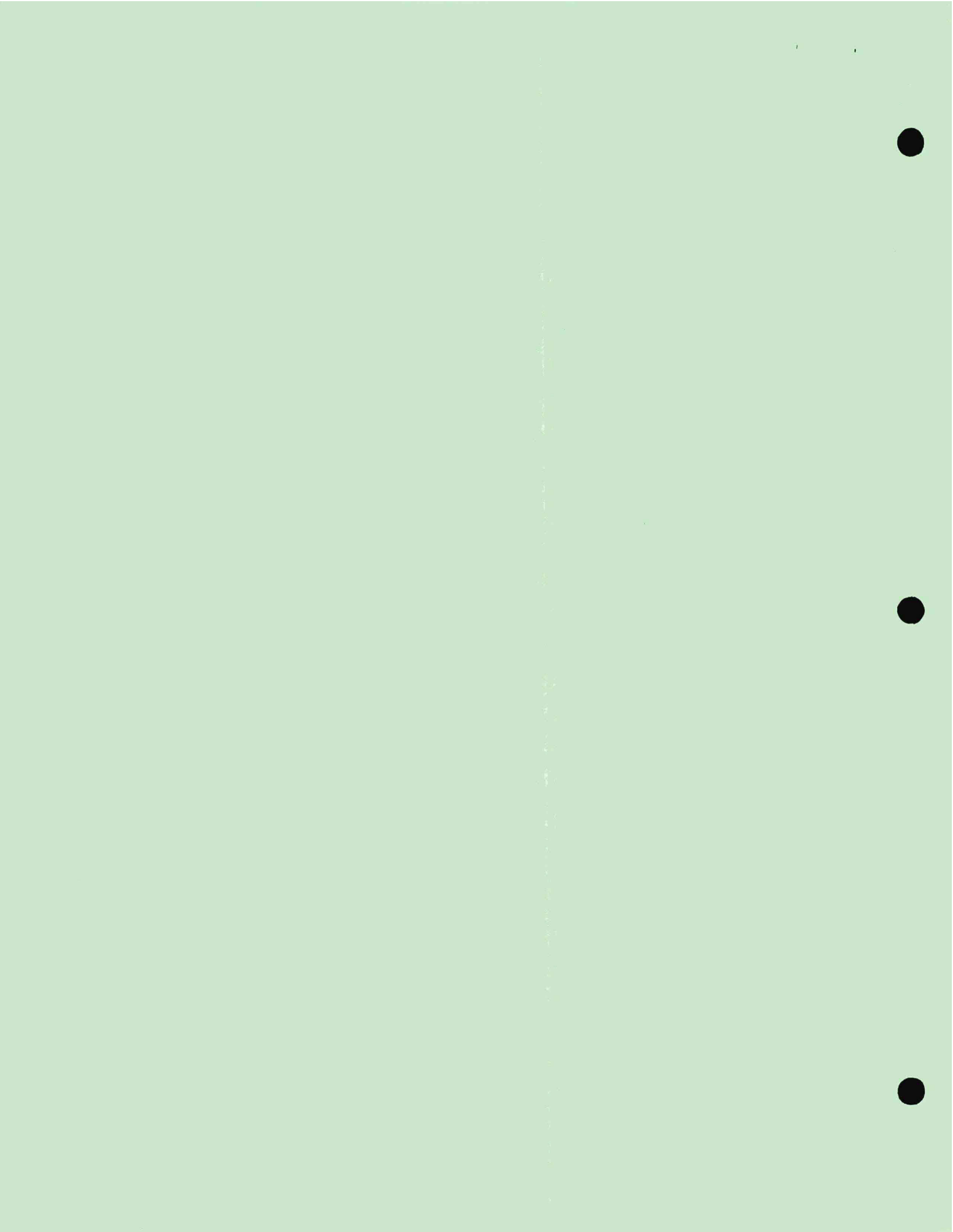
The second reading of the ordinance, will be August 2, 1984. At the August 2 Council meeting, a Resolution will be introduced which will establish the Council Management Committee and rescind the resolution creating the Development, Services, and Coordinating Committees.

It is recommended that the ordinance and resolution be made effective August 15. This would eliminate the need for another Council meeting on August 9 (the second Thursday of the month). It would also allow the newly created Council Management Committee to meet on the third Thursday of August. The second Council meeting for August would be held on the fourth Thursday (August 23).

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 84-176 in order to begin the implementation of the provisions of Resolution No. 84-478.

RB/srb  
1530C/382  
07/17/84



BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO COUNCIL )  
ORGANIZATION AND PROCEDURE, )  
AMENDING CODE SECTIONS 2.01.030, )  
2.01.060, 2.04.030 AND REPEALING )  
CODE SECTION 2.04.015 )

ORDINANCE NO. 84-176

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Code section 2.01.030 is hereby amended to read as follows:

2.01.030 Regular Meetings: The Council shall meet regularly on the [first] second and fourth Thursdays of each month at a time designated by the Presiding Officer. Regular meetings shall be held at a place designated in the published agenda of the meeting. Regular meetings may be adjourned to a specific time and place before the day of the next regular meeting. Published notice of the time and place of an adjourned meeting is not required. Matters included on the agenda of a regular meeting that is adjourned to a later date need not be republished. New matters to be considered at the adjourned meeting shall be published in the same manner as the agenda for a regular meeting.

Section 2. Code section 2.01.060 is hereby amended to read as follows:

2.01.060 Notice and Agenda:

(a) An agenda that sets forth the time, date, and place of the meeting, that includes a brief description of the ordinances to be considered, and that states that copies of ordinances are available at the office of the Metropolitan Service District shall be published in a newspaper of general circulation within the District no more than ten (10) nor less than four (4) days before a regular meeting of the Council. If an executive session will be held, the Notice shall state the specific provision of the law authorizing the executive session.

(b) The Presiding Officer shall establish the agenda from the agenda items submitted by the Councilors, Council committees, the Joint Policy Advisory Committee on Transportation (JPACT), or the Executive Officer. Each Councilor may request that items be placed upon the agenda of the next regular meeting by notifying the Clerk of the Council and specifying the subject of the agenda items. The Presiding Officer may, at his or her discretion, determine the time by which agenda items must be submitted for inclusion in the next

succeeding agenda and shall notify the Councilors, Council committees, JPACT, and the Executive Officer of such due dates.

Section 3. Code Section 2.04.015 (Contract Review Committee) is hereby amended to read as follows:

2.04.015 [Contract Review Committee] Contract Responsibilities of the Council Management Committee

[(a) There is hereby created a Contract Review Committee of the Council, which committee] The Council Management Committee shall have the powers and responsibilities described in the Metro Contract Procedures adopted by this chapter.

[(b) The Contract Review Committee shall be comprised of three members to be appointed annually by the Presiding Officer of the Council.]

[(c) The committee may establish a regular meeting schedule and may meet in special session at the call of the Deputy Presiding Officer. A majority of the committee shall constitute a quorum and the committee shall act by majority vote.]

[(d) In addition to the meeting provisions in subsection (c) of this section, the committee may act by individual or telephonic poll of the membership. The results of any such polling shall be included in the minutes of the next regular or special meeting of the committee. (Ordinance No. 82-130, Sec. 1; amended by Ordinance No. 83-155, Sec. 1)]

Section 4. Section 2.04.030 (Rules and Procedures Governing All Contracts) is hereby amended to read as follows:

(c) Approval of Contracts of more than \$10,000:

(1) Except as provided in subsection (4) of this section, all initial contracts, individual amendments, or purchase orders, which a contract price of more than \$50,000 shall be approved by the Council prior to execution.

(2) Except as provided in subsection (4) of this section, all initial contracts, including purchase orders, with a contract price of greater than \$10,000 but \$50,000 or less shall be approved by the [Contract Review Committee of the Council] Council Management Committee prior to execution.

(3) Except as provided in subsection (4) of this section, all contract amendments and extensions which exceed \$10,000 or which result in a total contract price of more than \$10,000 or \$50,000 shall be approved by the [Contract Review Committee] Council Management Committee prior to execution.



(4) The following types of contracts, including contract amendments and extensions to such contracts, shall be exempt from the provisions of this section (c).

(A) Contracts which merely pass through funds from a state or federal agency.

(B) Contracts under which Metro is to provide a service only and incurs no financial obligation to another party.

(C) Contracts with another government agency.

(D) Initial contracts of \$10,000 or less and contract extensions and amendments which do not cause or result in a total contract price of more than \$10,000.

(E) Grant award contracts.

(F) Purchases of inventory and gift items for resale at the Zoo Gift Shop.

(G) Emergency contracts approved pursuant to Code section 2.04.010(e).

Section 5. This Ordinance shall be effective on August 15, 1984.

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

\_\_\_\_\_  
Presiding Officer

ATTEST:

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

EB/srb  
1522C/382  
07/17/84

CONSIDERATION OF A RESOLUTION FOR THE PURPOSE OF  
EXTENDING THE COMPLETION DEADLINE FOR PETITIONS  
FOR LOCATIONAL ADJUSTMENT OF THE URBAN GROWTH  
BOUNDARY RECEIVED PRIOR TO JULY 1, 1984.

Date: July 13, 1984

Presented by: Eleanore Baxendale

FACTUAL BACKGROUND AND ANALYSIS

Four applications for locational adjustments to the Urban Growth Boundary (UGB) were received by July 1, 1984. On July 6, 1984, staff mailed notice of the results of its check for petition completeness to each applicant. Because the position assigned responsibility for providing applicants assistance in completing their petitions was vacant for the two months proceeding July 1, none of the petitioners had been able to assemble all items needed for completeness. Some of the items outstanding, such as local government comment, may take up to several months to obtain.

Code Section 3.01.020 requires applications to be completed not later than July 1 or two weeks from the date of notification on completeness, whichever is later. Three of the four applicants have requested additional time past the two week deadline and the fourth is expected to do so. The purpose of the deadline is for orderly review of applications. If the deadline were not extended, no applications would be heard this year, and this certainly was not the purpose of the deadline.

The Code authorizes the Council, upon request of the Executive Officer or a Councilor, to waive the July 1 filing date. In essence, this allows the Council to also extend the completion date, since the current applicants could then refile the application with the completed data. Rather than require actual refiling, the Council should waive the filing deadline and treat all applications submitted by July 1, 1984, as refiled when completed. This action would apply only to those applications submitted on or before July 1.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of the attached Resolution.

COMMITTEE CONSIDERATION AND RECOMMENDATION

This action was not reviewed by the Development Committee because the applicants had not requested extensions as of the time

of the Committee meeting. The Committee met on July 9, the same day the applicants probably received the notice of incompleteness.

JH/gl  
1641C/382  
07/13/84

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF EXTENDING THE ) RESOLUTION NO. 84-481  
DEADLINE FOR PETITIONS FOR )  
LOCATIONAL ADJUSTMENT TO THE URBAN ) Introduced by the  
GROWTH BOUNDARY RECEIVED PRIOR TO ) Executive Officer  
JULY 1, 1984 )

WHEREAS, Code Section 3.01.020 requires all petitions for locational adjustment to the Urban Growth Boundary to be submitted by July 1 and completed not later than two weeks from the date of notification of incompleteness; and

WHEREAS, The position in the Intergovernmental Resource Center responsible for advising applicants and reviewing petitions was vacant for the two months preceding July 1, 1984; and

WHEREAS, All four of the applicants who filed for adjustments prior to July 1, 1984, must provide additional information and have requested extensions beyond the two week completion period; and

WHEREAS, The purpose of the July 1 deadline is to enable the staff to organize review of applications in an orderly manner; and

WHEREAS, It is in the public interest to extend the filing/completion deadline for applicants who filed on or before July 1, 1984, so that their applications can be considered this year rather than next year and that development can proceed in a timely and orderly manner; and

WHEREAS, The Council pursuant to Code Section 3.01.020 has the authority to extend the deadline for filing applications which would allow these applicants to refile when their applications are complete; and

WHEREAS, To avoid confusion the four applications submitted prior to July 1 should be treated as refiled upon completion rather than requiring actual refiling; now, therefore,

BE IT RESOLVED,

That for those applications for locational adjustments to the Urban Growth Boundary received on or before July 1, 1984, the deadline for filing a completed application is extended until July 1, 1985, and completed applications shall be treated as refiled.

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

\_\_\_\_\_  
Presiding Officer

JH/gl  
1641C/381  
07/13/84



**Lewis & Clark**  
COLLEGE AND LAW SCHOOL

Office of the President

July 25, 1984

Ms. Corky Kirkpatrick  
Presiding Officer  
Metropolitan Service District  
527 S.W. Hall Street  
Portland, Oregon 97201-5287

Dear Ms. Kirkpatrick:

I served as a citizen member of the Diesel Exhaust Study Task Force. The Task Force met over many months and was charged with answering two basic questions:

1. What will be the major impacts resulting from greater numbers of diesel cars, trucks, and buses on the road in the coming years; and
2. Should measures be implemented to mitigate those impacts?

The answer to the first question has two parts. First, there will be a slight degradation of air quality in this region because of diesel vehicles. This degradation is associated with increased particulate concentration levels, less visibility of Mt. Hood and Mt. St. Helens, and localized increases in odor levels. Secondly, because this region presently does not meet the federal or state particulate standard, these increases will make it even more difficult for new industry to locate in the metropolitan area or for existing industries to expand.

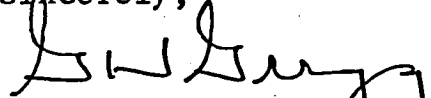
Recognizing these impacts, the Diesel Exhaust Study Task Force examined many measures which are intended to reduce emissions from diesel vehicles. Understanding that the increase in emissions will come from all modes--cars, trucks, and buses--the Task Force recommended the measures which you are now considering.

Ms. Corky Kirkpatrick  
July 25, 1984  
Page 2

I would like to emphasize that I feel the measures the Task Force recommended are reasonable and appropriate considering the potential impacts. More severe measures were considered, but not recommended in light of the recent downward trend in diesel car sales. On the other hand, doing nothing was also considered, but deemed to be imprudent considering the negative air quality and economic impacts of taking no action.

I therefore respectfully request that you adopt the recommendations of the Diesel Exhaust Study Task Force.

Sincerely,



Glenn H. Gregg  
Vice President and Special  
Assistant to the President

GHG:sr



# 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: July 26, 1984  
To: Metro Council  
From: Rick Gustafson, Executive Officer *Rick*  
Regarding: Long-Range Financing for Zoo Operations

The purpose of this memo is to explore alternatives to achieve a long-range, stable financial base for operating the Zoo. As you know, the Zoo is currently on the first year of a three-year \$5,000,000 per year property tax serial levy for funding operations and capital construction. This current authorization is good through FY 1986-87.

The applicable Council adopted long-range financial policies for the Zoo are as follows:

- "1. The Zoo shall rely on the property tax for a portion of its revenues.
- "2. Approximately 50 percent non-tax revenues shall be maintained for funding Zoo operations...."

There are two options for establishing a property tax base to fund Zoo operations. In both cases the voters of the District must approve the tax base proposal.

1. Establish a Metro tax base under current statutory authority.
2. Create a zoo service district as authorized by Chapter 268 and then establish a tax base for the zoo district.

## Option 1 - Tax Base Under Current Authority

ORS 268.315 and 268.500 authorize Metro to levy ad valorem property taxes. The first reference is for the Zoo, and the second for Metro generally.

There has been one attempt to establish a tax base for Metro. In 1980 a \$5,247,000 tax base levy was submitted to and rejected by District voters. The tax base was proposed to replace the \$5,000,000 per year three-year serial levy approved by District



voters in May 1980 and to replace the local government's dues which at that time totaled approximately \$548,000.

A tax base can be adopted which is legally restricted to Zoo purposes under ORS 268.315, according to the Metro General Counsel. A recent Attorney General's opinion discusses limitations on tax levies (see Attachment "A"); the same rationale applies to tax bases because the same ballot measure statute, public funds statute and constitutional provision apply to both the levy and the tax base. Note that the opinion does not extend to ballot measures which contain general descriptions of the purpose for requesting funds; it only applies to measures placing specifically identified limitations on the use of the funds.

Using this guideline, Metro would seek a tax base stating specifically on the ballot measure that the funds are to be used solely for the purposes in ORS 268.315 (Zoo purposes) and for no other purpose.

The only point of potential voter confusion is a provision in ORS 268.312 authorizing Metro to exercise additional powers (e.g., aging programs, parks and libraries) if a tax base is established under ORS 268.315. Since ORS 268.315 only authorizes a levy for Zoo purposes, the connection between the two statutes is illogical, and may be an error.

#### Option 2 - Creation of Zoo Service District for Tax Base Purposes

ORS 268.335 authorizes Metro to create a service district for any function authorized in its statute. The procedure to create such districts is the same used for the creation of a county service district (Chapter 451, ORS). If such a district were created to provide for Zoo services it could establish a tax base for that specific service unrelated to Metro's statutory tax base authority. Attachment "B" provides a legal opinion regarding the establishment of a zoo service district along with an estimated time frame for completing the creation. It should be noted that creation of such a district is subject to consideration and approval by the Boundary Commission and potentially by voters of the proposed district. Also, each city within the proposed district must specially consent to inclusion of city territory within the proposed district. If this method is desired for establishing a Zoo tax base. I suggest that statutory changes be explored to simplify the process of creating such a district and to assure that the end product fits within our administrative system.

RG/DC/gl  
1688C/D4-4

Attachments

No. 8139

February 23, 1983

The Honorable Verne A. Duncan  
State Superintendent of Public Instruction

QUESTION PRESENTED

Where a school district submits to the voters two measures commonly called an "A" ballot and a "B" ballot, and the ballot title for the "A" ballot specified that the measure was to fund the district's program exclusive of those items identified in the "B" ballot, may the district nevertheless spend funds raised by a levy authorized by the "A" ballot (which passed) for items identified in the "B" ballot (which failed)?

ANSWER GIVEN

No.

DISCUSSION

School district tax levy elections are governed by ORS 310.310 *et seq.* ORS 310.330(1) provides:

"(1) Whenever it is necessary in the estimation of the governing body of a municipal corporation to increase the amount of the tax levy over the amount limited by the Constitution except on vote of the people, the governing body shall make and enter an order or resolution for a special election on the question and shall prepare and file a ballot title with the county clerk not later than the date specified in the election law applicable to the particular municipal corporation. The county clerk shall give notice of the election as provided in the general election laws."

The wording of ORS 310.330(1) would indicate that only one measure, one ballot title, is to be submitted to the voters. However, ORS 310.395(2)(b) recognizes that if a levy so authorized would exceed the amount eligible for partial state funding as determined by ORS 310.820(2)(b), but also includes an amount eligible for partial state funding, at least<sup>1</sup> two separate measures shall be submitted to the voters: one measure (commonly called the "A" ballot) for an amount not more than the amount eligible for partial state funding, and another measure (commonly called the "B" ballot) for the remaining amount.<sup>2</sup>

In the question presented, the ballot titles of the two measures read as follows:

"A" Ballot

\*36-5 McMinnville School District #40 Operating Budget Levy

\*Shall McMinnville School District #40 be authorized to levy \$4,382,005 outside the tax base for operating expenses for 1981-82?

"The purpose of this measure is to fund only a part of the educational program for students in grades K-12 for McMinnville Schools, *exclusive of those items identified in the 'B' Ballot.*

"This levy, if approved with the Ballot 'B' amount, will fund the basic educational program currently offered by McMinnville School District #40.

"If this measure is approved, \$4,382,005 of taxes levied will be financed partially by the State of Oregon, which will result in an estimated tax rate of \$10.39 per \$1,000.00 of true cash value exclusive of levies for principal and interest and serial levies for capital construction."

"'B' Ballot

"36-6 McMinnville School District #40 Operating Budget Levy

"Shall McMinnville School District #40 be authorized to levy \$900,021 outside the tax base for operating expenses for 1981-82?

"The purpose of this measure is to fund part of the educational program for students in grades K-12 for McMinnville Schools.

"Without approval of this measure, the District will not be able to continue 67 positions and will not provide the following services:

- "1. Teacher aides and library aides.
- "2. Nine Instructional and Support personnel (i.e., Music, P.E., Counseling, and Administration)
- "3. Agriculture & School Farm program at Senior High School
- "4. Sixth grade Outdoor School program
- "5. All transportation services (includes to/from school transportation and field trips)
- "6. All athletics and extra-curricular activities for grades 4-12.

"If this measure is approved, \$900,021 of taxes levied will be totally financed by local taxpayers without any partial state payment. The estimated tax rate will be \$2.13 per \$1,000.00 of true cash value, exclusive of the Ballot 'A' estimated tax rate and levies for capital construction." (Emphasis added.)

The voters were clearly told that, in approving the first measure, no funds raised by a levy authorized thereby would be spent for items listed in the ballot title for the second measure.

This statement was, of course, reinforced by the statement in the ballot title for the second measure that, should it fail of approval, the items listed therein would not be provided. Yet we need not here consider what effect a statement in a ballot title of a defeated measure may have upon the meaning of one which is approved. The first measure ("A" ballot) itself carried its own unequivocal limitation.

A<sub>3</sub>

When the legislature required that a request for a levy authorization be accompanied by a ballot title, it must have intended that the voters be informed of the purpose for which money raised thereby will be used. Having done so, it must have intended that such purpose be subsequently adhered to if the measure is approved. We are certain that the legislature did not intend the ballot title simply to afford the taxing unit an opportunity to engage in non-binding rhetoric.

Such a measure when approved by the voters constitutes a commitment by the district that funds raised by virtue of the measure's approval will be used only for the purpose or purposes stated in the ballot title and, conversely, that such funds will not be used for purposes excluded in the ballot title.

ORS 294.100(1) provides:

"(1) It is unlawful for any public official to expend any money in excess of the amounts, or for any other or different purpose than provided by law."

Oregon Const Art IX, sec 3 provides:

"No tax shall be levied except in accordance with law. Every law imposing a tax shall state distinctly the purpose to which the revenue shall be applied."

Although the Oregon Supreme Court in *Miller v. Henry*, 62 Or 4, 10, 124 P 197 (1912) refused to apply Art IX, sec 3 to local taxes, in *Tuttle v. Beem*, 144 Or 145, 154, 24 P2d 12 (1933), the court, after quoting both that section and ORS 294.100(1), *supra*, (then Or Laws 1931, ch 380, sec 1), found that:

"This statute and this constitutional provision promulgate a public policy rendering it unlawful for public officials to use any money exacted by tax laws for a specific purpose for any other purpose."

The court in the *Tuttle* case held that a school district could not spend money for a project not included in its budget as approved by the voters in accordance with the financing procedure then applicable.

Here we likewise have, in effect, an appropriation enacted by the voters. It is an appropriation of funds raised by the levy which the voters authorized. We see no reason why the rule of public policy controlling in the *Tuttle* decision, *supra*, should not govern here:

"The money having been raised for definite purposes, the school board cannot thereafter use it for any other purpose." *Tuttle v. Beem, supra*, 144 Or at 154.<sup>3</sup>

We conclude that where a ballot title for a levy measure specifies that money raised thereby will not be spent for certain purposes, if that measure is approved the taxing unit is legally bound by that limitation and the money cannot be spent for such purposes.

Nothing in this opinion is intended to indicate that the district cannot spend funds available from any other source than the levy approved by the "A" ballot for the purposes listed on the "B" ballot.

DAVE FROHNMAYER  
Attorney General

McEWEN, HANNA, GISVOLD, RANKIN & VANKOTEN

(FOUNDED AS CAKE & CAKE-1886)

ATTORNEYS AT LAW

SUITE 1408

STANDARD PLAZA

1100 S. W. SIXTH

PORTLAND, OREGON 97204

AREA CODE 503  
TELEPHONE 226-7321

RALPH H. CAKE  
(891-1973)  
NICHOLAS JAUREGUY  
(896-1974)

HERBERT C. HARDY  
OF COUNSEL

DONALD W. MCEWEN  
JOSEPH J. MANNA, JR.  
DEAN F. GISVOLD  
ROBERT D. RANKIN  
VICTOR W. VANKOTEN  
JANICE M. STEWART  
DIANE M. HICKEY  
DON G. CARTER  
WARREN R. SPENCER  
JAMES RAY STREINZ  
MICHAEL A. HOLSTUN  
TIMOTHY R. STRADER

October 6, 1983

Mr. E. Andrew Jordan  
General Counsel  
Metropolitan Service District  
527 S.W. Hall Street  
Portland, OR 97201

Dear Andy:

This is to confirm our recent telephone conversations regarding your letter to Dean Gisvold of August 16, 1983, in which you requested that we provide a legal opinion as to whether Metro may establish a zoo service district pursuant to ORS 268.335. We will address each of the questions set forth in your letter in the order you raised them.

I. Authorized Functions of Metro Service Districts.

Your first question was whether ORS 268.335 permits the creation of service districts for any function authorized by ORS Ch. 268, or whether the function must be authorized both by ORS Ch. 268 and ORS Ch. 451. The statute does not provide a clear answer. It provides:

(1) A metropolitan service district may establish service districts as provided by ORS chapter 451 and this chapter . . . .

(2) Notwithstanding those districts authorized under ORS 451.010, a metropolitan service district may create service districts only for purposes authorized by this chapter.

There have as yet been no court cases or Attorney General's decisions interpreting this statute so as to answer the question you have posed. Further, the minutes of the committee hearings during the 1977 Legislature do not reflect that matter was even considered by the Legislature.

Mr. E. Andrew Jordan  
October 6, 1983  
Page Two

We have discussed the legislative intent with a number of people responsible in some degree for the legislation, including Fred Neal, who was legislative counsel and the principal drafter of the legislation. It is Fred's recollection that it was his intent that Metro could create a special service district for any of the purposes authorized in ORS Ch. 268, but that the procedures outlined in ORS Ch. 451 were to be followed. He believes that his testimony before the Senate Committee on Local Government and Elections may have addressed this issue. We have not yet traveled to the State Archives in Salem to listen to the tapes of the legislative hearings, but will do so if you would like us to confirm his recollection.

Dean Gisvold and I both agree that ORS 268.335 should be read to permit Metro to create a service district for any of the purposes authorized in ORS 268. ORS 268.335(1) simply refers to ORS Ch. 451 with respect to the procedure for the creation of such a service district, and ORS 268.335(2) simply limits the permissible functions of the service district to those stated in ORS 268.

Even if a court were to determine that the service district must be authorized both by ORS Ch. 268 and ORS Ch. 451, however, ORS 451.010(1)(d) permits the creation of service districts to provide public parks and recreation facilities. In our opinion, this language is broad enough to include a zoo service district.

## II. Boundary Commission and Voter Approval.

You also asked whether creation of a zoo service district would require the approval of a local government boundary commission or approval by the voters.

District formation and change of organization proceedings must be initiated, conducted and completed as provided by ORS 198.705 to 198.955. ORS 451.435(1). ORS 198.705 to 198.955 is the District Procedure Boundary Act. That statute provides: "Except as otherwise provided by ORS 199.410 to 199.519 [the local government boundary commission statute], all district formation or change of organization proceedings shall be initiated, conducted and completed as provided by ORS 198.705 to 198.955." (Emphasis added.) ORS 198.715(2). Thus, this statute recognizes the application of the local government boundary commission statute.

Mr. E. Andrew Jordan  
October 6, 1983  
Page Three

Other indications that the local government boundary commission statute applies are found in ORS 198.775(1) and (2), where costs which may be incurred by local government boundary commission are mentioned. Further, ORS 198.795 provides that the county board where the petition is filed has original and exclusive jurisdiction over a formation proceeding, "except as provided by ORS 199.410 to 199.519." Finally, ORS 199.476 provides that, "notwithstanding the principal Act," the filing agency must submit a petition for a major boundary change to the boundary commission if the proposed district is within the jurisdiction of that commission. A "major boundary change" clearly includes the formation of a district, ORS 199.415(12), and "district" includes both a metropolitan service district organized under ORS Ch. 268 and a county service district organized under ORS Ch. 451. ORS 199.420(3) and (7).

We conclude that boundary commission approval must be obtained for the creation of a zoo service district.

As the attached outline of the sequential steps involved in creation of a zoo service district indicates, voter approval is not required for the formation of a zoo service district. However, the statutes authorize referendum elections at several steps in the formation process. See ORS 198.810(2); ORS 451.487.

### III. Revenue Sources.

ORS 451.490 explicitly provides seven sources of funds to finance the construction, operation or maintenance of service facilities for a district. These include service or user charges in the district, connection charges, district ad valorem taxes and sale of bonds. Further, ORS 451.547 specifically authorizes a district to establish a tax base in accordance with Art. XI, § 11 of the Constitution of the State of Oregon. Pursuant to that constitutional provision, voter approval would be required for ad valorem taxation in the district.

### IV. Approval of Other Cities and Counties.

ORS 451.435(1) provides that no county or portion thereof may be included within a district which provides services in more than one county without the consent of the governing body of the affected county. Standing alone, this section would appear to require county approval of the creation of a Metro zoo service district. However, ORS 268.335 provides that for the purposes of ORS Ch. 451, metropolitan service districts shall be

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considered a county. Since the zoo service district would not provide more than one county with services because the metropolitan service district is the only "county," in our opinion no approval of county governing bodies would be required for the creation of the zoo service district.

The same is not true for cities, however. ORS 199.462(2) provides:

Subject to any provision to the contrary in the principal Act of the affected district or city and subject to the process transfer of territory:

a. Territory within a city may not be included within or annexed to a district without the consent of the city council.

Further, ORS 198.720 provides that a petition seeking to incorporate territory within a city in a proposed district must contain a certified copy of a resolution of the governing body of the city approving the petition.

#### V. Metro Support Services.

You advised that currently the Zoo pays for Metro's support services, including legal, accounting, counsel expenses and administration, by means of interfund transfers. We have found no legal impediment to Metro's continued provision of such services to the zoo service district. The most probable means of providing such services would be pursuant to a contract entered into between the zoo service district and Metro.

#### VI: Metro Executive Officer's Role.

ORS 451.485 provides that the county court shall be the governing body of any service district established under ORS 451.410 to 451.600. Pursuant to ORS 268.335, the district council created by ORS 268.150 is considered the county court for purposes of ORS Ch. 451. Consequently, the Metro Board would be responsible for management of the Zoo. Its use of the executive officer to accomplish that end would be subject to the Board's discretion.

Finally, you have asked for an outline of the sequential process involved in the formation of a zoo service district. We have prepared such an outline, together with a best-case timeline, which is attached hereto.



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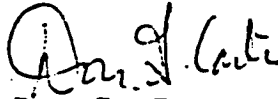
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If you would like to discuss any of the matters contained herein in further detail, or after your review of this letter you have further questions, please do not hesitate to call.

Best wishes.

Very truly yours,

MCEWEN, HANNA, GISVOLD, RANKIN & VANKOTEN

  
Don G. Carter

DGC:tn  
Enclosure  
cc: Dean Gisvold

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OUTLINE OF FORMATION OF ZOO SERVICE DISTRICT

Time Line - Day

I) Petition

A. Engineering Plans

1. Prior to initiation of formation of district, county court may cause engineering plans to be prepared. ORS 451.440(1).
2. If the district is formed, the district may be required to reimburse county for cost. ORS 451.440(2), ORS 198.845.

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B. Alternative Means of Initiating Formation

1. Petition

- a. Necessary elements set out in ORS 198.750.
- b. Petition must be signed by fifteen percent of registered voters or 100 registered voters, whichever is greater, resident in the territory subject to the petition, ORS 198.755(1)(a), or fifteen owners of the land or the owners of ten percent of the acreage in the proposed district, ORS 198.755(1)(b).
- c. Must be accompanied by bond. ORS 198.775

2. Order of County Board

- a. Applies if district is to be located entirely within one county. ORS 198.835.
- b. Since Metro is the county under ORS 268.335, this approach appears possible.

C. Petition Must Include Resolution of City Governing Bodies Approving It. ORS 198.720(1).

D. Petition is Filed With County Board. ORS 198.800.

II. Local Government Boundary Commission

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A. County Board Must File Petition With Boundary Commission Within Ten Days. ORS 199.476(1).

1. Filing with the Boundary Commission suspends the proceeding under the principal Act. ORS 199.476(2).

Time Line - Day

2. Petition must be accompanied by an economic feasibility analysis and estimate of tax rate required. ORS 199.476(1).

B. If the Boundary Commission Does Not Act Within 120 Days After Receiving the Petition, It is Considered Approved. ORS 199.476(2), (3).

C. Boundary Commission Action

1. Upon receipt of the petition, the commission must

a. Cause a study to be made of the proposal. ORS 199.461(1)(a).

b. Conduct one or more public hearings on the proposal. ORS 199.461(1)(b).

2. Hearing

a. Notice of hearing must be published not more than 25 days nor less than 15 days before the hearing.

b. Hearing.

3. Standards for review of commission as set out in ORS 199.462.

a. Commission must consider economic, demographic and other factors.

b. Territory within a city may not be included within a district without the consent of the city council.

4. Commission may approve proposed boundary or modify it. ORS 199.461(3).

5. Commission must file final order with Secretary of State, assessor and county clerk of each affected county, city and district. ORS 199.461(4).

III. County Board (MSD Board) Action

A. Hearing

1. When a legally sufficient petition has been filed, a hearing must be set not less than 30 or more than 50 days after the filing of the petition. ORS 198.800(1). (Recall that filing with boundary commission suspended this period.)

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Time Line - Day

2. Notice of the hearing must be posted and published. ORS 198.800(2).

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3. At hearing, the board must apply standards set forth in ORS 199.462. ORS 198.805(1).

B. Order for Formation

1. After hearing, board shall enter order approving the petition as presented or modified and setting a final hearing on the petition not less than 30 nor more than 50 days after the date of the order. ORS 198.810.

2. No election is necessary unless written requests for an election are filed at or before the final hearing by not less than fifteen percent of the registered voters or 100 registered voters, whichever is less. ORS 198.810(2).

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3. At the final hearing, if the required number of voters has requested an election, the board must set an election at the next available election date not less than 35 days after the date of the order. ORS 198.815(2).

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(if election required)

4. Before commencing construction, the board must make an order setting forth what service facilities will be constructed, maintained and operated, how they will be financed, etc. ORS 451.485.

5. The order required by ORS 451.485 is subject to referendum by resolution of the board or by petition submitted within 60 days after the date of the order and signed by ten percent of the voters of the district. ORS 451.487.