



# Agenda

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: September 13, 1984

Day: Thursday

Time: 5:30 p.m.

Place: COUNCIL CHAMBER

Approx.  
Time

Presented By

5:30

CALL TO ORDER  
ROLL CALL

1. INTRODUCTIONS

2. COUNCILOR COMMUNICATIONS

2.1 Legislative Program Report

2.2 Lobbyist Contract Approval

*Resolution 84-500*  
*Resolution 84-501*

Kirkpatrick  
Kirkpatrick

3. EXECUTIVE OFFICER COMMUNICATIONS

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

6:00

6. CONSENT AGENDA

6.1 Minutes of the meetings of August 9 and 23, 1984

6.2 Intergovernmental Project Review Report

7. ORDINANCES

6:05

7.1 Consideration of Ordinance No. 84-179, for the purpose of amending the Public Contract Procedures for emergency contracts, Code Sections 2.04.011 and 2.04.030 (First Reading)

Baxendale

6:10

7.2 Consideration of Ordinance No. 84-178, for the purpose of amending Ordinance No. 84-172 and transferring appropriations (First Reading)

Sims

(continued)

<u>Approx. Time</u>		<u>Presented By</u>
	8. RESOLUTIONS	
6:15	8.1 <u>Consideration of Resolution No. 84-496, for the purpose of supporting the Columbia Willamette Futures Forum Critical Choices 1984 Conference</u>	Barker
6:20	8.2 <u>Consideration of Resolution No. 84-491, for the purpose of adopting an Interim Management Strategy for the St. Johns Landfill, the region's only general purpose sanitary landfill</u>	Durig
6:50	9. COMMITTEE REPORTS	
	10. OTHER REPORTS	
6:55	10.1 Criteria for selecting hearings officers	Baxendale
7:05	10.2 SB 405 Update	Mulvihill
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7:15	EXECUTIVE SESSION (Held under the authority of ORS 192.660(1)(h))	Baxendale
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7:45	ADJOURN	

## REVENUE PROPOSAL FOR GENERAL GOVERNMENT

BACKGROUND

FINANCIAL STABILITY IS IMPORTANT GOAL FOR METRO

POTENTIAL LOSS OF TWO FUNDING SOURCES

- o Zoo tax levy (passed May 1984).
- o Local government dues (expires June 1985).

FINANCIAL POLICIES ADOPTED BY METRO COUNCIL

- o Each functional area secure identified source of revenue.

Zoo - Admission/Concession Fees and Property Taxes

Solid Waste - Disposal and User Fees

Intergovernmental  
Resource Center (IRC) - Grants and Local Government  
Dues

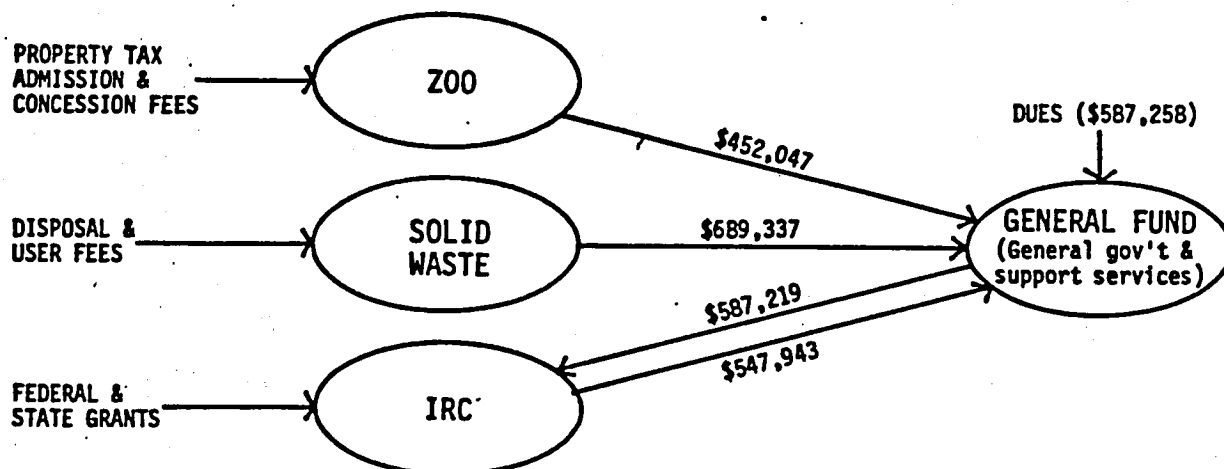
General Government - ???

- o General Government will pay for direct costs and its share of support service costs.
- o Support Services functions (Accounting, Personnel, Budget, Data Processing, etc.) shall be financed by other operating funds on basis of actual use.

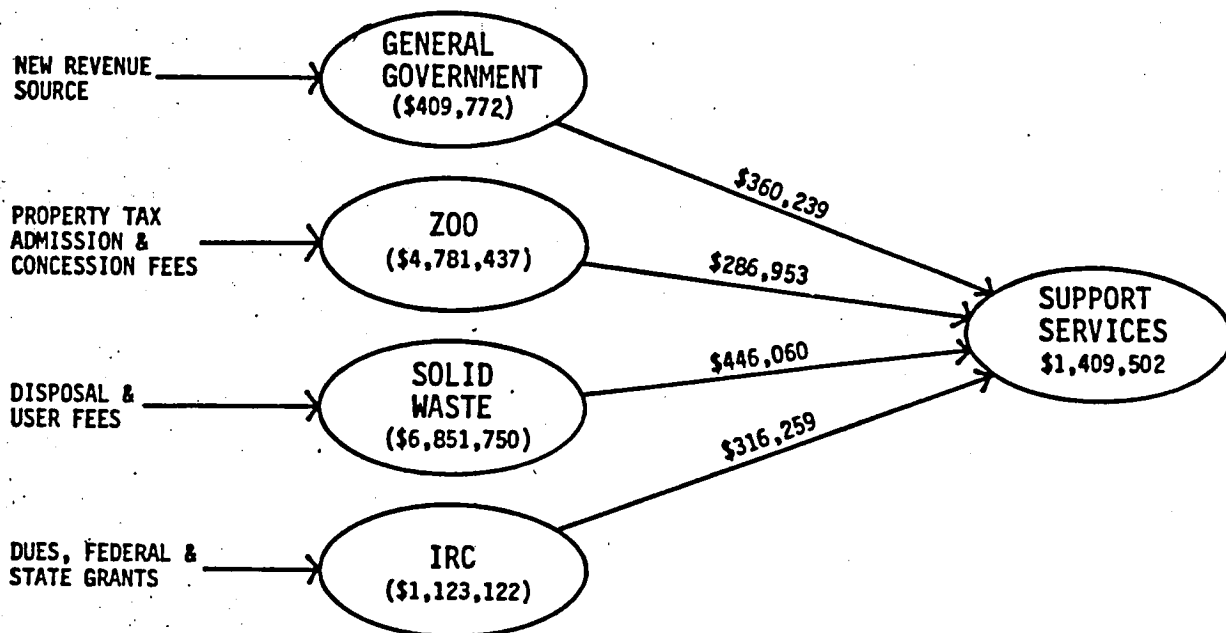
NEEDS

EXISTING GENERAL GOVERNMENT FUNCTIONS	\$ 660,000 - \$ 770,000
ENHANCE LOCAL ASSISTANCE PROGRAMS	60,000 - 100,000
REGIONAL SERVICE NEEDS ANALYSIS	<u>125,000</u> - <u>200,000</u>
TOTAL	\$ 845,000 - \$1,070,000

## Current (1984-85) Four Operating Fund System



## Proposed Five Operating Fund System



## Summary

	<u>CURRENT</u>	<u>PROPOSED</u>	<u>DIFFERENCE</u>
Dues*	\$129,956	\$ 0	\$(129,956)
Transfers			
Zoo	452,047	286,953	(165,094)
SW	689,337	446,060	(243,277)
IRC	547,943	316,259	(231,684)
New source	0	770,011	770,011
	<u>\$1,819,283</u>	<u>\$1,819,283</u>	<u>\$ 0</u>

\*The amount of dues currently used to pay for cost of general government functions (1984-85 Budget)

POTENTIAL REVENUE SOURCESEXISTING AUTHORITY

- o Property Tax
- o Income Tax

ADDITIONAL TAXING AUTHORITY

- o General or specific authority to tax a variety of goods or services.

STATE SHARED REVENUES

- o Liquor Revenue
- o Cigarette Tax Revenue

FEE FOR METRO SERVICES

- o Apportion revenue from Solid Waste, Zoo and IRC to cost of General Government.

REVENUE ALTERNATIVES  
(One or Any Combination)

STATE-SHARED REVENUE

Option A: Additional \$.01 per pack cigarette tax state-wide will raise approximately \$3.3 million. Distribute funds to counties, but in tri-county area distribute funds to Metro on basis of Metro population in each county to total county population.

Additional \$.01 per pack tax distributed in this manner would yield approximately:

Clackamas County	100,975
Multnomah County	6,592
Washington County	35,039
Metro	<u>1,185,874</u>
Total	\$1,328,480

Option B: Additional \$.03 per pack cigarette tax. Distribute funds to counties (\$.01), cities (\$.01) and Metro and COGs (\$.01). Metro would receive entire tri-county for general government purposes and as share as regional planning and coordination agency. Revenue would total approximately \$1,328,480.

FEE FOR METRO SERVICES

Allow fees collected by Metro services to be used for general government purposes. Existing services include solid waste, Zoo and local government assistance (IRC). Revenue to general government could be obtained by any of three methods:

- o Continue the transfer on basis of cost allocation plan;
- o Budget a specific amount of fees directly in general government fund; and
- o Impose a tax on Metro services for general government purposes.

Financial impact based on current payment for general government is as follows:

Solid Waste:

Based on an estimate of 755,000 tons of waste generated each year in the region an allocation of \$.33 per ton would yield approximately \$249,000.

Zoo Admissions:

Based on an estimate of admissions fee revenue of \$961,900 for FY 1983-84 an allocation of 15 percent of admissions would yield approximately \$144,000.

Dues Assessment (IRC):

Based upon an estimate of local government dues of \$587,000 (\$.50 per capita) allocating \$.10 per capita to the general government would yield approximately \$117,000.

In summary, service revenue allocated for general government purposes as indicated above would yield approximately the following:

Solid Waste	\$249,000
Zoo	144,000
Dues	117,000
Eligible Grant Charges	<u>232,000</u>
Total	\$742,000

DC/srb  
1566C/D1  
08/14/84

Councilor Bonner requested consideration of the Resolution be postponed until September 13, 1984, at which time the subject of convenience charges could be thoroughly addressed.

Motion: Councilor Bonner moved to amend the language of item 5 of the proposed Resolution to that originally submitted by staff on August 9, 1984. Councilor Williamson seconded the motion.

Councilor Hansen said Councilor Deines, who had originally proposed to amend item 5, would have a chance to change policy when the rates are next due for Council review.

Vote: The vote on the motion resulted in:

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

Absent: Councilors Banzer, Deines, Kafoury and Oleson

The motion carried to amend the resolution.

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

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

Absent: Councilors Banzer, Deines, Kafoury and Oleson

The motion carried and Resolution No. 84-483 was adopted as amended.

8.2 Consideration of Resolution No. 84-491, for the purpose of establishing an interim management strategy for the St. Johns Landfill, the region's only general purpose sanitary landfill

Mr. Durig discussed the "Summary Matrix - Landfill Management Strategy" included in the agenda materials which graphically listed 14 alternatives for interim management of solid waste before another general purpose landfill is opened. Mr. Durig explained these 14 alternatives could be divided into three general categories:

- 1) divert nonputrescible waste to limited purpose landfills;
- 2) divert putrescible waste to general purpose landfills; and
- 3) expand St. Johns landfill.

Mr. Durig reported SWPAC had an excellent discussion about staff's proposed management strategy that represented a broad range of opinions. He said SWPAC supported the concept of looking outside the region to site a landfill; they were willing to explore the concept of some expansion of St. Johns; they wanted Resolution No. 84-491 to state that recycling would be an important part of the interim management strategy; they expressed some concern about using the rate structure as an economic incentive to divert nonputrescible waste to limited purpose sites. They questioned whether the time and effort required to make this sort of change

would actually result in a dramatic shift of waste being diverted to other landfills. They also thought this change would result in higher disposal rates for residential customers who generate most of the putrescible waste.

Mr. Joe W. Cancilla, Jr., representing the Portland Association of Sanitary Service Operators (PASSO), P.O. Box 66193, Portland, requested Metro consider the following suggestions for an interim landfill strategy: 1) expand St. Johns vertically 15 feet and possibly horizontally three to five acres; 2) heavily encourage recycling in the region; 3) arrange to have transfer loads from CTRC directed to outlying landfills, such as McMinnville or Woodburn; 4) extend operation hours at area dry fills and have the private landfills reduce dump costs on dropbox "fluff loads"; and 5) EQC and DEQ should work cooperatively in an effort to site additional dry fills in the region.

Ms. Delyn Kies, Solid Waste Director for the Bureau of Environmental Services, City of Portland, 1120 S.W. 5th Avenue, Portland, circulated a memo from City Commissioner Mike Lindbert's office to the Council. She said the City Bureau's Solid Waste Advisory Committee had reviewed staff's recommendations and agreed an interim landfill strategy was necessary. However, she said there was extreme concern about the lack of public involvement in developing an interim plan. Ms. Kies said Commissioner Lindberg wanted to remind the Council that an extensive public participation process must occur before a St. Johns extension request can be brought before the City Council. Other items that should be considered, as outlined in the memo, were emphasis on recycling, extending hours of operation of limited use landfills and citing other such landfills, and pursuing permission from other general purpose landfills to accept waste.

Mr. Mike Burton, 6437 North Fiske, Portland, said he was representing the North Portland Citizens' Committee. Mr. Burton testified that since Metro assumed operation of the St. Johns Landfill, he had seen considerable improvement in citizens' attitudes about the facility because the landfill was much cleaner and more efficiently operated. He said the area residents realize the landfill site will be an important community resource when the facility is closed and therefore, any interim strategy should take end use into careful consideration. He also said North Portland residents need to be involved in discussions about future use and he urged the Council to follow Commissioner Lindberg's recommendations about citizen involvement.

Motion: Councilor Cooper moved for adoption of Resolution No. 84-491. Councilor Williamson seconded the motion.

Presiding Officer Kirkpatrick summarized three issues before the Council: 1) change in rate structure for limited use landfills may not result in satisfactory diversion and other alternatives should be examined; 2) recycling should be included in the interim strategy; and 3) more citizen involvement is needed.



Councilor Hansen said he did not think it wise to approach citizens with a single proposal for extending St. Johns. He proposed to amend the Resolution to insure ample citizen input and to expand the number of options for an interim strategy.

Motion: Councilor Hansen moved to amend item 3 of the Resolution to read: "Metro will consult with the City of Portland, the Department of Environmental Quality and the residents of North Portland to develop a process of assessing future development of the St. Johns Landfill to correspond with the opening of the next general purpose regional landfill." Councilor Williamson seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilors Banzer, Deines and Kafoury

The motion to amend the Resolution passed.

Councilor Waker said he did not think extending St. Johns was a real solution to the region's problem. He thought Metro's time would be better spent in building a case and going before the State Legislature to request authority to proceed with citing a landfill at Wildwood.

Presiding Officer Kirkpatrick said Councilor Waker's comment was valid and Council had an understanding with staff that such legislation would be drafted. However, she also thought the majority of the Council wanted to explore other solutions in case Wildwood was not cited in a timely manner.

Executive Officer Gustafson added that a discussion of alternatives will become very important when Metro takes its case to the State Legislature. He was certain the question would then arise about whether the region was in the state of an emergency. He said we would then need to demonstrate we no longer had the ability to extend St. Johns past a certain date and that there were no other suitable alternatives available.

Councilor Bonner said he appreciated staff's efforts in preparing the matrix chart and thought this graphic would clearly demonstrate to all parties involved the complexity of the issues and the decisions that must be made. He then made three recommendations: 1) the Council refer back to SWPAC the issue of diverting waste to limited use landfills and that SWPAC recommend a solution that could be in force by January 1, 1985; 2) provisions of item 2 of the Resolution be implemented; and 3) staff amend the Resolution to address the recycling issue. Presiding Officer Kirkpatrick

asked Councilor Bonner if he would move postponement of consideration of the Resolution in order for the above concerns to be addressed.

Motion: Councilor Bonner moved that consideration of Resolution No. 84-491 be postponed to September 13, 1984. Councilor Kelley seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Bonner, Cooper, Hansen, Kelley, Oleson and Kirkpatrick

Nays: Councilors Van Bergen, Waker and Williamson

Absent: Councilors Banzer, Deines and Kafoury

The motion to postpone consideration of the Resolution to September 13, 1984, carried.

8.3 Consideration of Resolution No. 84-486, for the purpose of amending the FY 83 Unified Work Program and approving in concept the development of the Oregon City Transit Center

Mr. Tom Vanderzanden, 902 Abernathy Road, Oregon City, spoke on behalf of the proposed Resoltuion and addressed Councilor Kelley's concerns about the location and cost of the project.

Motion: Councilor Williamson moved to adopt Resolution No. 84-486. Councilor Bonner seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Bonner, Cooper, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick

Nay: Councilor Kelley

Absent: Councilors Banzer, Deines, Hansen and Kafoury

The motion carried and Resolution No. 84-486 was adopted.

Presiding Officer Kirkpatrick called for a recess of the Regular Council Meeting at 7:10 p.m. so the Council could convene to another room for an Executive Session.

EXECUTIVE SESSION

An Executive Session of the Council was called to order by Presiding Officer Kirkpatrick at 7:15 p.m. under the authority of ORS 192.660(1)(h) for informational purposes only. Present were Councilors Banzer, Bonner, Cooper, Hansen, Kelley, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick.

9-13-84 Handout

PROPOSED REVISION

EXHIBIT "B"

SCHEDULE OF APPROPRIATIONS

<u>GENERAL FUND*</u>	<u>Current Appropriation</u>	<u>Revision</u>	<u>Revised Appropriation</u>
Council			
Personal Services	\$ 65,693	-0-	\$ 65,693
Material & Services	58,120	-0-	58,120
Capital Outlay	-0-	-0-	-0-
Subtotal	<u>\$123,813</u>	<u>-0-</u>	<u>\$123,813</u>
Executive Management			
Personal Services	\$229,380	-0-	\$229,380
Material & Services	28,845	-0-	28,845
Capital Outlay	-0-	\$3,280	3,280
Subtotal	<u>\$258,225</u>	<u>\$3,280</u>	<u>\$261,505</u>
Finance & Administration			
Personal Services	\$ 548,224	\$ -0-	\$ 548,224
Material & Services	626,465	-0-	626,465
Capital Outlay	24,555	9,930	34,485
Subtotal	<u>\$1,199,244</u>	<u>\$9,930</u>	<u>\$1,209,174</u>
Public Affairs			
Personal Services	\$216,450	-0-	\$216,450
Material & Services	40,950	-0-	40,950
Capital Outlay	1,750	2,680	4,430
Subtotal	<u>\$259,150</u>	<u>2,680</u>	<u>\$261,830</u>
General Expense			
Contingency	\$ 74,896	\$ (15,890)	\$ 59,006
Transfers	587,219	-0-	587,219
Subtotal	<u>\$662,115</u>	<u>\$ (15,890)</u>	<u>\$646,225</u>
Unappropriated Balance	\$23,038	-0-	\$23,038
Total General Fund Requirements	\$2,525,585	-0-	\$2,525,585
<u>SOLID WASTE OPERATING FUND*</u>			
Personal Services	\$794,867	-0-	\$794,867
Materials & Services	6,017,483	-0-	6,017,483
Capital Outlay	39,400	3,280	42,680
Transfers	2,350,667	-0-	2,350,667
Contingency	643,263	(3,280)	639,983
Total Fund Requirements	\$9,845,680	-0-	\$9,845,680

<u>ZOO OPERATING FUND*</u>	<u>Current Appropriation</u>	<u>Revision</u>	<u>Revised Appropriati</u>
Personal Services	\$2,878,483	-0-	\$2,878,483
Materials & Services	1,601,634	\$17,000	1,618,634
Capital Outlay	305,648	-0-	305,648
Transfers	2,416,047	-0-	2,416,047
Contingency	256,335	(17,000)	239,335
Unappropriated Balance	<u>1,001,000</u>	<u>-0-</u>	<u>1,001,000</u>
	\$8,459,147	-0-	\$8,459,147

\*NOTE: All other funds remain unchanged.

1940C/392-2

CONSIDERATION OF RESOLUTION NO. 84-491 FOR THE  
PURPOSE OF ESTABLISHING AN INTERIM MANAGEMENT  
STRATEGY FOR THE ST. JOHNS LANDFILL, THE REGION'S  
ONLY GENERAL PURPOSE SANITARY LANDFILL

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Date: August 30, 1984

Presented by: Daniel F. Durig

FACTUAL BACKGROUND AND ANALYSIS

This report is a supplement to one dated August 6, 1984. That report and Resolution No. 84-491 were considered at the August 23, 1984, Council meeting. At that meeting, public testimony was received from the City of Portland, Mr. Mike Burton, Portland Association of Sanitary Service Operators (PASSO), and Metro's SWPAC. The result of that testimony and the Council discussion is included in three proposed changes to the original resolution.

Paragraph 1. The change in this paragraph has the effect of endorsing the concept which would send more waste to limited-purpose landfills, and requests that SWPAC develop the specific techniques to carry out this general goal of diversion to limited-purpose sites. An increase in operating hours, a rate differential for "fluff loads," and the siting of additional limited-purpose landfills in the region were suggested as possible techniques to meet the goal of more effective diversion of material to these sites.

Paragraph 3. This change was suggested by Councilor Hansen. It places emphasis on initially developing a process for undertaking a discussion on the future development of St. Johns Landfill rather than proposing a specific solution and then seeking public and organizational comment.

Paragraph 4. This is a new paragraph which clearly states Metro's commitment to waste reduction as an integral part of the solution of extending the life of the landfill. It includes a specific commitment which would urge all affected parties to implement provisions of the 1983 Recycling Opportunity Act (SB 405) as soon as possible. The act is not mandatory until July 1, 1986. It is felt that a timely and early implementation of curbside collection of source-separated material is one of the most effective and comprehensive waste reduction techniques that could be employed at this time. It also recognizes that the law is in place, the work on implementation is underway, and that time is the primary hurdle yet to be cleared. It is recommended that Metro take the opportunity to insert this policy statement in its testimony to DEQ when the October public hearing is held.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 84-491 with all amendments as proposed.

DFD/srb  
1909C/392-2  
08/31/84

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING AN ) RESOLUTION NO. 84-491  
INTERIM MANAGEMENT STRATEGY FOR )  
THE ST. JOHNS LANDFILL ) Introduced by the  
 ) Executive Officer

WHEREAS, ORS 268 designates the Metropolitan Service District (Metro) to be the provider of solid waste disposal facilities in the Portland metropolitan area; and

WHEREAS, The Council of the Metropolitan Service District has identified the site known as "Wildwood" to be the next general purpose sanitary landfill when the St. Johns Sanitary Landfill is filled to its design capacity; and

WHEREAS, Due to delays encountered in receiving final approval for the use of Wildwood as the region's next general purpose landfill, it now appears that Wildwood will not be available upon the anticipated closure of the St. Johns Landfill; and

WHEREAS, The Metro Council recognizes the need to ensure uninterrupted access to an environmentally sound and conveniently located general purpose sanitary landfill as a manner of acceptable public health practices; now, therefore,

BE IT RESOLVED,

That the following interim management policies and strategies for the St. Johns Landfill are adopted for the purpose of extending the useful life of this limited resource in order to provide Metro additional time to secure final approval from appropriate governmental bodies for the Wildwood Sanitary Landfill site.

1. [During preparation of the 1985 Metro Disposal Rate Study, the Executive Officer will incorporate modifications to the existing rate structure which will encourage drop box haulers to use existing limited-use landfills rather than the St. Johns Sanitary Landfill. Following past practice and upon adoption by the Metro Council, these rates will be effective on January 1, 1985.] Metro will attempt to divert additional drop box material to limited use landfills based upon discussions with and suggestions made by the Solid Waste Policy Alternatives Committee (SWPAC).
2. Metro will begin to explore and secure permission from other authorized sites accessible to the Metro region for the disposal of municipal solid waste. The Executive Officer will report to the Metro Council on the progress of these discussions at the Council's first regularly scheduled meeting in February of 1985.
3. Metro will [pursue further evaluation and review] consult with the City of Portland, the Department of Environmental Quality and the residents of north Portland [the potential to increase the final contours of St. Johns Landfill to 10 feet using a phased approach beginning with the expansion area and then into the already completed subareas of the landfill] to develop a process of assessing future development of



the St. Johns Landfill to correspond with the opening of the next general purpose regional landfill.

4. Metro will pursue a decrease in the quantity of waste being landfilled by encouraging the reduction, reuse and recycling of material with its continued emphasis on waste reduction, promotion, information and education throughout the region. With its pledge of support and cooperation, Metro urges the Department of Environmental Quality (DEQ), local governments, the collection industry and other affected interests to implement the provisions of Oregon's 1983 Recycling Opportunity Act (SB 405) as rapidly as possible.

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

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

NW/srb  
1747C/392-6  
08/29/84



# 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: September 7, 1984

To: Rick Gustafson, Executive Officer

From: Dennis Mulvihill, Waste Reduction Manager *DM*

Regarding: Implementation of Oregon's Recycling Opportunity Act (SB 405)

The DEQ staff is near completion of their work on developing draft rules for SB 405. I have been providing technical assistance to them as a member of their task force on Rules and Program Direction. The EQC will be holding a public hearing on the draft rules on October 1, 1984, and plans final adoption on November 2, 1984.

The DEQ has met with the public and other interests on approximately 35 different occasions for the dual purpose of obtaining ideas on how the rules should be written and promoting the existence of the new Recycling Opportunity Act.

DEQ's role in implementing this Act is:

- Drafting rules and guidelines and holding informational meetings and public hearings in fall 1984.
- Provide technical and planning assistance in developing and implementing recycling programs.
- Developing prototype promotional/educational materials for use in wastesheds throughout the state.
- Review/accept recycling reports submitted by each wasteshed.

The rules will prescribe:

- Acceptable alternative methods for providing the opportunity to recycle.
- Education, promotion and notice requirements for disposal sites and collection systems.
- Identification of wastesheds.
- Identification of principle recyclable materials in each wasteshed.
- Guidelines for local governments and other persons responsible for implementing the provisions of the Act.

- Standards for joint submission of the recycling reports.
- Annual fees to carry out the Act.

At this point in time, the draft rules designate county boundaries as the wastesheds, except for the City of Portland. There will probably be other cities that request to be identified as wastesheds at the hearings. This option was attractive for practical reasons. There will be two lists of recyclable materials. A principle list for each wasteshed and a specific list for each city/county or landfill within the shed. What is collected in one place may not need to be in another. The specific list will be negotiated with DEQ, thus the smaller the group of "other affected persons" involved with producing the list and report, the quicker it should be completed. This same argument was applied to the development of the required promotion/education element of the report. Working with those governments, and other affected interests they were most comfortable with because of familiarity, was also cited as a plus.

The cities, counties and other affected persons in each wasteshed must designate an "agent" by July 1, 1985. This person will help gather the information from the wasteshed and compile the necessary report which must be submitted to DEQ in final form by July 1986.

The principle materials that must be recycled in the Metro area wastesheds are: newspaper, ferrous scrap, nonferrous scrap, motor oil, corrugated cardboard, kraft paper, container glass, aluminum, high grade office paper and tin cans. Each of these materials must be collected at one place in the wasteshed.

The rules will set standards for the development of education and promotion programs by each wasteshed. Again, this will be done on a wasteshed and local level. The rules seek to increase the amount of recycling that is being done by assuring that all persons are aware of, and encouraged to participate in the recycling opportunities available. A written notice must be provided to each household, business and industry in the wasteshed; all solid waste collection service customers must be reminded of the opportunities available, every six months; written information on why and how to recycle must be provided to the public at all disposal sites; public and private schools must be provided information and education material. Adequacy will be determined/negotiated with DEQ on a program by program basis, i.e., cities, counties, Metro. Each wasteshed must appoint a promotion/education coordinator.

My general recommendations for Metro's role in the implementation of SB 405 at this point in time are that:

- A. Metro work on gaining acceptance of their report to DEQ immediately rather than waiting until the July 1986 deadline. Our statutory responsibility is:
- promoting the opportunity to recycle that we offer at the landfills and transfer stations; and
  - coordinating with other affected persons in the wastesheds to develop recycling reports that explain how the opportunity to recycle is being implemented. This will involve our providing information on how we are fulfilling our required role at the disposal end, and any other applicable services, i.e., regional, promotion/education that focuses on SB 405. Metro should assume that its promotion/education programs (Recycling Information Center; Program Coordinator providing technical assistance on the design and implementation of promotion/education programs; multi-media promotions on waste reduction and recycling) will be utilized by the wastesheds, cities and counties in the region as a means of their meeting the opportunity to recycle. Some of our technical data will also be useful.
- B. Metro staff should attend all future DEQ meetings with the different wastesheds and other affected interests in the region. My assumption is that as they develop an understanding of the law and rules impact, so will a needs list evolve that Metro can respond to. I suggest responding to, rather than offering to take over specific tasks, for three reasons:
1. This Act is collection-oriented and its success will be determined by the commitment of those interests that control it (cities and counties). Metro's premature involvement in the process could deflect the focus of responsibility that currently exists on the local jurisdictions, prolonging the implementation.
  2. It is quite possible that our public offering of assistance would elicit an embarrassing answer from some interests. If, however, our

assistance is requested by another government, we can respond legitimately regardless of other opinions. This strategy does dictate that Metro be prepared to discuss and evaluate a variety of ideas with a possibility of not being able to satisfy all of them.

3. Because of the way the law is written there is some potential for duplication of effort (DEQ and ours). DEQ is charged with "providing advisory technical and planning assistance in developing and implementing recycling programs." DEQ raised money for this through a recycling fee charged at the landfills, but have not developed their plan of how this might be done. We need to work closely with them on designing a mutually beneficial approach.

- C. Yard debris should not be added to the list of recyclable materials. It does not meet all the legal criteria at this point in time, especially the availability of markets and existing programs. It can be added at a later date without any problem. My specific recommendations on this are dealt with in a separate memo.

Some requests of Metro that may evolve out of this next phase are:

- "assisting" DEQ in providing technical and planning assistance for implementation of SB 405;
- serve as the agent for the wastesheds;
- serve as the Promotion/Education Coordinator for the wasteshed;
- provide technical assistance on the design and implementation of promotion/education programs;
- provide technical assistance to cities and counties on redoing their franchises;
- provide technical assistance to cities and counties on negotiating their contracts with DEQ for meeting the opportunity to recycle.

I will be providing more specific recommendations on the rules after having an opportunity to study them. They will be available on Friday, September 7, 1984.

PROPOSED RULES FOR THE IMPLEMENTATION OF THE  
RECYCLING OPPORTUNITY ACT

Preface:

340-60-001 The following statements are intended to guide state agencies, local governments, industries, the public and the Department of Environmental Quality in their efforts to implement these rules and the provisions of Oregon's Recycling Opportunity Act.

NEW POLICY

These rules give local governments and other persons involved in the solid waste collection service process guidance to carry out new statutory requirements of Oregon's Recycling Opportunity Act.

The Act signals a major change in direction for solid waste management in Oregon by establishing priorities to: (1) reduce the amount of solid waste generated, (2) reuse materials, (3) recycle materials, (4) recover energy from solid waste that cannot be reused or recycled and (5) dispose of the remaining solid waste that cannot be reused, recycled, or from which energy cannot be recovered. The Act places increased emphasis on recycling as a solid waste management method.

The Act envisioned that every person in Oregon should have the opportunity to recycle and that any material which could be recycled for less cost or equal to the cost associated with disposal should be recycled. The Act is based on the policy that it is a higher and better use of material resources to reuse or recycle a material rather than dispose of them.

## IMPLEMENTATION OF THE ACT

The Oregon Recycling Opportunity Act envisions a cooperative effort among local governments (cities and counties), garbage collection and disposal services, recyclers, and the public. The Act does not designate who shall provide the "opportunity to recycle," but requires that it be provided. Local government leaders, in conjunction with the other persons involved in the solid waste collection process, will decide who in their community can best make available the recycling collection and promotion in accordance with the Act.

These rules are intended to assist local communities in the implementation of the new Act. The Department will provide assistance to the local communities in implementation of the Act. The key to success of the Act will be the cooperative efforts of the local governments and other affected persons in providing the opportunity. The successful implementation of these rules will also depend on the cooperation of the local governments and affected persons with the Department.

### LOCAL GOVERNMENT ROLE

Local government will maintain its primary responsibility for solid waste management and will be a major factor in providing for the opportunity to recycle and in the preparation of the recycling report. These rules are intended to increase, not decrease, the role of local government in solid waste management. In the new Recycling Opportunity Act, local government has clearly been granted the authority to regulate both solid waste and recyclable material collection service. This added authority will help see that an effective recycling system is in place in each community.

## WASTESHED DESIGNATION

These rules designate wastesheds throughout the state. An important consideration in the choice of wastesheds was whether the people involved could and would work together to provide the best opportunity to recycle to the public. The wasteshed boundaries were chosen to facilitate effective working relationships. Existing solid waste management areas were selected where there were already successful working relationships. By choosing existing local government boundaries as wasteshed boundaries, these rules place a continued emphasis on the local governments and their role in solid waste management. It is not intended that these wasteshed designations supplant any existing regulatory structure in the area or that any local government will be required to take on responsibilities beyond their jurisdiction. The wastesheds as designated in these rules are intended to be used for the purposes of this Act only.

## WASTESHED AGENT

These rules make a provision that each wasteshed have a designated agent to deal with the Department in matters relating to the recycling report. The Act and these rules see the wasteshed as an area of the state. The Department does not intend to deal with the wasteshed as a new form of local government. Since it will be difficult to communicate with every person in the wasteshed on formal issues which arise relating to the recycling report, these rules call for a single agent in that role. The agent will operate on behalf of all affected persons within that wasteshed and will be an integral part of the implementation of the opportunity to recycle insofar as that individual represents the diverse views of the affected persons in the wasteshed.



## RECYCLING REPORT

The recycling report called for by the Act and these rules should be viewed as a progress report and not a complex planning document. It is intended to be a communication from the people in the watershed to the Department stating how they will or are implementing the opportunity to recycle within the watershed. The Department wishes to keep reporting requirements to a minimum. The Department intends to provide forms for the submittal of the report and to work with the people in each watershed well in advance of the report deadline to develop the information which will go into the report. The reports are intended to be simple; containing information which should be available well in advance of the reporting date.

Since the Department is required to relay the report information to the legislative assembly, it may be necessary to require similar reports subsequent to future legislative sessions.

## RECYCLABLE MATERIALS

The Act requires that the opportunity to recycle be provided for all recyclable materials. In determining what is a recyclable material at a specific location, the definition includes an economic criteria. This criteria compares the net cost of recycling to the net cost of disposal. What material meets the definition of recyclable material will depend upon the method which is used to collect and market that material. In some cases, the cost of collection of recyclable materials is not going to be on a profitable or break-even basis if based solely on the income from sales to markets. Avoided disposal cost savings and income from franchise rates should also be considered. Net cost of collecting and marketing a recyclable material may represent an expense to the recycler if it is not recovered in a rate structure. Such costs were envisioned in the

legislation and are addressed in the provision that allows for recovery of costs of providing the opportunity to recycle in rates established under franchises.

#### PRINCIPAL RECYCLABLE MATERIALS

These rules list the principal recyclable materials for each wasteshed. The lists are intended to be a basis for determination of what are the recyclable materials at each location where the opportunity to recycle is required. The Department is aware that there are economic, demographic and geographic factors which will allow a specific material to be a recyclable material in one portion of a wasteshed and not a recyclable material in another. These rules make provision for this circumstance. The Department will seek the advice of the people involved in recycling in each wasteshed in determining what materials meet the definition of recyclable material at each specific location where the opportunity to recycle is required. Between the time of the identification of the principal recyclable materials in these rules and the submittal of the recycling reports, the Department intends to work with affected persons in every wasteshed to help identify materials contained on the principal recyclable list which do not meet the definition of recyclable material at each location in the wasteshed. The Department will make a periodic review of the principal recyclable material lists and will submit changes to the Commission for inclusion into these rules.

#### EXISTING RECYCLING PROGRAMS

The Department is aware that many areas of the state presently have recycling programs which meet or exceed the requirements envisioned in these rules. The Department will endeavor to take full advantage of these success stories. Local governments are encouraged to provide special consideration to ongoing programs which provide the opportunity to recycle

as required by the Act and these rules. Early implementation of the opportunity to recycle will benefit all of the parties involved. It is the intent of the Act and these rules to increase the level of recycling and to reduce the amount of material going to disposal. In addition, it is the intent of these rules to provide the opportunity to recycle to additional geographical areas of the state as well as for additional recyclable materials.

#### PURCHASE OR EXCHANGE FOR FAIR MARKET VALUE

The Act provides that any material which is source separated by the generator and purchased or exchanged from the generator for fair market value is exempt from the provisions of the Act.

The Act gave local government the authority to regulate the collection service for recyclable materials. Such an exemption will limit local government in its ability to require collection service for these materials in these situations. These rules do not address the situation where a purchase has occurred, however, they do address the issue of exchange for fair market value. By definition, the Department proposes that if there has been no purchase of the material there has not been an exchange for fair market value. This definition is based on the belief that for an exchange to have taken place benefits must accrue to both parties. When local government chooses to provide for the benefit of collection of a recyclable material from the generator through franchised collection service, then they have eliminated the possibility of any benefit to the generator by having another party provide equal service. So, in such a situation, the material is not exempt from government regulation. Whether a local government will choose to regulate recyclable materials in this regard is, of course, left up to the local government and the affected persons within the watershed. The purpose for the inclusion of this rule

was to preserve as much control with local government in the expectation that local government will provide for an effective and efficient opportunity to recycle program.

#### COLLECTION SERVICE

These rules make no effort to define "collection" beyond its direct use in the statute. Local government has been granted the authority to regulate both "collection service" and "solid waste collection service" as part of its management of solid waste. There is no requirement that local government must limit competition in the field of recycling collection, however, it is appropriate to preserve their ability to do so when they feel it is necessary. In order to provide an effective and efficient recycling program. they may desire to define the scope of collection to include drop-off locations as well as on-route collection or to limit the number of persons who provide collection service of recyclable materials in a specific area.

#### COMMERCIAL AND INDUSTRIAL RECYCLING

These rules do not make any distinction between different types of sources of recyclable materials. The same material may be generated from a residential, commercial, or industrial source. The intent of the statute and these rules is that every person, including industrial and commercial waste generators, be provided the opportunity to recycle. While there is an extensive system for the collection of large amounts of recyclable material from commercial and industrial generators, many sources of smaller amounts of material do not presently have opportunity to recycle the same materials. Commercial and industrial generators should be considered when a program to provide the opportunity to recycle is being implemented. While much recycling is already going on, there is still recyclable material going into the waste stream. Dealing with recycling from

commercial and industrial sources will be difficult for local government because of the diversity of size and business activity at commercial sources and because there are a number of competing collectors presently providing service to sources which generate valuable recyclable material. Further, some of the recyclable material generated from commercial sources will be exempted from local government regulation because it is purchased or exchanged for fair market value from the generators.

**Purpose:**

340-60-005 The purpose of these rules is to prescribe requirements, limitations and procedures for planning, development and operation of waste reduction and recycling programs and for providing the opportunity to recycle.

**Definitions:**

340-60-010 As used in these rules unless otherwise specified:

- (1) "Affected person" means a person or entity involved in the solid waste collection service process including but not limited to a recycling collection service, disposal site permittee or owner, city, county and metropolitan service district.
- (2) "Area of the state" means any city or county or combination or portion thereof or other geographical area of the state as may be designated by the Commission.
- (3) "Collection franchise" means a franchise, certificate, contract or license issued by a city or county authorizing a person to provide collection service.
- (4) "Collection service" means a service that provides for collection of solid waste or recyclable material or both.
- (5) "Collector" means the person who provides collection service.

- (6) "Commission" means the Environmental Quality Commission.
- (7) "Department" means the Department of Environmental Quality.
- (8) "Director" means the Director of the Department of Environmental Quality.
- (9) "Disposal site" means land and facilities used for the disposal, handling or transfer of or resource recovery from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by the public or by a solid waste collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site; but the term does not include a facility subject to the permit requirements of ORS 468.740; a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a solid waste collection service; or a site licensed pursuant to ORS 481.345.
- (10) "Generator" means a person who last uses a material and makes it available for disposal or recycling.
- (11) "Land disposal site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.
- (12) "Metropolitan service district" means a district organized under ORS chapter 268 and exercising solid waste authority granted to such district under ORS chapters 268 and 459.
- (13) "On-route collection" means pick up of source separated recyclable material from the generator at the place of generation.
- (14) "Opportunity to recycle" means those activities described in OAR 340-60-020:

- (15) "Permit" means a document issued by the Department, bearing the signature of the Director or his authorized representative which by its conditions may authorize the permittee to construct, install, modify or operate a disposal site in accordance with specified limitations.
- (16) "Person" means the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.
- (17) "Principal recyclable material" means that material which will generally be recyclable material under the specific condition where the opportunity to recycle is required in a wasteshed.
- (18) "Recyclable material" means any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material.
- (19) "Resource recovery" means the process of obtaining useful material or energy resources from solid waste and includes:
- (a) "Energy recovery," which means recovery in which all or a part of the solid waste materials are processed to utilize the heat content, or other forms of energy, of or from the material.
  - (b) "Material recovery," which means any process of obtaining from solid waste, by presegregation or otherwise, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose;
  - (c) "Recycling," which means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.
  - (d) "Reuse," which means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

- (20) "Solid waste collection service" or "service" means the collection, transportation or disposal of or resource recovery from solid wastes but does not include that part of a business licensed under ORS 481.345.
- (21) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals and other wastes; but the term does not include:
- (a) Hazardous wastes as defined in ORS 459.410
  - (b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.
- (22) "Solid waste management" means prevention or reduction of solid waste; management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to such activities.
- (23) "Source separate" means that the person who last uses recyclable material separates the recyclable material from solid waste.
- (24) "Waste" means useless or discarded materials.
- (25) "Wasteshed" means an area of the state having a common solid waste disposal system or designated by the commission as an appropriate area of the state within which to develop a common recycling program.



Policy Statement

340-60-015 Whereas inadequate solid waste collection, storage, transportation, recycling and disposal practices waste energy and natural resources and cause nuisance conditions, potential hazards to public health and pollution of air, water and land environment, it is hereby declared to be the policy of the Commission:

- (1) To require effective and efficient waste reduction and recycling service to both rural and urban areas.
- (2) To promote and support comprehensive local or regional government solid waste and recyclable material management planning:
  - (A) Utilizing progressive waste reduction and recycling techniques;
  - (B) Emphasizing recovery and reuse of solid waste; and
  - (C) Providing the opportunity to recycle to every person in Oregon through best practicable methods.
- (3) To establish a comprehensive statewide program of solid waste management which will, after consideration of technical and economic feasibility, establish the following priority in methods of managing solid waste:
  - (a) First, to reduce the amount of solid waste generated,
  - (b) Second, to reuse material for the purpose for which it was originally intended,
  - (c) Third, to recycle material which cannot be reused,
  - (d) Fourth, to recover energy from solid waste that cannot be reused or recycled so long as the energy recovery facility preserves the quality of air, water and land resources, and
  - (e) To dispose of solid waste that cannot be reused, recycled, or from which energy cannot be recovered by landfilling or other methods approved by the Department.
- (4) To retain primary responsibility for management of adequate solid waste programs with local government units.

- (5) To encourage maximum participation of local government in the planning, development, and operation of required recycling programs.

#### Opportunity to Recycle

340-60-020 As used in these rules the opportunity to recycle means at least:

- (1) (a) A place for collecting source separated recyclable material located either at a disposal site or at another location more convenient to the population being served and, if a city has a population of 4,000 or more, on-route collection at least once a month of source separated recyclable material from collection service customers within the city's urban growth boundary or, where applicable, within the urban growth boundary established by a metropolitan service district; or
- (b) An alternative method approved by the Department which complies with rules of the Commission.
- (2) The "opportunity to recycle" defined in subsection (1) of this section also includes a public education and promotion program that:
- (a) Gives notice to each person of the opportunity to recycle; and
- (b) Encourages source separation of recyclable material.

#### Wasteshed Designation

340-60-025 The following areas are designated wastesheds within the state of Oregon:

- (1) Baker wasteshed is all of the area within Baker County

- (2) Benton & Linn wasteshed is all of the area within Linn and Benton Counties excluding the area within:
  - (a) the city of Gates
  - (b) the city of Idanha
  - (c) the city of Mill City
- (3) Clackamas wasteshed is all of the area within Clackamas County and all of the area within the cities of Lake Oswego, Wilsonville, and Rivergrove excluding the area within:
  - (a) the city of Portland
  - (b) the city of Tualatin
- (4) Clatsop wasteshed is all of the area within Clatsop County
- (5) Columbia wasteshed is all of the area within Columbia County
- (6) Coos wasteshed is all of the area within Coos County
- (7) Crook wasteshed is all of the area within Crook County
- (8) Curry wasteshed is all of the area within Curry County
- (9) Deschutes wasteshed is all of the area within Deschutes County
- (10) Douglas wasteshed is all of the area within Douglas County
- (11) Gilliam wasteshed is all of the area within Gilliam County
- (12) Grant wasteshed is all of the area within Grant County
- (13) Harney wasteshed is all of the area within Harney County
- (14) Hood River wasteshed is all of the area within Hood River County
- (15) Jackson wasteshed is all of the area within Jackson County
- (16) Jefferson wasteshed is all of the area within Jefferson County
- (17) Josephine wasteshed is all of the area within Josephine County
- (18) Klamath wasteshed is all of the area within Klamath County
- (19) Lake wasteshed is all of the area within Lake County
- (20) Lane wasteshed is all of the area within Lane County

- (21) Lincoln wasteshed is all of the area within Lincoln County
- (22) Malheur wasteshed is all of the area within Malheur County
- (23) Marion wasteshed is all of the area within Marion County and all of the area within the cities of Gates, Idanha, Mill City and the urban growth boundary of the city of Salem
- (24) Morrow wasteshed is all of the area within Morrow County
- (25) Multnomah wasteshed is all the area within Multnomah County excluding the area within:
  - (a) the city of Portland
  - (b) the city of Lake Oswego
- (26) Polk wasteshed is all the area within Polk County excluding the area within:
  - (a) the urban growth boundary of the city of Salem
  - (b) the city of Willamina
- (27) Portland wasteshed is all of the area within the city of Portland
- (28) Sherman wasteshed is all of the area within Sherman County
- (29) Tillamook wasteshed is all of the area within Tillamook County
- (30) Umatilla wasteshed is all of the area within Umatilla County
- (31) Union wasteshed is all of the area within Union County
- (32) Wallowa wasteshed is all of the area within Wallowa County
- (33) Wasco wasteshed is all of the area within Wasco County
- (34) Washington wasteshed is all of the area in Washington County and all of the area in the city of Tualatin excluding the area within:
  - (a) the city of Portland
  - (b) the city of Lake Oswego

- (c) the city of Wilsonville
- (d) the city of Rivergrove
- (35) Wheeler wasteshed is all of the area within Wheeler County
- (36) Yamhill wasteshed is all of the area within Yamhill County and all of the area within the city of Willamina.

Principal Recyclable Material

340-60-030

- (1) The following are identified as principal recyclable materials in the wastesheds as described in Sections (3) through (7):
  - (a) newspaper
  - (b) ferrous scrap metal
  - (c) non-ferrous scrap metal
  - (d) used motor oil
  - (e) corrugated cardboard and kraft paper
  - (f) container glass
  - (g) aluminum
  - (h) hi-grade office paper
  - (i) tin cans
- (2) In addition to the principle recyclable materials listed in (1) above, additional recyclable materials may be identified for the specific location where the opportunity to recycle is required.
- (3) In the following wastesheds, the principal recyclable materials are those listed in Section 2(a) through (i):
  - (a) Benton and Linn wasteshed
  - (b) Clackamas wasteshed
  - (c) Clatsop wasteshed
  - (d) Columbia wasteshed
  - (e) Hood River wasteshed
  - (f) Lane wasteshed
  - (g) Lincoln wasteshed

- (h) Marion wasteshed
  - (i) Multnomah wasteshed
  - (j) Polk wasteshed
  - (k) Portland wasteshed
  - (l) Umatilla wasteshed
  - (m) Union wasteshed
  - (n) Wasco wasteshed
  - (o) Washington wasteshed
  - (p) Yamhill wasteshed
- (4) In the following wastesheds, the principal recyclable materials are those listed in Section 2(a) through (g):
- (a) Baker wasteshed
  - (b) Crook wasteshed
  - (c) Jefferson wasteshed
  - (d) Klamath wasteshed
  - (e) Tillamook wasteshed
- (5) In the following wastesheds, the principal recyclable materials are those listed in Section 2(a) through (h):
- (a) Coos wasteshed
  - (b) Deschutes wasteshed
  - (c) Douglas wasteshed
  - (d) Jackson wasteshed
  - (e) Josephine wasteshed
- (6) In the following wastesheds, the principal recyclable materials are those listed in Section 2(a) through (e):
- (a) Curry wasteshed
  - (b) Grant wasteshed
  - (c) Harney wasteshed
  - (d) Lake wasteshed
  - (e) Malheur wasteshed
  - (f) Morrow wasteshed
  - (g) Wallowa wasteshed

- (7) In the following wastesheds, the principal recyclable materials are those listed in Section 2(a) through (d):
- (a) Gilliam wasteshed
  - (b) Sherman wasteshed
  - (c) Wheeler wasteshed
- (8) The opportunity to recycle shall be provided for each of the principal recyclable materials listed in (3) through (7) above and for materials identified under (2) above except for any material, approved by the Department, which the recycling report demonstrates does not meet the definition of recyclable material for the specific location where the opportunity to recycle is required.
- (9) Any affected person may request the Commission to modify the recyclable material for which the Commission determines the opportunity to recycle must be provided or may request a variance under ORS 459.185.
- (10) The Department will make a periodic review of the principal recyclable material lists and will submit changes to the Commission for inclusion into this rule.

Acceptable, Alternative Methods for Providing the Opportunity to Recycle

340-60-035

- (1) Any affected person in a wasteshed may propose to the Department an alternative method for providing the opportunity to recycle. All proposals for alternative methods shall be submitted to the Department for approval of acceptability prior to implementation as part of the opportunity to recycle. Each submittal shall include a description of the proposed alternative method and a discussion of the reason for using this method rather than the general method set forth in OAR 340-60-020(1)(a).

- (2) The Department will review these proposals as they are received. Each proposed alternative method will be approved, approved with conditions, or rejected based on consideration of the following criteria:
- (a) Will the alternative increase recycling opportunities beyond the level anticipated from the general method for providing the opportunity to recycle?
  - (b) What conditions and factors make the alternative method necessary?
  - (c) Is the alternative method as convenient to the people using or receiving the service as the general method for providing the opportunity to recycle?
  - (d) Is the alternative method as effective in recovering recyclable materials from solid waste as the general method for providing the opportunity to recycle?
- (3) The affected persons in a wasteshed may propose as provided in (1) above an alternative method to providing on-route collection as part of the opportunity to recycle for low density population areas within the urban growth boundaries of a city with a population over 4,000 or where applicable the urban growth boundaries established by a metropolitan service district.

#### Education, Promotion and Notification

340-60-040

- (1) Affected persons in each wasteshed shall design, commit resources and implement an education and promotion program that provides:
- (a) Public notice that is reasonably designed to reach all persons who generate recyclable materials in the wasteshed, that clearly explains why people should recycle, the recycling opportunities available to the recipient, the



materials that can be recycled and the proper preparation of those materials.

(A) The notice used for persons within the urban growth boundaries of cities with more than 4,000 people shall include:

- (i) reasons why people should recycle, and
- (ii) the name, address and phone number of the person providing on-route collection, and
- (iii) the availability of depots for recyclable materials at all disposal sites serving the area, including what materials are accepted and hours of operation, and
- (iv) the availability of depots for recyclable material at locations designated as more convenient to the public being served, including what materials are accepted and hours of operation, or
- (v) instead of (iii) and (iv) a phone number to call for all such information about depot locations and collection service.

(B) The notice used for people not within the urban growth boundary of cities with more than 4,000 people, shall include:

- (i) reason why people should recycle, and
- (ii) the availability of depots for recyclable materials at all disposal sites serving the area, including what materials are accepted and hours of operation, and

- (iii) the availability of depots for recyclable materials at locations designated as the more convenient to the public being served, including what materials are accepted and hours of operation, or
    - (iv) a phone number to call for all such information about depot locations and collection service.
  - (b) A written reminder about the on-route recycling collection program distributed to all solid waste collection service customers every six (6) months.
  - (c) Written information at all disposal sites with attendants and where it is otherwise practical.
    - (A) This written material shall include:
      - (i) reasons why people should recycle, and
      - (ii) a list of materials that can be recycled, and
      - (iii) instructions for the proper preparation of recyclable materials, and
      - (iv) a list of the recycling opportunities available at the disposal site or designated "more convenient location".
    - (B) At sites without attendants, a sign indicating the availability of recycling at the site or at the "more convenient location" shall be prominently displayed including what materials are accepted and hours of operation.
  - (d) Recycling information and education to public and private schools, community groups and the general public.
- (2) The affected persons in the watershed shall identify a mechanism for citizen involvement in the development and implementation of the watershed's education and promotion program.

- (3) The affected persons in each watershed shall provide notification and education materials to local media and other groups that maintain regular contact with the public including local newspapers, local television and radio stations, community groups, neighborhood associations.
- (4) Information related to the education and promotion program shall be included in the Recycling Report as outlined in OAR 340-60-045(7).

#### Standards for Recycling Reports

340-60-045

- (1) The recycling report shall be submitted to the Department on forms supplied by the Department not later than July 1, 1986.
- (2) When reviewing the recycling reports, the Department will include consideration of:
  - (a) Those items set forth in ORS 459.185(6)(a) through (f):

"459.185(6)

    - (a) The materials which are recyclable;
    - (b) The manner in which recyclable material is to be collected;
    - (c) The responsibility of each person in the solid waste collection and disposal process for providing the opportunity to recycle;
    - (d) A timetable for development or implementation of the opportunity to recycle;
    - (e) Methods for providing the public education and promotion program;
    - (f) A requirement that as part of the recycling program a city or county franchise to provide for collection service; and . . ."

- (b) The situations in the wasteshed where the opportunity to recycle is specifically required by ORS 459.200 and ORS 459.250.
  - (c) Types and amounts of material which are recyclable, and
  - (d) For ongoing programs:
    - (A) Levels of recovery of recyclable materials at each situation and within the wasteshed as a whole;
    - (B) The level of participation in the opportunity to recycle at different locations in the wasteshed; and
    - (C) Proposed changes in the methods of providing the opportunity to recycle that will improve recycling levels.
- (3) (a) The cities and counties and other affected persons in each wasteshed shall before July 1, 1985:
- (A) Designate a single person as agent for that wasteshed and official contact between the affected persons in that wasteshed and the Department in matters relating to the recycling report.
  - (B) Inform the Department of the choice of an agent.
- (b) If the cities and counties and other affected persons have not designated an agent by July 1, 1985, the Department will designate such a person.
- (c) The cities and counties and other affected persons in a wasteshed shall gather information from the affected persons in the wasteshed and compile that information into the recycling report.
- (4) (a) Prior to submitting the recycling report, it shall be made available to all cities and counties and other affected persons in the wasteshed for review.

- (b) The recycling report shall include a certification from each county and city with a population of over 4,000 that it has reviewed the report.
- (c) The recycling report shall be made available for public review and comment prior to submittal to the Department. Any public comments shall be submitted to the Department with the report.
- (5) All affected persons in the wasteshed shall have the opportunity to make available to the wasteshed agent, the Department, or other persons developing the recycling report, any information which they feel is necessary to complete the recycling report.
- (6) The recycling report shall include an attachment which describes all proposed and all approved alternative methods for the opportunity to recycle which are to be used in the wasteshed.
- (7) The recycling report shall include the following information related to Education, Promotion and Notification:
  - (a) The name, address and phone number of a recycling education contact person for the wasteshed;
  - (b) A description of the roadblocks to recycling identified in the wasteshed;
  - (c) A description of the education program elements being used to overcome the identified roadblocks and the efforts for the coming year aimed at overcoming those roadblocks;
  - (d) A summary of the public involvement process being used and, if possible, a list of the citizen's involved;
  - (e) A summary of, the cost of, and the funding for the wasteshed's education program; and
  - (f) Copies of articles that were printed or aired, samples of printed materials that are being used in the wasteshed and

summaries of special events that have been held. If they have already been utilized, a brief summary of the effectiveness of these resources or efforts shall also be included.

#### Fair Market Value Exemption

340-60-050

- (1) To qualify for exemption under ORS 459.192 a source separated recyclable material must:
  - (a) Be purchased from the generator or
  - (b) Be exchanged between the generator and a collector with a measurable savings in solid waste collection or disposal cost to the generator resulting.
- (2) If a local government requires that the opportunity to recycle a material be provided at no charge to the generator, the material must be purchased from the generator to qualify for an exemption under 459.192.

#### Recyclable Material

340-60-055

- (1) The cost of collection and sale of a recyclable material shall be calculated by considering only the collector's costs from the time after material is source separated and leaves the use of the generator until it is first sold or it is transferred to the person who recycles it. All costs and savings associated with collection of a recyclable material shall be considered in the calculation.
- (2) Any measurable savings to the collector resulting from making a material available for recycling as opposed to disposal shall be considered the same as income from sale.

### More Convenient Location

340-60-060 Any disposal site that identifies a more convenient location for the collection of recyclable materials as part of providing the opportunity to recycle shall provide information to users of the disposal site about the location of the recycling collection site, what recyclable materials are accepted and hours of operation.

### Exemption

340-60-065 Any disposal site that does not receive recyclable material separately or mixed with the solid waste which it accepts is not required to provide a place for collecting source separated recyclable material.

### Small Rural Sites

340-60-070 Any disposal site from which marketing of recyclable material is impracticable due to the amount or type of recyclable material received or geographic location shall provide information to the users of the disposal site about the opportunity to recycle at another location serving the watershed. Such information shall include the location of the recycling opportunity, what recyclable materials are accepted, and hours of operation.

### Reasonable Specifications for Recyclable Materials

340-60-075 No person providing the opportunity to recycle shall be required to collect source separated recyclable material which has not been correctly prepared to reasonable specifications which are related to marketing requirements and which have been publicized as part of an education and promotion program.

**Prohibition**

340-60-080 In addition to the provisions set forth in ORS 459.195, no person shall dispose of source separated recyclable material which has been collected from the public by a method other than reuse or recycling.



# EDITORIAL

## It's time to go forward on coliseum expansion

There is an appropriate time for every great civic undertaking. With the opening of the Performing Arts Center, it is now time for conversion of the Memorial Coliseum to a world class convention center.

The Business Journal Magazine focuses in this week's issue on the politics and the prospects for such a development. There have been a lot of false starts in the past. Perhaps they were premature, but the force of the idea cannot be denied any longer.

We applaud the determination of Portland mayor-elect Bud Clark, Multnomah County executive Dennis Buchanan and others to seek regional support for the center. It is only fair. But we stress that difficulty in achieving such support must *not* be an obstacle to going forward with the project. It is too important to delay further.

The ideal authority for the convention complex is the Metropolitan Service District. The expected deficit in the operation of the complex should be made up by revenue bonds guaranteed by a combination of taxes on hotels-motels, restaurant meals, car rentals and ticket surcharges. But whatever political compromises are necessary to get the ball rolling should be favorably considered.

The stark choice is not over the packaging of the convention center. The choice is whether or not we will even have a center that can compete with other cities our size. It is whether or not Portland will continue on the road traveled so far, a road that can lead to a major and mature city.

We have come so far. The downtown is revitalized. The schools are excellent. The mass transit works well. The performing arts center is a reality. Let's not falter now.

# South Metro

## Editorial

### Two issues cross county lines

Add medical care for the indigent and contingency planning for disasters to the list of responsibilities county governments of the metropolitan area can hardly address separately.

Since a joint approach is called for, the Metropolitan Service District ought to rise to its role of regional coordination to tackle the issues.

Residents of Clackamas County should look at a report compiled by a Washington County task force that spent nearly two years studying health care for those unable to pay for it. The panel concluded that movement across county lines is so commonplace in Washington, Clackamas and Multnomah counties that the three should deal with the problem of the medically indigent together.

Meanwhile, Chairman Wes Myllenbeck of the Washington County Board of Commissioners looked also at disjointed and inadequate programs for natural disasters in the three counties and concluded that they should be pulled together into a single, effective operation.

Thus, two concerns not directly related but clearly affecting taxpayers come together at a time when this cluster of metropolitan counties and Metro, the regional governmental structure, should be pulling together for common, cost-effective solutions to the challenges they all share.

The task force on the medically indigent went so far as to consider the formation of a

tri-county health district. But that would be an unnecessary duplication, since Metro was created to be a regional agency to address exactly those problems that cross jurisdictional borders or exceed the powers of individual counties and cities to resolve.

Metro has considerably less than a shining image in Clackamas County, but that could change through careful study of the Washington County research. The report is right that Washington County now does not have the resources to undertake a new program for the medically needy. Nor does Clackamas County. Multnomah County has cut its aid drastically.

Any effort to look for finances for this purpose should be undertaken jointly by the neighbors under the auspices of the agency created by the Legislature and voters for just such a purpose.

Myllenbeck is right also that disaster planning makes little sense as a county function. A disaster striking one portion of the urban area is bound to affect the entire region. Yet, for lack of a unified approach, Clackamas County, for instance, has been asked to consider installing its own underground emergency command post, as Multnomah County already has done.

Before any more fractionalized projects are authorized, a metropolitan approach should be considered. Metro, Myllenbeck noted, may even have access to federal funds for disaster preparation not available to counties.

At any rate, there are fields of responsi-

bility that counties sharing a common community would be foolish to take on independently from one another, for each county could only cope with a portion of the problem. For these cases, Metro exists. Disaster planning and care for the indigent arise as two obvious candidates for coordinated attention.

### 'Opinion' guidelines

The South Metro section's "In my opinion" column is available to readers desiring to comment on current affairs. Commentaries should be on local or personal issues.

Views opposing those expressed in South Metro columns and articles are welcome, but should stand independently of the original article or column.

The essays should be about 750 words in length (three double-spaced pages, if typewritten). They must not have been published previously and must be submitted exclusively to The Oregonian. They belong to the authors after we publish them.

Publication will be the only payment.

Address to: Editorial Page Editor, The Oregonian, 1320 S.W. Broadway, Portland, Ore. 97201.

### Letters

Letters for publication should be addressed: To the Editor, The Oregonian, 1320 S.W. Broadway, Portland, Ore., 97201. All letters are subject to abridgement and must be signed and carry an address. Short typed letters, double spaced, preferred, but all letters will be considered.



# Memo

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

Date: September 6, 1984

To: Metro Council

From: Councilors Sharron Kelley and Bob Oleson; and Ray Barker, Council Assistant

Regarding: Tour of Victoria, B.C. Regional Park System

On August 27-28, 1984, we toured the Capital Regional District Parks in Victoria, British Columbia and met with officials of the Capital Regional District Board and the District's Parks Department. Joining us on the tour were Charlie Ciecko and Nancy Chase of the Multnomah County Parks Department.

Attached is a summary of the information we obtained from the tour.

srb  
1951C/D1-2

## CAPITAL REGIONAL DISTRICT

- Twenty years ago the provincial government established 28 regional districts throughout British Columbia and gave them the responsibility of serving as a regional hospital district. Today these districts provide several additional services.
- The affairs of the Capital Regional District are managed by a board of 19 directors from seven municipalities and seven electoral areas, who represent a total population of about 260,000 living within 934 square miles around Victoria, the capitol of British Columbia.
- The number of directors and the number of votes for each municipality or electoral area are determined by population. For ever 25,000 persons an area is allowed one director. For every 5,000 persons an area is allowed one vote.
- The Capital Regional District provides the following region-wide services:
  - Health Services - The Health Services Department has 220 full-time employees and is the largest department in the District. This department provides public health nursing, public health inspection, dental inspection in the schools and at health units, and consultation to operators of community care facilities.
  - Housing - Provides affordable rental accommodation to low to moderate income households.
  - Refuse Disposal - The District owns a sanitary landfill which is operated on its behalf by Victoria Disposal Company Ltd. The District is not in the garbage collection business.
  - Sewage Disposal - The District designs, constructs and operates major sewer lines, pumping stations and sewage treatment plants.
  - Building Inspection
  - Animal Control
  - Regional Parks (see details below)

### Capital Regional District Park System

- The goal of the Capital Regional District's Parks Department is to provide residents with a system of easily accessible regional parks and trails. The regional parks are primarily for those outdoor recreational activities not generally provided by municipal parks.

- The park system presently includes 15 parks encompassing approximately 6,000 acres. The parks range in size from 3,512 acres down to one-half acre.
- The Parks Department is responsible for managing the parks and for planning the acquisition and development of a complete regional parks system.
- A parks committee consisting of seven members who are directors on the Capital Regional District Board, acts as an advisory body to the Regional Board. The Chairman of the Regional Board appoints the members to the parks committee.
- Funding for the regional parks is obtained completely from property taxes. There are no user fees. Property taxes for parks currently average about \$3.08 per capita. The property tax rate for parks is currently 3/4 mill on the assessed valuation.
- The current budget for regional parks is \$800,000.
- The Parks Department currently has nine full-time employees and four seasonal employees.

Most of the parks are very undeveloped. They are in the form of regional shoreline, preserve, wilderness and trails. Activities include boating, sailing, fishing, scuba diving, scenic view points, beachcombing, picnicking, historic points of interest, nature program, horseback riding and hiking. Tennis courts, swimming pools, ball fields, etc., are not provided by the regional parks department but are services of the municipalities.

- The Capital Region has spent \$4 million for land acquisition during the past 15 years. A lot of land has been donated and federal grants have been used to help purchase park property.

RB/srb  
1951C/D1-2  
09/06/84



# 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: September 12, 1984

To: Metro Council

From: Corky Kirkpatrick, Presiding Officer *CK*

Regarding: Legislative Report

Please find attached a copy of the Executive Officer's and my memo regarding financial legislative proposals. I will discuss this memo with you at our September 13, 1984, meeting and plan to discuss the proposals with the House Legislative Task Force on Regional Governance (Otto Committee) on September 14, 1984.

The attached memo contains a proposed Resolution (No. 84-500) which will be formally considered at the September 13, 1984, Council meeting. If the Resolution is adopted, we plan to ask the House Legislative Task Force to include the proposals in their report. The final meeting of the House Task Force is scheduled for September 28, 1984.

CK:amn

Attachments



# 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: September 12, 1984  
To: Metro Council  
From: Corky Kirkpatrick, Presiding Officer <sup>ck</sup>  
Rick Gustafson, Executive Officer ~~ck~~  
Regarding: LEGISLATIVE PROPOSALS ON METRO FINANCES

The purpose of this memo is to present a proposed legislative package regarding long-range finances for Metro. The complete package is included in Resolution No. 84-500 attached as Exhibit "A." Resolution No. 84-500 will be considered by the Council on September 25, 1984.

## FINANCIAL STABILITY IS IMPORTANT GOAL

During the past year the Council and Executive Officer have periodically discussed financial plans of the District. Several memoranda have been presented to the Council on the subject (a complete list is attached as Exhibit "B") and the Council has adopted a set of policies governing long-range finances for Metro (complete set of policies is attached as Exhibit "C").

The general financial principles adopted by the Council are as follows:

1. Each functional area shall have identified sources of revenue;
2. Each functional area shall prepare a five-year financial plan; and
3. Any new functions assumed by Metro shall have a source of funding.

The four current Metro functions and their present sources of revenue are as follows:

<u>Function</u>	<u>Revenue</u>
Zoo	Admission/Concession Fees and Property Taxes

<u>Function (continued)</u>	<u>Revenue</u>
Solid Waste	Disposal and User Fees
Intergovernmental Resource Center (IRC)	Grants and Local Government Dues
General Government	No separate identified source

LEGISLATIVE PROPOSALS BY FUNCTIONAL AREA

The proposed financial legislative package affects three of the four functional areas -- Zoo, Intergovernmental Resource Center (IRC) and General Government. The solid waste area is not included since sufficient legislative authorization currently exists to make the solid waste function self-sufficient through the use of fees. The entire text of legislative proposals are included in the proposed Resolution attached as Exhibit "A."

ZOO: The goal for long-range financial stability for the Zoo is a permanent operating tax base. While District voters approved a \$5,000,000 per year three-year serial levy in May 1984 to fund operating and capital construction costs, such action is not permanent. A new levy must be submitted to the voters in May of 1986 to continue using property taxes to fund the Zoo.

Based upon advice from Legal Counsel, Metro has the authority to submit a tax base levy for the purpose of funding only Zoo operations. (For more complete discussion see memo dated 7/26/84 titled "Long-Range Financing for Zoo Operations.") If such a tax base levy is approved by the voters, current state statutes authorize Metro to perform additional functions such as water supply, human services, parks, jail and criminal justice services and library services. Because such authorization might be an impediment to voters approving a tax base for the Zoo the legislative change in Attachment "1" of Exhibit "A" attached (Resolution No. 84-500) is proposed for your consideration. The proposed legislation removes the Zoo tax base approval requirements and replaces it with direct voter approval requirements for the District to perform the specific functions mentioned above. The proposal also states that:

"...voter approval of a power means approval of any measure identifying the power, including a measure authorizing financing which identifies funds for the exercise of the power."



Enactment of this proposed legislation will enable District voters to consider a Zoo tax base measure on its merits while retaining approval authority on specified District functions.

IRC: The major purpose of this function is to provide planning and coordination services to local governments in the region. The long-range fiscal policy for the IRC is for local governments to pay for services received and to have a say in what services will be provided to them. The proposed legislation amends ORS 268.513 and does three things (see Attachment "2" of Exhibit "A"):

1. It removes the "sunset" provision on Metro's ability to assess a service charge to cities and counties for the cost of planning functions;
2. It requires that the Council "...shall consult with the local government officials advisory committee...in determining whether" to charge cities and counties for planning functions provided by Metro; and
3. It includes the Port and Tri-Met as units against which a mandatory assessment will be levied as follows:

"(4) The Port of Portland and the Tri-County Metropolitan Transportation District established pursuant to ORS Chapter 267 shall each pay as charges a per capita amount equal to .125 of the per capita service charge set for the cities and counties for population within the Metropolitan Service District...."

GENERAL GOVERNMENT: The goal for this functional area is to obtain a new source of revenue to pay for the costs of general government of Metro. Costs of general government are those activities of the District mandated by statute to occur whether or not the District does anything else. Included are the costs of the Council; the Executive Officer; election expenses; mandated land use activities such as urban growth boundary management and plan coordination responsibilities. The total amount of revenue needed for general government activities is approximately \$1,000,000 (for further explanation see memo dated June 20, 1984, titled "General Government Cost Projections and Allocation of Support Service Costs").

Potential sources of revenue considered to meet the identified needs include the following:

EXISTING AUTHORITY

- o Property Tax
- o Income Tax

ADDITIONAL TAXING AUTHORITY

- o General or specific authority to tax a variety of goods or services.

STATE SHARED REVENUES

- o Liquor Revenue
- o Cigarette Tax Revenue

FEE FOR METRO SERVICES

- o Apportion revenue from Solid Waste, Zoo and IRC to cost of General Government

Of the several potential general government revenue sources listed above, two are presented for consideration.

1. Receipt of state cigarette tax proceeds for general purpose. This proposal (see Attachment "3" of Exhibit "A") is in concept form rather than draft legislation form because of the complex technical nature of the legislation required.

If the proposal is part of Metro's legislative program, then drafting assistance will be requested from Legislative Counsel. The basic concept proposed is an increase in the state cigarette tax inclusion of Metro in the distribution formula. Two options are proposed including a \$.01 per pack increase with the revenue distributed to counties statewide except in the Tri-County area Metro would receive its proportionate share based upon the Metro population in each county. The second option is an increase of \$.03 per pack with a penny each allocated statewide to the cities, counties and regional councils. At this time both options are recommended for consideration.

2. Fees on Metro services. This proposal (see Attachment "4" of Exhibit "A") authorizes the Council by ordinance to tax any of its functions with proceeds to be used for general purposes including studying the feasibility of performing additional functions. The proposed legislation amends ORS 268.515 as follows:

"(7) The district may impose an excise tax on any of its functions for the purposes of performing any of its functions and studying additional functions."

The proposal also states that any such tax imposed shall not become effective until 65 business days after approval by the Metro Council.

ADDITIONAL BACKGROUND INFORMATION

In addition to considering the memoranda listed in Exhibit "B" and adopting the long-range financial policies set forth in Council Resolution No. 84-444 (Exhibit "C"), the Council has adopted Resolution No. 84-477 which establishes priorities and objectives for the District for the next two years. One adopted Council priority and its concomitant objectives address long-range financial issues as follows:

"Priority B: Establish and Maintain Adequate and Firm Financial Support for all Services.

"Objectives:

- "1. Define elements of General fund and Support Services fund.
- "2. Adopt formal policies for solid waste fees.
- "3. Secure authorization for permanent General fund.
- "4. Secure permanent finances for Zoo operation and maintenance.
- "5. Establish long-term financial support with local governments for stable financing of Intergovernmental Resource Center.
- "6. Offer specific legislative proposals for improving Metro financing."

During the past few months the Presiding Officer, the Executive Officer and staff have been meeting with local officials and citizens to discuss Metro's financial situation. One series of informal meetings with local officials has produced a recommendation by the Presiding Officer and Executive Officer to continue the local dues assessment authority. At another series of informal meetings with citizens and local officials (approximately 70 persons over an eight-week period) the subject of funding general government functions has been the major topic. The information presented at these informal meetings is attached as Exhibit "D." These meetings with citizens and local officials produced a general consensus for Metro to seek legislative action to obtain state-shared revenues from the cigarette tax source and/or acquire authority to impose a fee on Metro services both to support the funding of general government functions.

FOR THE PURPOSE OF ADOPTING ) RESOLUTION NO. 84-500  
LEGISLATIVE PROPOSALS REGARDING )  
DISTRICT FINANCES ) Introduced by  
 ) Presiding Officer Kirkpatrick  
 ) and Executive Officer Gustafson

WHEREAS, The Council of the Metropolitan Service District has adopted Resolution No. 84-444 establishing long-range financial policies for Metro; and

WHEREAS, The Council has adopted Resolution No. 84-477 which establishes priorities and objectives of Metro for the next two years including a Priority (B) to "Establish and Maintain Adequate and Firm Financial Support for All Services" and a concomitant objective to "Offer specific legislative proposals for improving Metro financing"; and

WHEREAS, The Presiding Officer and Executive Officer have caused extensive research and analysis of Metro finances to be done and have consulted interested citizens and local officials on Metro functions and finances; now, therefore,

BE IT RESOLVED,

That the legislative proposals attached as Attachments "1" through "4" are hereby adopted by the Metropolitan Service District for submission to the 1985 Legislative Assembly.

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

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

PROPOSAL TO REMOVE TAX BASE OR INCOME TAX APPROVAL  
REQUIREMENTS IN ORDER TO PROVIDE ADDITIONAL FUNCTIONS

268.312 Additional powers of district; preconditions. (1) [If either a tax base or income tax has been authorized the district by its electors under ORS 268.315 or 268.505] Subject to prior voter approval, a district may also:

[(1)] (a) Acquire, develop, construct, alter, maintain and operate metropolitan aspects of water supply and distribution systems including local aspects of systems of persons, public corporations, cities or counties transferred to the district by agreement in accordance with this chapter.

[(2)] (b) Plan, coordinate and evaluate the providing of human services, including but not limited to, programs for the aging, health care, manpower, mental health and children and youth.

[(3)] (c) Acquire, develop, maintain and operate a system of parks, open space, and recreational facilities of metropolitan significance.

[(4)] (d) Provide facilities for metropolitan aspects of criminal and juvenile detention and programs for metropolitan aspects of adult and juvenile justice and, by agreement, local aspects of jails, corrections programs and juvenile justice in accordance with this chapter.

[(5)] (e) Provide metropolitan aspects of library activities including, but not limited to, book acquisition and technical assistance for local libraries.

(2) For the purposes of subsection (1), voter approval of a power means approval of any measure identifying the power, including a measure authorizing financing which identifies funds for the exercise of the power.

PROPOSAL TO EXTEND LOCAL GOVERNMENT DUES ASSESSMENT AUTHORITY

## 268.513 Service charge for planning functions of district.

(1) The council [,in its sole descretion may determine that,] shall consult with the local government officials advisory committee appointed under ORS 268.170 in determining whether it is necessary to charge the cities and counties within the district for the services and activities carried out under ORS 268.380 and 268.390. If the council determines that it is necessary to charge cities and counties within the district for any fiscal year, it shall determine the total amount to be charged and shall assess each city and county with the portion of the total amount as the population of the portion of the city or county within the district bears to the total population of the district provided, however, that the service charge shall not exceed the rate of 51¢ per capita per year. For the purposes of this subsection, the population of a county does not include the population of any city situated within the boundaries of that county. The population of each city and county shall be determined in the manner prescribed by the council.

(2) The council shall notify each city and county of its intent to assess and the amount it proposes to assess each city and county at least 120 days before the beginning of the fiscal year for which the charge will be made.

(3) The decision of the council to charge the cities and counties within the district, and the amount of the charge upon each, shall be binding upon those cities and counties. Cities and counties shall pay their charge on or before October 1 of the fiscal year for which the charge has been made.

(4) [This section shall not apply to a fiscal year which ends later than June 30, 1985.] The Port of Portland and Tri-County Metropolitan Transportation District established pursuant to Chapter 267 ORS shall each pay as charges a per capita amount equal to .125 of the per capita service charge set for the cities and counties for population within the Metropolitan Service District, and the provisions of subsections (2) and (3), above, shall apply to the charge.

PROPOSAL TO RECEIVE STATE-SHARED REVENUE FOR GENERAL PURPOSES

This legislative concept authorizes Metro to receive revenue based upon a \$.01 per pack tax on the sale of cigarettes statewide. Two options are proposed as follows:

Option A: Additional \$.01 per pack cigarette tax statewide will raise approximately \$3.3 million. Distribute funds to counties, but in tri-county area distribute funds to Metro on basis of Metro population in each county to total county population.

Additional \$.01 per pack tax distributed in this manner would yield approximately:

Clackamas County	100,975
Multnomah County	6,592
Washington County	35,039
Metro	<u>1,185,874</u>
Total	\$1,328,480

Option B: Additional \$.03 per pack cigarette tax. Distribute funds to counties (\$.01), cities (\$.01) and Metro and COGs (\$.01). Metro would receive entire tri-county for general government purposes and as share as regional planning and coordination agency. Revenue would total approximately \$1,328,480.

PROPOSAL TO AUTHORIZE IMPOSITION OF FEE ON  
METRO SERVICES FOR GENERAL PURPOSES

268.515 Service and user charges; grants; loans, excise taxes. (1) A district may impose and collect service or user charges in payment for its services or for the purposes of financing the planning, design, engineering, construction, operation, maintenance, repair and expansion of facilities, equipment, systems or improvements authorized by this chapter.

(2) A district may seek and accept grants of financial and other assistance from public and private sources.

(3) A district may, with the approval of a majority of members of its governing body, borrow money from any county or city with territory in the district.

(4) A district may, by entering into loan or grant contracts or by the issuance of bonds, notes or other obligations with the approval of a majority of members of its governing body, borrow money from the state or its agencies or departments, including without being limited to, money from the Pollution Control Fund.

(5) Notwithstanding ORS 294.305 to 294.520, the authority to borrow granted under this section includes the authority to enter into agreements to repay such money subject to such terms and conditions as the parties may agree.

(6) A district may provide that its borrowing of money be secured by a lien and pledge of all or any part of the revenues derived by the district from the facilities constructed from the proceeds of the moneys borrowed.

(7) The district may impose an excise tax on any of its functions for the purposes of performing any of its functions and studying additional functions.

(8) [(7)] Except in an emergency, the imposition of or increase in a service or user charge and the imposition of an excise tax shall not become effective until 65 business days after approval by the governing body. As used in this subsection, business days mean Monday through Friday.



MEMORANDA PRESENTED TO COUNCIL ON LONG-RANGE FINANCES

- o "Future Funding--Background Information on Metro Financial Situation." July 26, 1983.
- o "The General Fund--Its Relationship to Other Funds and Functions Provided." July 26, 1983.
- o "Long-Range Financial Policies for Metro." September 7, 1983.
- o "Five-Year Projections for the General Fund." September 8, 1983.
- o "Preliminary Projections for Zoo Operating Fund." September 28, 1983.
- o "Long-Range Financial Policies for Metro." January 3, 1984.
- o "Zoo Five-Year Financial Plan." January 16, 1984.
- o "Intergovernmental Resource Center Funding Proposal and Schedule." May 25, 1984.
- o "Redefinition of Existing General Fund and Proposed Five Operating Fund System." May 30, 1984.
- o "Proposal for Extension of Mandatory Dues." June 20, 1984.
- o "General Government Cost Projections and Allocation of Support Service Costs." June 20, 1984.
- o "Long-Range Financing for Zoo Operations." July 26, 1984.

1932C/388-4

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF APPROVING ) RESOLUTION NO. 84-444  
LONG-RANGE FINANCIAL POLICIES )  
FOR THE METROPOLITAN SERVICE ) Introduced by the  
DISTRICT ) Executive Officer

WHEREAS, The Metropolitan Service District relies on a variety of revenue sources to conduct its business; and

WHEREAS, The Metropolitan Service District over the past five years has demonstrated its ability to carry out its assigned responsibilities; and

WHEREAS, The expiration of a three-year serial levy and changes in state laws will alter the revenue sources for the Metropolitan Service District; and

WHEREAS, A set of financial policies and principles has been developed to be used as a guide for reaching financial stability for the Metropolitan Service District; now, therefore,

BE IT RESOLVED,

That the Council adopts the financial principles and policies contained in Exhibit A attached.

ADOPTED by the Council of the Metropolitan Service District  
this 26th day of January, 1984.

Carolee Linkpatrick  
Presiding Officer

DC/gl  
0512C/366  
01/05/84

## EXHIBIT A

To assist in the achievement of the broad goal of providing financial stability for Metro, the following general principles are adopted:

1. Each functional area shall have identified sources of revenue;
2. Each functional area shall prepare a five-year financial plan; and
3. Any new functions assumed by Metro shall have a source of funding.

To aid decision making in each of the functional areas, the following policies are adopted:

General Government/Mandated Services

1. General government and mandated services shall have an external source of revenue to cover their direct costs and to pay their share of support services.
2. When specific funds are identified for general government and mandated services, interfund transfers shall no longer be used to support these activities.
3. The support services functions of the General fund shall be totally financed from all Operating funds on the basis of actual use.

Local Assistance and Coordination

1. Local assistance activities carried out by Metro shall be funded by the jurisdictions and organizations using those services.
2. Metro shall annually review and develop a local assistance program in conjunction with local government users.

Zoo Operations

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.

3. The Council shall annually review admission fees to assist in meeting Objective 2 above.
4. The Council shall develop a policy of maintaining a proper balance between funds used for animal and non-animal capital improvements and the use of private versus public funds.
5. As indicated in the adopted Master Plan, the priority for capital investments shall be the completion of the Zoo's development and the replacement of non-standard exhibits.
6. It shall be the policy of the Council to provide special benefits to residents of the region who pay taxes to help support the Zoo.

Solid Waste Operations

1. As part of the development of a five year financial plan, a set of financial policies shall be prepared for adoption by the Council prior to the beginning of the rate review process in September 1984 and shall address disposal rates, regional transfer charges, convenience charges, user fees and other appropriate issues.

0512C/366  
1/26/84

CONSIDERATION OF RESOLUTION NO. 84-501 FOR THE PURPOSE OF APPROVING A CONTRACT TO OBTAIN THE SERVICES OF A GOVERNMENTAL RELATIONS REPRESENTATIVE.

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Date: September 11, 1984

Presented by: Dan LaGrande

Several issues critical to Metro's interest will require the attention of the 1985 Oregon Legislature. Although the legislative package is still in the formulation stage, we know that several bills addressing Metro's financial status will be considered in the upcoming session.

During the Council discussion on Metro's 1984-85 budget, the Council recognized that there is currently no one on staff who has recent governmental relations experience of the degree desired before the Oregon Legislature. When some Councilors expressed concern that the local government program could not function at its present level without the need to divert existing staff, the Council, as a whole, made the policy decision to obtain the services of a governmental relations representative on a contract basis.

Accordingly, Metro Public Affairs staff prepared a Request for Qualifications which was mailed to eighteen likely bidders. In response, Statements of Qualification were received from five firms; four of which were judged qualified for interviews. Subsequently, principals of those four firms were interviewed by a committee composed of Metro Councilors, Executive Officer and Public Affairs staff.

The selection committee has recommended that a contract be offered to Martin & Associates. This firm was chosen primarily for its strong record of past performance. The specific qualifications which were met include:

- A recent history of successfully representing the programs of established governmental entities or programs of equivalent breadth and complexity before the Oregon Legislature;
- Familiarity with current issues and governmental, community and business groups in the Portland Metropolitan area;
- Strong written and oral communication skills;

- Experience in working with policy-making boards; and
- Experience in working with local government issues.

The contract with Martin & Associates is a standard personal services contract, accompanied by a specific scope of work. Under the scope of work, the contractor will be expected to:

- Participate with the Metro Executive Officer, Council and staff in formulating the package;
- Establish pre-session liaison with Legislators and other individuals and groups which are active in the legislative arena; maintain presence in Salem during the session;
- Assist Metro in formulating strategies for achieving its anticipated policy goals as well as identifying issues emerging during the session which may impact Metro and formulating appropriate strategies in response to those issues.
- Determine the information needs of Legislators; present oral testimony and written information to Legislators and otherwise actively pursue the successful achievement of Metro's policy goals before the Legislature;
- Notify Metro staff of all meetings scheduled on Metro issues and identify those meetings which Metro staff should attend in addition to, or in lieu of, the contractor; work with the Metro staff to arrange expert testimony on relevant issues and other support functions;
- Periodically attend Council meetings to provide status reports to the Executive Officer and Council; and
- Prepare a final report to the Executive Officer and Council which analyzes the results of the 1985 session and makes recommendations for subsequent governmental relations activities.

In accordance with requirements specified in the contractor's Statement of Qualifications, Metro will pay to the contractor's firm \$2,000 per month for services rendered during the remainder of 1984; \$3,000 per month for services during the 1985 legislative session. Payment will be made in response to monthly billings by contractor's firm. The Council has budgeted a total amount of \$30,000 for this contract, which will run from the date of Council approval through the remainder of the fiscal year. Should the legislative session extend beyond June 30, 1985, the contract will need to be extended and budgetary provisions made based on current

*changed  
\$735 / ~~1000~~ Sept. 1*

projections.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution  
No. 84-501.

DL/PF/mcp  
09/11/84

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AS REVISED  
9-13-84

FOR THE PURPOSE OF APPROVING A ) RESOLUTION NO. 84-501  
CONTRACT TO OBTAIN THE SERVICES )  
OF A GOVERNMENTAL RELATIONS ) Introduced by Councilor  
REPRESENTATIVE ) Corky Kirkpatrick

WHEREAS, Several issues critical to the interests of the Metropolitan Service District (Metro) will require the attention of the 1985 Oregon Legislature; and

WHEREAS, There is no one currently on staff who possesses the desired recent governmental relations experience; and

WHEREAS, The Metro Council determined, during the normal budget process, that it did not wish to divert local government staff to full-time legislative duties in Salem; and

WHEREAS, Metro staff prepared and conducted a thorough selection process in order to identify the most qualified legislative representative; now, therefore,

BE IT RESOLVED,

That the Metro Council approves Contract No. 84-9-708, subject to review and possible clarification of scope of work by the Council Management Committee not later than September 20, 1984.

ADOPTED by the Council of the Metropolitan Service District this 13th day of September, 1984.

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



PERSONAL SERVICES AGREEMENT

THIS AGREEMENT dated this \_\_\_\_\_ day of September, 1984, is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, hereinafter referred to as "METRO," whose address is 527 S. W. Hall Street, Portland, Oregon 97201, and Martin & Associates, hereinafter referred to as "CONTRACTOR," whose address is P.O. Box 588, Lake Oswego, Ore. 97034, for the period of September 13, 1984, through June 30, 1985, and for any extensions thereafter pursuant to written agreement of both parties.

W I T N E S S E T H :

WHEREAS, This Agreement is exclusively for Personal Services;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

CONTRACTOR AGREES:

1. To perform the services and deliver to METRO the materials described in the Scope of Work attached hereto;
2. To provide all services and materials in a competent and professional manner in accordance with the Scope of Work;
3. To comply with all applicable provisions of ORS Chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, as if such provisions were a part of this Agreement;
4. To maintain records relating to the Scope of Work on a generally recognized accounting basis and to make said records available to METRO at mutually convenient times;

5. To indemnify and hold METRO, its agents and employees harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, with any patent infringement arising out of the use of CONTRACTOR'S designs or other materials by METRO and for any claims or disputes involving subcontractors; and

6. To comply with any other "Contract Provisions" attached hereto as so labeled.

METRO AGREES:

1. To pay CONTRACTOR for services performed and materials delivered in the maximum sum of \$30,000 and in the manner and at the time designated in the Scope of Work; and

2. To provide full information regarding its requirements for the Scope of Work.

BOTH PARTIES AGREE:

1. That METRO may terminate this Agreement upon giving CONTRACTOR five (5) days written notice without waiving any claims or remedies it may have against CONTRACTOR;

2. That, in the event of termination, METRO shall pay CONTRACTOR for services performed and materials delivered prior to the date of termination; but shall not be liable for indirect or consequential damages;

3. That, in the event of any litigation concerning this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to an appellate court;

4. That this Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any condition, be assigned or transferred by either party;

5. That this Agreement may be amended only by the written agreement of both parties; and

6. That CONTRACTOR is an independent contractor and assumes sole responsibility for the performance of its services and assumes full responsibility for all liability for bodily injuries or physical damage to person or property arising out of or related to this Agreement.

CONTRACTOR

METROPOLITAN SERVICE DISTRICT

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

:gl  
3365/40

## SCOPE OF WORK

The contractor will be expected to:

- Participate with the Metro Executive Officer, Council and staff in formulating the package;
- Establish pre-session liaison with Legislators and other individuals and groups which are active in the legislative arena; maintain presence in Salem during the session;
- Assist Metro in formulating strategies for achieving its anticipated policy goals as well as identifying issues emerging during the session which may impact Metro and formulating appropriate strategies in response to those issues.
- Determine the information needs of Legislators; present oral testimony and written information to Legislators and otherwise actively pursue the successful achievement of Metro's policy goals before the Legislature;
- Notify Metro staff of all meetings scheduled on Metro issues and identify those meetings which Metro staff should attend in addition to, or in lieu of, the contractor; work with the Metro staff to arrange expert testimony on relevant issues and other support functions;
- Periodically attend Council meetings to provide status reports to the Executive Officer and Council; and
- Prepare a final report to the Executive Officer and Council which analyzes the results of the 1985 session and makes recommendations for subsequent governmental relations activities.

In accordance with requirements specified in the contractor's Statement of Qualifications, Metro will pay to the contractor's firm \$ 735 for September 1984; \$2,000 per month for services rendered during the remainder of 1984; \$3,000 per month for services during the 1985 legislative session. Payment will be made in response to monthly billings by contractor's firm.



# Agenda

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

Date: September 13, 1984

Day: Thursday

Time: 5:30 p.m.

Place: COUNCIL CHAMBER

## CONSENT AGENDA

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

6.1 Minutes of the meetings of August 9 and 23, 1984

6.2 Intergovernmental Project Review Report

\_\_\_\_\_  
Rick Gustafson, Executive Officer

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

August 9, 1984

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

Councilors Absent: Councilors Kafoury, Oleson and Waker

Also Present: Rick Gustafson, Executive Officer

Staff Present: Don Carlson, Dan LaGrande, Dan Durig, Norm Wietting, Doug Drennen, Ed Stuhr, Ray Barker, Mary Jane Aman and Toby Janus

An Executive Session of the Council was called to order by Presiding Officer Kirkpatrick at 5:30 p.m. under the authority of ORS 192.660(1)(f) for informational purposes only. Present were Councilors Banzer, Bonner, Cooper, Deines, Hansen, Kelley, Van Bergen, Williamson and Kirkpatrick. A 15-minute recess was called at 7:15 p.m.

A regular meeting of the Council was called to order at 7:30 p.m. by Presiding Officer Kirkpatrick.

### 1. INTRODUCTIONS

Presiding Officer Kirkpatrick introduced Marie Nelson, the new Clerk of the Council.

### 2. COUNCILOR COMMUNICATIONS

Presiding Officer Kirkpatrick said she had received a letter of resignation from Dave Smith, member of Metro's Audit/Investment Committee and asked Councilors to submit names of qualified, potential candidates to fill the vacancy. Councilor Van Bergen thought Mr. Smith should be urged not to resign because of the excellent advice and services Mr. Smith has provided. Don Carlson said he would talk to Mr. Smith about continuing on the Committee.

Councilor Deines reported he and Norm Weitting are planning to attend the Government Refuse Collection and Disposal national conference in Orlando. He said the topic of resource recovery will be emphasized at the conference and he will report back to the Council upon his return.

3. EXECUTIVE OFFICER COMMUNICATIONS

Mr. Gustafson announced the Friends of the Zoo are hosting a Texas style going away event for Warren Iliff, Zoo Director, on Monday, August 20, 1984. Councilors are invited to attend.

Mr. Gustafson reported several key Zoo staff will be attending the annual American Association of Zoological Parks and Aquariums (AAZPA) conference in Miami this September. As outlined in a memo included in the agenda materials, staff are proposing to campaign in Miami for Metro's Washington Park Zoo to host the 1987 AAZPA conference. Warren Iliff explained that because 1987 is the Zoo's centennial, hosting the conference would tie in with other centennial activities and would enhance the Zoo's position in the region as an institution highly regarded by other zoo professionals. Mr. Gustafson said all conferences for the last twelve years have been financially successful. Registration fees have covered conference costs. He then asked for the Council's endorsement of this effort. Presiding Officer Kirkpatrick instructed staff to proceed with plans for bidding to host the 1987 AAZPA conference in Portland.

Mr. Iliff thanked the Council for their friendship and support during his Zoo directorship. Presiding Officer Kirkpatrick wished Mr. Iliff every success in Dallas and said he would be missed in Portland.

Mr. Gustafson said a request for proposals had been sent out to prospective consultants to assist in selecting a new Zoo Director. Proposals are due August 17, 1984. When a consultant is selected, the Council will be presented with proposed hiring selection procedures and schedules for final review, he said. Mr. Gustafson reported he would appoint McKay Rich, current Assistant Zoo Director, as Acting Zoo Director until someone is hired.

Finally, Mr. Gustafson urged Councilors to take a more active role in the National Association of Regional Councils (NARC). He explained that Metro is recognized as a national leader in the regional government movement and that he will be taking the lead in formalizing the relationship of the larger councils of government so that Metro can better share and coordinate information between those organizations with similar backgrounds and experience.

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

6. ORDINANCES

6.1 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 2.04.015 (Second Reading)

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. 84-176, made by Councilors Kelley and Van Bergen on July 26, 1984, resulted in:

Ayes: Councilors Bonner, Cooper, Kelley, Van Bergen and Kirkpatrick

Nays: Councilors Hansen and Williamson

Abstentions: Councilors Banzer and Deines

Absent: Councilors Kafoury, Oleson and Waker

The motion to adopt Ordinance No. 84-176 failed.

Later in the meeting; a motion was made to reconsider Ordinance No. 84-176.

Motion: Councilor Williamson moved to reconsider the original motion to adopt Ordinance No. 84-176. Councilor Bonner seconded the motion.

Vote: The vote on the motion to reconsider the original motion to adopt Ordinance No. 84-176 resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kelley, Van Bergen, Williamson and Kirkpatrick

Absent: Councilors Banzer, Kafoury, Oleson and Waker

The motion carried.

Vote: The vote on the original motion resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Kelley, Van Bergen, Williamson and Kirkpatrick

Nay: Councilor Hansen

Absent: Councilors Banzer, Kafoury, Oleson and Waker

The original motion carried and Ordinance No. 84-176 was adopted.



6.2 Consideration of Ordinance No. 84-177, for the purpose of amending Ordinance No. 84-172, transferring appropriations from General Fund Contingency to the Finance and Administration Department (First Reading)

The Ordinance was read a first time by title only.

Motion: Councilor Williamson moved adoption of Ordinance No. 84-177. Councilor Kelley seconded the motion.

Presiding Officer Kirkpatrick announced the second reading of the Ordinance will take place at the Council meeting of August 23, 1984.

7. RESOLUTIONS

7.1 Consideration of Resolution No. 84-482, for the purpose of creating the Council Management Committee, rescinding Resolution No. 80-128 (creating the Council Planning Committee, the Council Service Delivery Committee, and the Coordinating Committee) and Resolution No. 82-378 (creating the Investment Committee)

Motion: Councilor Bonner moved that Resolution No. 84-482 be adopted. Councilor Hansen seconded the motion.

Vote: The vote on the motion resulted in:

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

Nay: Councilor Deines

Absent: Councilors Banzer, Kafoury, Oleson and Waker

The motion carried and Resolution No. 84-482 was adopted.

7.2 Consideration of Resolution No. 84-483, for the purpose of adopting Solid Waste Disposal Rate Policies

Dan Durig summarized the staff report as prepared in the agenda.

Motion: Councilor Williamson moved to adopt Resolution No. 84-483. Councilor Bonner seconded the motion.

Councilor Deines asked if any committees had reviewed the proposed Resolution. Mr. Drennen replied that SWPAC and the Solid Waste Rate Review committees had reviewed the Resolution and had passed it on to the Council with no comment.

Councilor Deines requested staff revise Item 5 of the proposed Resolution to show that the convenience charge reflects the actual value of the convenience of transferring solid waste to the Clackamas Transfer and Recycling Center. Mr. Durig said his staff would work with Councilor Deines to make the appropriate changes.

Councilor Kelley asked that staff add an Item 7 to the proposed Resolution to provide for annual review of disposal rates at the beginning of each fiscal year. Mr. Durig said staff would add this provision. Councilor Hansen agreed with Councilor Kelley's proposal and called for SWPAC and the Rate Review Committee to carefully review these rates and to consider Metro's regional waste disposal objectives when doing so.

Motion: Councilor Williamson moved to amend his original motion and to consider adoption of Resolution No. 84-483 after staff prepares an amended Resolution as instructed by the Council. Councilor Bonner seconded the motion.

Vote: The vote on the motion to postpone consideration of the Resolution resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kelley, Van Bergen, Williamson and Kirkpatrick

Absent: Councilors Banzer, Kafoury, Oleson and Waker

The motion carried.

7.3 Consideration of Resolution No. 84-484, for the purpose of changing the designation of Registered Agent for receipt of legal service

Motion: Councilor Deines moved that Resolution No. 84-484 be adopted. Councilor Cooper seconded the motion.

Councilor Van Bergen requested staff investigate whether a second registered agent could be appointed to serve as an alternate in case the other agent were absent. Mr. Carlson said he would research the matter and would bring back a second resolution for Council consideration if the law allowed for more than one agent.

Vote: The vote on the motion to adopt the Resolution resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kelley, Van Bergen, Williamson and Kirkpatrick

Absent: Councilors Banzer, Kafoury, Oleson and Waker

The motion carried and Resolution No. 84-484 was adopted.

8. COMMITTEE REPORTS

None.

9. OTHER

Presiding Officer Kirkpatrick called the Council's attention to a memo from herself to each Councilor, dated August 7, 1984, outlining new Council committee appointments she was requesting the Council ratify.

Motion: Council Van Bergen moved the approval of Presiding Officer Kirkpatrick's recommended Council committee appointments as outlined in her memo dated August 7, 1984. Councilor Deines seconded the motion.

Vote: The vote on the motion to approve the Council committee appointments resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kelley, Van Bergen, Williamson and Kirkpatrick

Absent: Councilors Banzer, Kafoury, Oleson and Waker

The motion carried and the Council approved the following committee appointments:

Management Committee: Ernie Bonner, Chairperson; Sharron Kelley, Vice-Chairperson; Bob Oleson; Gary Hensen; and Jack Deines.

JPACT: Charlie Williamson, Chairperson; Dick Waker; George Van Bergen; Corky Kirkpatrick, alternate.

Bi-State Policy Advisory Committee: Larry Cooper; Corky Kirkpatrick, alternate.

Friends of the Zoo/Zoo Liaison: Marge Kafoury, Corky Kirkpatrick, alternate.

Presiding Officer Kirkpatrick also announced the annual Friends of the Zoo Penguin Ball would be held on September 29, 1984. She said Warren and Ghislaine Iliff would be returning to Portland for the event and she asked Councilors to try to attend. The Friends of the Zoo hope to raise \$7,500 from the ball, she said.

Presiding Officer Kirkpatrick announced that a fund raising event has been scheduled for October 2, 1984, to raise \$1,000 to offset the Zoo campaign fund deficit. Any funds raised over the \$1,000 would be donated to the Bud Clark campaign fund, she said.

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

Respectfully submitted,



A. Marie Nelson  
Clerk of the Council

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

August 23, 1984

Councilors Present: Councilors Banzer, Bonner, Cooper, Hansen, Kelley, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick

Councilors Absent: Councilors Deines and Kafoury

Also Present: Executive Officer Rick Gustafson

Staff Present: Don Carlson, Eleanore Baxendale, Dan Durig, McKay Rich, Warren Iliff, Bob Porter, Ed Stuhrr, Mary Jane Aman, Doug Drennen, Sonnie Russill, Andy Cotugno, Dennis Mulvihill, Phil Fell, Art Andrews, Dick Karnuth and Jennifer Sims

A regular meeting of the Council was called to order by Presiding Officer Kirkpatrick at 5:30 p.m.

1. INTRODUCTIONS

None.

2. COUNCILOR COMMUNICATIONS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Executive Officer Gustafson and the Council presented a series of photographs to Warren and Ghislaine Iliff depicting the major capital construction achievements while Mr. Iliff served as Zoo Director. Presiding Officer Kirkpatrick thanked Mr. Iliff for his outstanding work and said he would be missed in Portland.

The Executive Officer announced he had signed a \$14,000 contract to allow for major repairs to the Zoo's diesel train engine. He said Legal Counsel had determined this contract was exempt from Council approval because of the emergency nature of the work. Much revenue would have been lost if the contract were delayed, he said.

Executive Officer Gustafson reported staff had received proposals from prospective consultants to assist in the search for a new Zoo Director. He expected to select a consulting firm by August 24, 1984.

The Executive Officer also reported that requests for proposals had been prepared, with Councilor Van Bergen's assistance, and sent out to prospective exclusive agents to explore the options for Metro office space. Completed proposals are due back August 31, 1984, he said, and Metro's current lease will expire in two years.

The Executive Officer said meetings with citizen groups about Metro's funding options have been going very well. When the meetings are complete, he will consider all comments received and will prepare recommendations for a legislative program on Metro financing for the Council's review. This would be presented at the September 13, 1984, Council meeting, he said. He reported the program would contain four key elements: 1) renewal of dues from local governments; 2) a proposal to seek state-shared revenues through the cigarette tax; 3) authorization to assess fees for services provided by Metro for general government purposes; and 4) removing or replacing the tax base requirement with a simple vote requirement for Metro-provided services. The Council will be asked to adopt the plan on September 25 so that the Legislative Interim Committee will have a formal Metro position for their deliberations on September 28, 1984.

Executive Officer Gustafson announced Metro had been served with a law suit from Krypton Industries, a subcontractor on the Zoo's Alaskan Tundra Project. Eleanore Baxendale said Krypton had also filed suit against the project's general contractor and the bonding company, alleging they had not been paid for the work they had actually performed and for the work they had expected to perform under their original subcontract. Ms. Baxendale explained their claim against Metro was not based on a breach of contract terms but rather, on the assumption that Metro has already received the benefit of the work they performed. Krypton is seeking about \$105,000, she said.

The Executive Officer said some Councilors might receive calls from various labor representatives as a result of a second meeting between labor and management about the Zoo union contract. He requested Councilors refer inquiries to Don Carlson, Metro's chief negotiator.

Finally, Executive Officer Gustafson introduced Resolution No. 84-494, for the purpose of naming the Zoo's Sculpture Garden in honor of Warren Iliff. He said the Zoo staff had originated this idea and they would like to make a presentation to Mr. Iliff at their party for him the next evening. He requested the Council adopt the resolution. Presiding Officer Kirkpatrick said Mr. Iliff would be returning to Portland late in September for a ceremony officially naming the Garden in his honor.

Motion: Councilor Kelley moved for adoption of Resolution No. 84-494. Councilor Waker seconded the motion.

Vote: The vote on the motion resulted in:

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

Absent: Councilors Banzer, Deines, Kafoury and Oleson

The motion carried and the Resolution was adopted.

6. CONSENT AGENDA

Presiding Officer Kirkpatrick said consideration of contracts for workers' compensation and employee health benefits were being removed from the consent agenda for discussion later in the meeting. She asked for a motion to approve the remaining consent agenda.

Motion: Councilor Waker moved to approve the consent agenda, excluding item 6.2. Councilor Bonner seconded the motion.

Vote: The vote on the motion resulted in:

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

Absent: Councilors Banzer, Deines, Kafoury and Oleson

The motion carried and the consent agenda, excluding item 6.2, was approved.

6.2 Consideration of contracts for worker's compensation and employee health benefits

Jennifer Sims introduced Resolution No. 84-495, for the purpose of exempting certain employer benefit insurance policies from competitive bidding. Also before the Council was the issue of approving three employee benefit contracts with Great West Insurance, Kaiser and the SAIF Corporation. She explained when these contract documents were being prepared, they were exempt from competitive bidding under the old contract rules. However, when revisions to the contract rules were adopted per Ordinance No. 84-175, exemptions for insurance contracts from public bidding were more narrowly defined and excluded the contracts now before the Council.

Motion: Councilor Waker moved to adopt Resolution No. 84-495, exempting certain employee benefit insurance policies from competitive bidding. Councilor Bonner seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Bonner, Cooper, Hansen, Kelley, Waker, Williamson and Kirkpatrick

Nay: Councilor Van Bergen

Absent: Councilors Banzer, Deines, Kafoury and Oleson

The motion carried and Resolution No. 84-495 was adopted.

Motion: Councilor Waker moved to approve the contracts for workers' compensation and employee health insurance benefits. Councilor Williamson seconded the motion.

Vote: The vote on the motion resulted in:

Ayes: Councilors Bonner, Cooper, Hansen, Kelley, Waker, Williamson and Kirkpatrick

Nay: Councilor Van Bergen

Absent: Councilors Banzer, Deines, Kafoury and Oleson

The motion carried and the three contracts were approved.

## 7. ORDINANCES

### 7.1 Consideration of Ordinance No. 84-177, for the purpose of amending Ordinance No. 84-172, transferring appropriations from General Fund Contingency to the Finance and Administration Department (Second Reading)

The Clerk read the Ordinance by title only. There was no public testimony.

Vote: The vote on the motion to adopt Ordinance No. 84-177, made by Councilors Williamson and Kelley on August 9, 1984, resulted in:

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

Absent: Councilors Banzer, Deines, Kafoury and Oleson

The motion carried and Ordinance No. 84-177 was adopted.

## 8. RESOLUTIONS

### 8.1 Consideration of Resolution No. 84-483, for the purpose of adopting Solid Waste Disposal Rate Policies

Dan Durig circulated material which summarized staff's methods for determining regional disposal rates and he explained this material to the Council. Mr. Durig also said the amendment to the Resolution, as proposed by Councilors Hansen and Kelley on August 9, 1984, was a good idea because disposal rate policies will continue to change and they should be evaluated annually.

Motion: Councilor Kelley moved for adoption of Resolution No. 84-483. Councilor Hansen seconded the motion.

Presiding Officer Kirkpatrick explained the Resolution before the Council included amendments proposed by both Councilors Deines (changing the language of item 5) and Kelley (adding an item 7) at the August 9, 1984, Council Meeting.



Presiding Officer Kirkpatrick reconvened the Regular Meeting of the Council at 7:50 p.m.

8.4 Consideration of Resolution No. 84-489, for the purpose of recommending a continuance of Happy Valley's request for acknowledgement of compliance with LCDC goals

Ms. Jill Hinckley outlined the basis for the request for a continuance and Metro's role in resolving the impasse between the City of Happy Valley and LCDC. The City and the Department of Land Conservation and Development have agreed to negotiate resolution of the impasse on housing density with the assistance of Metro, she said. The agreement outlining the work program was circulated to the Council.

Councilor Oleson said he was not opposed to Metro's role but wants assurances that other interest groups will be involved. Ms. Hinckley assured the Council that all interested parties will be given the opportunity to review the plan.

Mr. Robert Price of David Evans & Associates, 2626 S.W. Corbett, Portland, planning consultant for the City of Happy Valley, said the staff report prepared by Metro raised a couple of new issues. His staff is working to resolve those issues and he was confident they would be resolved to everyone's satisfaction.

Mr. Jim Carskadon, City Attorney for Happy Valley, said the City agreed with how Metro has addressed Goal 10. He also thought Metro intervention would be helpful, especially in meeting with all the interested parties. He thought the Council should continue to urge Metro staff to work with the Department and the City on this issue.

Ms. Diane Quick, Happy Valley City Council member, complimented Ms. Hinckley on the good assistance she had provided the City and read a letter to Ms. Hinckley from Mayor Jim Robnett regarding the City's willingness to work with Metro and DLCD in resolving the issue of Goal 10.

Mr. Terry Morgan, 16325 S.W. Boones Ferry Road, Lake Oswego, who represents four Happy Valley land owners who object to the plan, wanted a clear direction from the Council to Metro staff that objectors will have input in resolving the issue.

Presiding Officer Kirkpatrick said Mr. Morgan and Councilor Oleson shared the same concern and she gave her assurances that all parties would have an opportunity to participate.

Mr. Charles Hales, 15555 S.W. Bangy Road, Lake Oswego, of the Homebuilders Association, said there was a good possibility of a breakthrough in resolving the plan and he thought Metro should take the role of facilitator in this effort. He also thought everyone should be allowed to participate.

Motion: Councilor Kelley moved adoption of Resolution No. 84-489. Councilor Van Bergen seconded the motion.

Motion: Councilor Bonner moved to amend the main motion by modifying Section 2 of the Resolution to relate specifically to Goal 10. Councilor Hansen seconded the motion.

Councilor Van Bergen asked whether the Agreement should be part of the Resolution. Ms. Hinckley responded that the Agreement was a first step regarding staff's involvement and would not require Council action.

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

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

Nays: Councilors Van Bergen and Williamson

Absent: Councilors Deines and Kafoury

The motion to amend the main motion carried.

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

Ayes: Councilors Banzer, Bonner, Cooper, Hansen, Kelley, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick

Absent: Councilors Deines and Kafoury

The motion carried and Resolution No. 84-489 was adopted as amended.

8.5 Consideration of Resolution No. 84-492, for the purpose of adopting the goals and objectives of the Affirmative Action Plan as the approved goals for fiscal year 1984-85

Ms. Jennifer Sims presented background information about Metro's affirmative action goals for women and minorities. She explained the 1983-84 goal to achieve parity for women was 58% and Metro attained 47%. Parity was achieved for minorities by exceeding the goal .4%, she said. She referred the Council to Exhibit "A" of the Resolution, explaining this year's goals have a different data base and job categories.

Motion: Councilor Hansen moved Resolution No. 84-493 be adopted. Councilor Kelley seconded the motion.

Councilor Waker thought the proposed Resolution might result in reverse discrimination if women and minorities were hired in excess of the goals. He also thought the Resolution should more clearly define that Metro had a goal of achieving parity with the regional workforce. He suggested the word "regional" be inserted between

"with" and "workforce" at the bottom of the second page of Exhibit "A" of the proposed Resolution. Councilors Hansen and Kelley agreed to incorporate these amendments into their motion, there being no objection from other Councilors.

Vote: The vote on the motion to adopt the Resolution, as amended, resulted in:

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

Absent: Councilors Deines, Kafoury and Oleson

The motion carried and Resolution No. 84-492 was adopted as amended.

8.6 Consideration of Resolution No. 84-493, for the purpose of adding E. Andrew Jordan to the approved list of hearings officers

Motion: Councilor moved for adoption of Resolution No. 84-493. Councilor Kelley seconded the motion.

Councilor Williamson inquired how cases for assigned to the different hearings officers. Ms. Eleanore Baxendale responded that key staff assigned cases to officers that had appropriate backgrounds to hear those cases. Although different types of cases are heard, most deal with the subject of land use, she said.

Councilor Van Bergen said if staff were involved in selecting officers to hear cases, they should not be in the position of recommending who is appointed. He did not think other agencies operated this way.

Councilor Williamson suggested that names of qualified officers could be placed on a list and as cases arise, officers would be assigned in the same order they are listed. Councilor Van Bergen thought this was only a partial solution to the problem.

Ms. Baxendale said she would consider these concerns, research the matter and report back to the Council about the process of selecting hearings officers for cases.

Vote: A vote on the motion to adopt the Resolution resulted in:

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

Absent: Councilors Deines, Kafoury and Oleson

The motion carried and the Resolution was adopted.

Council Meeting  
August 23, 1984  
Page 12

EXECUTIVE SESSION

Presiding Officer Kirkpatrick called the meeting into Executive Session at 9:00 p.m. under the authority of ORS 192.660(1)(h). Councilors present were Hansen, Waker, Kirkpatrick, Bonner, Kelley, Van Bergen and Williamson.

There being no further business, Presiding Officer Kirkpatrick adjourned the meeting at 9:30 p.m.

Respectfully submitted,



A. Marie Nelson  
Clerk of the Council



# 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: September 13, 1984  
To: Metro Council  
From: Rick Gustafson, Executive Officer  
Regarding: Intergovernmental Project Review Report

The following is a summary of staff responses regarding grant applications for federal assistance.

1. Project Title: Community Employment #842-13  
Applicant: State of Oregon Senior Services Division  
Project Summary: Funds will be used to provide subsidized part-time opportunities in community employment for low-income persons aged 55 and over. Projects are located in 18 Oregon counties. The average wage for part-time employment will be \$3.70 per hour.  
Federal Funds Requested: \$902,865.00 Dept. of Labor - Employment and Training Administration  
Staff Response: Favorable action.
2. Project Title: Eagle Creek Bridge #842-16  
Applicant: Oregon Department of Transportation (ODOT)  
Project Summary: Funds will be used to replace a deteriorating steel pony truss bridge with a new structure over Eagle Creek in Clackamas County near Dowty Road.  
Federal Funds Requested: \$240,000.00 Dept. of Transportation - Federal Highway Administration (FHWA)  
Staff Response: Favorable action.
3. Project Title: Displaced Homemakers #843-2  
Applicant: Clackamas County Women's Center  
Project Summary: Funds will be used to assist 80 women in Clackamas County who have been primarily homemakers in obtaining career counseling, education and job training.  
Federal Funds Requested: \$24,243.00 Dept. of Education  
Staff Response: Favorable action.
4. Project Title: Nyberg Interchange #843-3  
Applicant: ODOT  
Project Summary: Funds will be used to reconstruct ramps to improve traffic movement and safety at Nyberg Interchange on I-5 in Tualatin.  
Federal Funds Requested: \$900,200.00 FHWA  
Staff Response: Favorable action.

5. Project Title: Mt. Hood Highway #843-4  
Applicant: ODOT  
Project Summary: Funds will be used to make safety improvements on U.S. 26 in Gresham. Improvements include: closing Orient Drive at U.S. 26; realigning Kane Road and Orient Drive; and installing traffic signals.  
Federal Funds Requested: \$406,760.00 FHWA  
Staff Response: Favorable action.
  
6. Project Title: Traffic Engineering Course #843-5  
Applicant: Tri-Met  
Project Summary: Funds will be used to cover the cost of a training course for traffic engineers.  
Federal Funds Requested: \$2,086.00 Dept. of Transportation - Urban Mass Transit Administration (UMTA)  
Staff Response: Favorable action.
  
7. Project Title: Jenne Road #843-6  
Applicant: ODOT  
Project Summary: Funds will be used to make safety improvements on S. E. Jenne Road in Multnomah County. Improvements include: widening roadway to improve sight distances; improving road alignment; flattening slopes; and removing roadside hazards.  
Federal Funds Requested: \$189,000.00 FHWA  
Staff Response: Favorable action.
  
8. Project Title: Economic Development Planning #844-1  
Applicant: Portland Development Commission  
Project Summary: This project will provide economic development planning assistance to industrial districts within the City of Portland. The work program covers two major areas: Columbia Corridor and industrial districts. The Columbia Corridor work program includes coordination and integration of economic development planning activities; identification of current land use patterns; identification of potential industrial sites; and development of a master plan. Industrial district work items include support for general planning efforts as well as a comprehensive revitalization study of the central east side.  
Federal Funds Requested: \$50,000.00 Economic Development Administration  
Staff Response: Favorable action.
  
9. Project Title: Multi-Care Project #844-2  
Applicant: Multnomah County Department of Human Services  
Project Summary: Funds will provide primary medical and dental care services for one year to low-income residents in north, northeast and Burnside areas of Portland. It is estimated that 70,000 persons will use the services.  
Federal Funds Requested: \$2,746,751.00 Dept. of Health and Human Services (HHS)  
Staff Response: Favorable action.

10. Project Title: Head Start #844-3  
Applicant: Washington County Community Action Agency  
Project Summary: Funds will be used to provide comprehensive pre-school services to 144 low-income families in Washington County. Services include education, health and nutrition, and mental health delivery to four and five year old children.  
Federal Funds Requested: \$373,246.00 HHS  
Staff Response: Favorable action.
  
11. Project Title: Small City and Rural Transit Assistance #844-6  
Applicant: State of Oregon Public Transit Division  
Project Summary: Funds will be used for operating subsidies and administration/planning by Tri-Met to provide transit service to rural Clackamas and Washington counties.  
Federal Funds Requested: \$70,450.00 UMTA  
Staff Response: Favorable action.
  
12. Project Title: I-84 Weigh Station #844-7  
Applicant: ODOT  
Project Summary: Funds will be used to construct weigh stations and offices in three locations on I-84: East Troutdale, East Hood River and Chenowith Creek near The Dalles.  
Federal Funds Requested: \$1,564,000.00 FHWA  
Staff Response: Favorable action.
  
13. Project Title: Runaway Youth Project #844-8  
Applicant: Janis Youth Programs, Inc.  
Project Summary: Funding for a 24-hour crisis counselling and temporary shelter program for runaway youth in the Portland metropolitan area. About 1,200 youths will use the services.  
Federal Funds Requested: \$86,117.00 Office of Children, Youth and Families  
Staff Response: Favorable action.
  
14. Project Title: Emergency Public Information #844-9  
Applicant: City of Portland, Office of Emergency Management  
Project Summary: Development of a handbook and community education program to provide emergency communication, information and instructions to non-English speaking persons in the metropolitan area.  
Federal Funds Requested: \$10,000.00 Federal Emergency Management Agency  
Staff Response: Favorable action.
  
15. Project Title: Senior Volunteers #844-10  
Applicant: Volunteer Bureau of Greater Portland  
Project Summary: Funding for the Retired Senior Volunteer Program (RSVP) in Multnomah County. RSVP places 525

volunteers providing over 100,000 volunteer service hours a year in various community and public agencies.

Federal Funds Requested: \$49,792.00 ACTION

Staff Response: Favorable action.

16. Project Title: Foster Grandparents Program #844-11  
Applicant: Metropolitan Family Service  
Project Summary: The Foster Grandparents Program provides meaningful part-time volunteer opportunities for low-income seniors to render services to children with special needs in health, education, welfare and related settings. Approximately 525 persons will be placed as volunteers in the program.  
Federal Funds Requested: \$208,436.00 ACTION  
Staff Response: Favorable action.
17. Project Title: Senior Companion Program #845-1  
Applicant: Clackamas County Senior Citizens Council, Inc.  
Project Summary: Recruit, train, and place 15 low-income senior volunteers to serve in one-to-one supportive relationships with older persons at risk of institutionalization. Develop and maintain relationships with agencies providing outreach and case management to seniors. Funds will reimburse volunteers for mileage, meals and provide a stipend of \$2 per hour.  
Federal Funds Requested: \$45,625.00 ACTION  
Staff Response: Favorable action.
18. Project Title: Retired Senior Volunteer Program (RSVP) #845-2  
Applicant: Clackamas County Senior Citizens Council, Inc.  
Project Summary: Recruit, place and support 600 retired senior adults as volunteers in non-profit agencies throughout Clackamas County. This program has been established for 10 years. Funds will reimburse volunteers for mileage and meals.  
Federal Funds Requested: \$37,751.00 ACTION  
Staff Response: Favorable action.
19. Project Title: Washington County Annual Aging Plan #845-4  
Applicant: Washington County Area Agency on Aging  
Project Summary: Funding of aging services in Washington County for one year. Services include congregate meals, meals on wheels, medical and dental care, in-home services, transportation and program administration. Approximately 19,600 persons benefit from these services annually.  
Federal Funds Requested: \$615,112.00 HHS  
Staff Response: Favorable action.
20. Project Title: Home Health Care #845-5  
Applicant: Washington County Home Health Care Association  
Project Summary: Funds will be used to train and certify 30 home health care aides; and maintain a standardized



training program state-wide.  
Federal Funds Requested: \$21,244.00 HHS  
Staff Response: Favorable action.

21. Project Title: Managerial Training #845-6  
Applicant: Tri-Met  
Project Summary: Funding for managerial training for staff.  
Federal Funds Requested: \$1,714.00 UMTA  
Staff Response: Favorable action.
22. Project Title: Multnomah/Washington Job Training #845-8  
Applicant: Multnomah/Washington Private Industry Council  
Project Summary: Job training plan for Multnomah and Washington counties for FY 1984-86. Topic areas include economic survey analysis, outreach and recruitment, business liaison, job training, job placement and program evaluation.  
Federal Funds Requested: NA  
Staff Response: Favorable action.
23. Project Title: Head Start #845-9  
Applicant: Albina Ministerial Alliance  
Project Summary: Funds will be used to provide comprehensive pre-school services to 200 low-income families in north, northeast and southeast Portland. Services include education, health, nutrition and mental health delivery to four and five year old children.  
Federal Funds Requested: \$666,903.00 HHS  
Staff Response: Favorable action.
24. Project Title: Farmington Highway #845-10  
Applicant: ODOT  
Project Summary: Funds will be used to improve curve alignment for safety on Farmington Road near Rood Bridge in Washington County.  
Federal Funds Requested: \$94,500.00 FHWA  
Staff Response: Favorable action.
25. Project Title: Parent/Child Services #845-11  
Applicant: Parents/Child Services, Inc.  
Project Summary: Funding will provide a range of comprehensive services in the areas of health, nutrition, social services, education and home visits to 115 low-income families in Portland.  
Federal Funds Requested: \$352,452.00 HHS  
Staff Response: Favorable action.
26. Project Title: Retail Management Training #845-12  
Applicant: Urban Indian Council, Inc.  
Project Summary: A CPA firm will be hired to review and make recommendations for the financial and bookkeeping systems of the Urban Indian Council's gift store in Portland.  
Federal Funds Requested: \$8,304.00 Administration for Native Americans  
Staff Response: Favorable action.

27. Project Title: Clackamas County Community Development #845-7  
Applicant: Clackamas County Community Development Division  
Project Summary: Funding for community development projects throughout the county including street and sidewalk improvements, housing rehabilitation and park improvements.  
Federal Funds Requested: \$1,962,000.00 Dept. of Housing and Urban Development (HUD)  
Staff Response: Favorable action.
28. Project Title: Sherwood Municipal Well #846-2  
Applicant: Washington County Office of Community Development  
Project Summary: Funding for a new well and well house which will replace the 57-year old well which has been contaminated by fecal bacteria.  
Federal Funds Requested: \$155,940.00 HUD  
Staff Response: Favorable action.
29. Project Title: Clackamas County Job Training Plan #846-3  
Applicant: Clackamas County Department of Human Resources  
Project Summary: Job training plan for Clackamas County for FY 1984-86. Topic areas include economic survey analysis, outreach and recruitment, business liaison, job training, job placement and program evaluation.  
Federal Funds Requested: NA  
Staff Response: Favorable action.
30. Project Title: Healthways Program #846-4  
Applicant: American Red Cross  
Project Summary: Funding for a health information, promotion and training program, and fitness fairs in 10 high schools throughout the tri-county area. Twenty volunteers from each high school will be recruited to provide eight hours of service per month.  
Federal Funds Requested: \$20,477.00 ACTION  
Staff Response: Favorable action.
31. Project Title: Managerial Training #846-5  
Applicant: Tri-Met  
Project Summary: Funding for a micro-computer training course for Tri-Met staff.  
Federal Funds Requested: \$825.00 UMTA  
Staff Response: Favorable actin.
32. Project Title: Rental Housing #846-6  
Applicant: American Housing Corporation of Los Angeles, California  
Project Summary: Construction of a low- to moderate-income housing complex for families of 100 units and a community building containing laundry, offices, kitchen and common area. The mix of the units is: 36 one-bedroom units, 48 two-bedroom units, and 16

three-bedroom units. The terms of the loan are an effective interest rate of 1 percent and a 50-year mortgage. The project will be located on seven acres in Wilsonville.

Federal Funds Requested: \$4,275,000.00 Dept. of Agriculture - Rural Rental Housing Program  
Staff Response: Favorable action.

33. Project Title: Portland Community Development Block Grant #847-2  
Applicant: City of Portland, Bureau of Community Development  
Project Summary: Community development program for FY 1984-85. Activities include housing rehabilitation, street and traffic improvements, park and recreation improvements, revolving loan fund for businesses, home locks program, and youth summer employment program.  
Federal Funds Requested: \$9,090,000.00 HUD  
Staff Response: Favorable action.
34. Project Title: Gaston Public Improvements #847-3  
Applicant: Washington County Office of Community Development  
Project Summary: The city of Gaston proposes to use funds for storm drainage improvements, improving streets and sidewalks, and installing city park improvements.  
Federal Funds Requested: \$365,192.00 HUD  
Staff Response: Favorable action.
35. Project Title: Alaskan Natives #847-1  
Applicant: Al-Ind-Esk-A, Inc.  
Project Summary: Funding for economic development activities for Alaskan natives including technical assistance and training in seeking federal and state procurement contracts, maintenance of fiscal and accounting systems for Indian businesses, and recruitment and referral of Indians for educational and employment opportunities.  
Federal Funds Requested: \$295,384.00 HHS  
Staff Response: Favorable action.
36. Project Title: Canby Roadwork #847-5  
Applicant: ODOT  
Project Summary: Funding for restoration and rehabilitation of existing roadway and construction of missing sections of curb and sidewalks on Elm Street in Canby.  
Federal Funds Requested: \$132,000.00 FHWA  
Staff Response: Favorable action.
37. Project Title: Ibach Park #848-1  
Applicant: City of Tualatin  
Project Summary: Acquisition of 16 acres to create a city park in a fully developed residential area in south

Tualatin. The city plans to develop the park with tennis courts, athletic fields, restrooms, picnic shelter, parking and play equipment at a later date.  
Federal Funds Requested: \$49,500.00 National Park Service  
Staff Response: Favorable action.

38. Project Title: Clackamas County Water Projects #848-2  
Applicant: Clackamas County Community Development Division  
Project Summary: Community development projects in Clackamas County including water lines, pumping facilities and water storage tanks.  
Federal Funds Requested: \$98,000 HUD  
Staff Response: Favorable action.
39. Project Title: Project LUCK #844-5  
Applicant: Tri-County Youth Services Consortium  
Project Summary: This proposal requests support for the interagency case management team function of Project LUCK. The team which meets weekly allocates the resources of 16 community agencies and develops and monitors the individual treatment plans for youth receiving long-term assistance from the project to support their decision to leave street life and prostitution. Outcomes include assessment, consultation and services for 50 youth annually plus auxiliary services to 20 to 25 members of the youths' families.  
Federal Funds Requested: \$24,945.00 HHS  
Staff Response: Favorable action.

MCH/gl  
1859C/D4-2  
08/28/84

CONSIDERATION OF AN ORDINANCE AMENDING THE PUBLIC  
CONTRACT PROCEDURES FOR EMERGENCY CONTRACTS, CODE  
SECTIONS 2.04.011 AND 2.04.030

Date: August 31, 1984

Presented by: Eleanore S. Baxendale

FACTUAL BACKGROUND AND ANALYSIS

The new contracting procedures allow emergency contracts to be let without competitive bidding, as did the prior contract procedures. However, the new procedures make the award subject to a subsequent Council resolution declaring an emergency and also require this resolution before the contract can be signed. This means the contractor may be tentatively selected, but no work carried out until the next Council meeting, possibly two or three weeks later. This defeats the purpose of using the emergency provision and in effect takes emergencies out of the recognized exemption class of subsection b (such as contracts for Zoo animals or contracts under \$500) and makes it like a special exemption which requires special approval under subsection c.

There is no record of abuses of the emergency provision by Metro administration warranting this delay. There was no change in state statute requiring this procedure. The provision appears to derive from new state agency rules governing emergency contracts where the state acts as contract review board for a local government. In such circumstances the state board needs some control over the contracting of local governments. The control over the state's own agencies is much less restrictive; only written findings on the emergency by staff are required. Metro is its own contract review board, which is more analagous to the contract review board/agency situation. Therefore, a deviation from the model rules is appropriate so that emergency contracts can be implemented quickly.

To ensure the emergency process continues to be used appropriately, a definition of emergency is added, similar to Metro's former code definition and the state's definition, and written documentation of the emergency is required, reflecting staff's current practice and the state's procedures for its agencies.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption.

ESB/srb  
1924C/392-2  
09/04/84

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING THE PUBLIC )      ORDINANCE NO. 84-179  
CONTRACT PROCEDURES FOR EMERGENCY )  
CONTRACTS, CODE SECTIONS 2.04.011 )  
AND 2.04.030 )

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Code Section 2.04.011 is hereby amended to read:

2.04.011 Requirement of Competitive Bidding, Exemptions

(a) For purposes of this chapter, "public contract" shall mean any purchase, lease or sale by Metro of personal property, public improvement or services other than agreements which are for personal service.

(b) All public contracts shall be based on competitive bids except:

(1) Contracts with other public agencies or the federal government.

(2) Contracts made with qualified nonprofit agencies providing employment opportunities for the handicapped.

(3) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145.

(4) Contracts for supplies of less than \$2,500.

(5) Personal service contracts subject to ORS 279.051 and Code Section 2.04.035.

(6) Classes of public contracts which the Contract Review Board has found to be exempt without encouraging favoritism or substantially diminishing competition for public contracts and that such exemptions will result in substantial cost savings. These contracts include:

(a) Purchase and sale of Zoo animals.

(b) Purchase and sale of Zoo gift shop retail inventory and resale items.

(c) All contracts of less than \$10,000, not otherwise exempt, subject to the requirements of subsection (d) of this section.

(d) Contracts not to exceed \$25,000 for road, highway or parking lot maintenance provided that at least three (3) competitive quotes are obtained, if available, and a record of said quotes and efforts to obtain them are maintained.

(e) Emergency contracts [subject to subsection (f) of this section.] when there are written findings that an emergency exists and that the emergency consists of circumstances that could not have been reasonably foreseen and requires prompt execution of a contract to remedy that condition. An emergency contract must be awarded within sixty (60) days of the declaration of the emergency unless the Board grants an extension.

(f) Contracts for sale of surplus property subject to subsection [(g)] (e) of this section.

(c) Specific contracts, not within the classes exempted in subsection (6) above, may be exempted by the Board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5).

(d) Contracts exempted by subsection (6)(c) of this section may be awarded only subject to the following:

(1) The amount of the contract does not exceed \$10,000; and is for a single project; and is not a component of any other project.

(2) When the amount of the contract does not exceed \$500, the District should, where feasible, obtain competitive quotes.

(3) When the amount of the contract is more than \$500, but less than \$10,000, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(4) No contractor may be awarded in the aggregate, within the fiscal year, contracts in excess of \$30,000 without competitive bidding. In computing the aggregate under this subsection, awards under \$500 shall not be included.

[(e) Emergency contracts shall be awarded subject to a resolution of the Council declaring the emergency and reciting the conditions which require prompt contract execution. Any emergency contract shall be awarded within sixty (60) days following the declaration of the emergency unless the Board grants an extension.]

~~[(f)]~~ (e) Contracts for sale of surplus property may be executed without competitive bidding only when the Executive Officer determines in writing that the number, value and nature of the items to be sold make it probable that the cost of conducting a sale by competitive bid will be such that a liquidation sale will result in substantially greater net revenue to the District.

Section 2. Code Section 2.04.030 is hereby amended to read:

2.04.030 Rules and Procedures Governing All Contracts:

(a) **Initiating a Contract:** When a department initiates a contract not in the form of a purchase order, it must first notify the Budget and Administrative Services Division of its intention and request the issuance of a contract number which shall appear on all copies of the contract. Additionally, the department must complete a Contract Summary form indicating the specifics of the contract. This form must be forwarded to the Budget and Administrative Services Division either with a fully executed contract (one copy), if the amount is \$2,500 or under; or with an unexecuted contract (three copies) for review, approval and signature, if the amount is over \$2,500.

(b) **Persons Authorized to Sign Contracts:**

(1) For contracts of an amount of \$2,500 or under the Director of the initiating department, or a designee of the Director approved by the Executive Officer, may sign contracts if the following conditions are met:

- (A) A standard contract form is used;
- (B) Any deviations to the contract form are approved by the Legal Counsel;
- (C) The expenditure is authorized in the budget;
- (D) The contract does not further obligate Metro beyond \$2,500;
- (E) The appropriate Scope of Work is attached to the contract; and
- (F) The Contract is for an entire project or purchase; not a portion of a project or purchase which, when complete, will amount to a cost greater than \$2,500.

(2) For contracts of more than \$2,500, and for contract amendments which exceed \$2,500 or which result in a total contract price exceeding \$2,500, either the Executive Officer or Deputy Executive Officer must sign; provided, however, that the Director or Assistant Director of the Zoo may



sign purchase orders of \$10,000 or less. When designated in writing to serve in the absence of the Executive Officer or Deputy Executive Officer, the Manager of Budget and Administrative Services may sign contracts.

(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, with 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 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 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)].

(d) Documentation Required for Contract Files: The Budget and Administrative Services Division will maintain central files for all contracts. An original copy should be given to each contractor. All correspondence relating to a contract which

alters conditions or amounts must be included in the central files as should all papers which document the process of obtaining competitive bids, quotes, or proposals. In any case where a low bid, quote, or proposal is not accepted, a detailed justification must be included with the contract file. Other documentation, if applicable, that should be included in the file includes:

- Mailing lists
- Affidavits of Publication
- Insurance endorsements and certificates
- Amendments
- Extensions
- Related Correspondence
- Quotes, Proposals, and Bids
- Bonds
- WBE/DBE information
- Contract closure form
- Personal Services Evaluation form

(e) Contract Review: Any contract which deviates from a standard contract form must be reviewed by legal counsel. Contracts involving federal or state grant funds must be reviewed by the Deputy Executive Officer.

(f) Disadvantaged Business Program: All public contracting and purchasing is subject to the Metro Disadvantaged Business Enterprise Program. Metro will take affirmative action to do business with Disadvantaged Business Enterprises. The Contracts Manager will maintain a directory of disadvantaged businesses which shall be consulted and used in all contracting and purchasing of goods and services. If a disadvantaged business is included in the directory that appears capable of providing needed goods or services, that business should be contacted and given an opportunity to compete for Metro business. Contracts awarded subject to the program may be exempted from the competitive bidding process by resolution of the Contract Review Board.

(g) Monthly Contract Report: The Executive Officer shall provide or cause to be provided a monthly report to the Council of all contracts, including extensions and amendments, which have been executed during the preceding month; provided, however, that such monthly report need not include purchase orders under \$500.

(h) Purchase Orders: For purposes of this chapter, the term "contracts" includes purchases of goods or materials by purchase order. Purchase orders may be utilized in lieu of written contracts when the purchase is for goods or materials only.

(i) Code of Conduct:

- (1) No employee, officer or agent of Metro shall

participate in the selection, award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his/her immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. No Metro officer, employee or agent shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

(2) Violations of this Code of Conduct shall subject an officer or employee to disciplinary action pursuant to the Metro Personnel Rules and may be grounds for other civil or criminal penalties provided by law.

(j) Federal/State Agency Approval: When required by federal or state law or regulations, review and approval of Metro contracts shall include prior concurrence or approval by appropriate federal or state agencies. (Ordinance No. 82-130, Sec. 2(a))

(k) In all public contracts, Metro shall prefer goods or services that have been manufactured or produced in Oregon if price, fitness, availability and quality are otherwise equal. Where a contract in excess of \$10,000 is awarded to a contractor not domiciled or registered to do business in Oregon, the initiating Department shall assure compliance with the provisions of ORS 279.021.

(l) All requests for bids or proposals for all contracts in excess of \$10,000 shall be reviewed by the Department of Management Services and Legal Counsel prior to solicitation or advertisement, and shall include the contract form to be used.

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

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

ATTEST:

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

ESB/srb  
1924C/392-2  
09/04/84

CONSIDERATION OF ORDINANCE NO. 84-178 FOR THE  
PURPOSE OF AMENDING THE FY 1984-85 BUDGET  
TRANSFERRING APPROPRIATIONS

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Date: September 6, 1984

Presented by: J. Sims

FACTUAL BACKGROUND AND ANALYSIS

The attached proposed ordinance provides for various budget and appropriation schedule changes. The requested changes are described below.

1. Additional Funding for the Columbia Willamette Futures Forum

On February 23, 1984, the Council took action supporting the creation of a Citizens' Advisory Committee by the Columbia-Willamette Futures Forum (CWFF). In addition, the allocation of \$5,000 from the General fund contingency was approved for partial funding of the effort. Since February, Tri-Met has committed \$10,000 in financial support to the CWFF.

Carol Kelsey, regional services project director, and Adam Davis, CWFF chair, provided a status report and update at the July 5, 1984, Council meeting. Basically, the Forum is utilizing four communication arenas:

1. Monthly forums
2. Monthly newsletters
3. Regional services project
4. Annual conference.

Additional funding is needed to support the Regional Services Project through the annual conference scheduled for November 16-17, 1984. Support for this work complies with the Priorities and Objectives adopted by the Council in Resolution No. 84-477:

"Priority E: Identify Regional Service Needs and Analyze Options for their Provision in Cooperation with Constituency Groups.

"Objective: Assist and support the creation of ad hoc study groups as needed to address regional service needs."

Materials detailing the CWFF budget and remaining activities are attached.

2. Implementation of Data Processing Plan

As detailed in the attached memo from Keith Lawton, an analysis of hardware and software options for office automation productivity improvement has recently been completed. Excellent technology is available at relatively little cost which would allow us to automate many manual functions.

It is proposed that we utilize the Apple Macintosh workstation on a test basis to assess its useability and benefits. If the use and applications are successful in improving productivity and providing better management information, additional purchases will be made. The first phase calls for two workstations at a total cost of \$6,960. The cost to implement the full program including five workstations, a printer, a hard disk and other supplies would be \$23,650.00. Net cost over budgeted amounts is \$19,170.

Expenses will be paid for and charged as follows:

- a. Public Affairs will have a \$3,680 expense. General fund contingency will pay for \$2,680 and the remainder will be paid with funds originally budgeted for a typewriter.
- b. Executive Management will have a \$3,280 expense which will be paid out of General fund contingency.
- c. IRC will have a \$3,480 expense. A Macintosh purchase will be substituted for Pixell terminal purchases budgeted in the Data Processing Division.
- d. Solid Waste will have a \$3,280 expense which will be paid out of the Solid Waste Operating fund contingency.
- e. Finance & Administration will have a \$3,280 work station cost and \$6,650 in central costs for all of the stations. The \$9,930 will be covered by a transfer from General fund contingency to the Data Processing Division.

EXECUTIVE OFFICER'S RECOMMENDATION

1. Fund Columbia-Willamette Futures Forum

The Council has endorsed the efforts of the CWFF and provided financial support. As indicated in the attached

materials, substantial progress has been made in a short period of time. Considerable work remains including the annual conference. The Executive Officer recommends that the Council allocate \$5,000 from General fund contingency to the Executive Management Department Materials and Services line item 7500. This would be a final amount for completion of work currently planned.

2. Endorse the data processing strategy and approve funding.

The Executive Officer recommends that Council endorse the incremental approach to installing personal computer workstations for productivity improvement. Ordinance No. 84-178 should be adopted transferring \$15,890 from General fund contingency to the Public Affairs, Executive Management, and Finance & Administration Departments Capital Outlay accounts. The ordinance will also transfer \$3,280 from the Solid Waste Operating fund contingency to Capital Outlay.

JS/gl  
1940C/392-3  
09/06/84

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING )     ORDINANCE NO. 84-178  
ORDINANCE NO. 84-172 TRANSFERRING )  
APPROPRIATIONS )     Introduced by

WHEREAS, The Council has endorsed work of the Columbia  
Willamette Futures Forum (CWFF); and

WHEREAS, Partial funding was provided by Metro for the CWFF  
Regional Services Project; and

WHEREAS, The need and benefits of work remaining on the project  
have been demonstrated and justified; and

WHEREAS, The need and benefits of implementing a data  
processing plan including purchase of personal computer workstations  
has been documented; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. That the amendments to the FY 1984-85 Budget of the  
Metropolitan Service District (Metro) attached hereto as Exhibit "A"  
and amendments to the FY 1984-85 Appropriations attached hereto as  
Exhibit "B" to this ordinance are hereby adopted.

Section 2. A program for the incremental introduction of  
personal computer workstations to the Metro offices is endorsed.

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

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

ATTEST:

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

JS/gl/1940C/392-2/09/06/84

9-13-84 Handout

PROPOSED REVISION

EXHIBIT "A"

FY 1984-85 BUDGET

GENERAL FUND  
PUBLIC AFFAIRS DEPT.

<u>Capital Outlay</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
8570 Office Furniture and Equipment	\$1,750	\$2,680	\$4,430

EXECUTIVE MANAGEMENT DEPT.

<u>Capital Outlay</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
8570 Office Furniture and Equipment	-0-	\$3,280	\$3,280

FINANCE & ADMINISTRATION  
Data Processing Division

<u>Capital Outlay</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
8570 Office Furniture and Equipment	\$16,055	\$9,930	\$25,985
8570 <u>Transfers &amp; Contingency</u>			
9700 Contingency	74,896	(15,890)	59,006
<u>Total General Fund</u>	\$2,525,585	-0-	\$2,525,585

SOLID WASTE OPERATING FUND

<u>Capital Outlay</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
8570 Office Furniture and Equipment	\$20,400	\$3,280	\$23,680
<u>Transfers &amp; Contingency</u>			
9700 Contingency	643,263	(3,280)	639,983
<u>Total Solid Waste Operating Fund</u>	\$9,845,680	-0-	\$9,845,680



	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
<u>Zoo Operating Fund</u>			
<u>Materials &amp; Services</u>			
7500 Contractual Services	\$232,999	\$17,000	\$249,999
<u>Transfers &amp; Contingency</u>			
9700 Contingency	\$259,389	\$(17,000)	\$242,389
<u>Total Zoo Operating Fund</u>	\$8,459,147	-0-	\$8,459,147

ALL OTHER ACCOUNTS ARE UNCHANGED

1940C/392-2

EXHIBIT "A"  
 FY 1984-85 BUDGET

GENERAL FUND  
PUBLIC AFFAIRS DEPT.

<u>Capital Outlay</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
8570 Office Furniture and Equipment	\$1,750	\$2,680	\$4,430

EXECUTIVE MANAGEMENT DEPT.

<u>Capital Outlay</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
8570 Office Furniture and Equipment	-0-	\$3,280	\$3,280

FINANCE & ADMINISTRATION  
Data Processing Division

<u>Capital Outlay</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
8570 Office Furniture and Equipment	\$16,055	\$9,930	\$25,985
8570 <u>Transfers &amp; Contingency</u>			
9700 Contingency	74,896	(15,890)	59,006
<u>Total General Fund</u>	\$2,525,585	-0-	\$2,525,585

SOLID WASTE OPERATING FUND

<u>Capital Outlay</u>	<u>Current Budget</u>	<u>Amendment</u>	<u>Revised Budget</u>
8570 Office Furniture and Equipment	\$20,400	\$3,280	\$23,680
<u>Transfers &amp; Contingency</u>			
9700 Contingency	643,263	(3,280)	639,983
<u>Total Solid Waste Operating Fund</u>	\$9,845,680	-0-	\$9,845,680

ALL OTHER ACCOUNTS ARE UNCHANGED

1940C/392-2

EXHIBIT "B"

SCHEDULE OF APPROPRIATIONS

<u>GENERAL FUND*</u>	<u>Current Appropriation</u>	<u>Revision</u>	<u>Revised Appropriation</u>
<b>Council</b>			
Personal Services	\$ 65,693	-0-	\$ 65,693
Material & Services	58,120	-0-	58,120
Capital Outlay	-0-	-0-	-0-
Subtotal	<u>\$123,813</u>	<u>-0-</u>	<u>\$123,813</u>
<b>Executive Management</b>			
Personal Services	\$229,380	-0-	\$229,380
Material & Services	28,845	-0-	28,845
Capital Outlay	-0-	\$3,280	3,280
Subtotal	<u>\$258,225</u>	<u>\$3,280</u>	<u>\$261,505</u>
<b>Finance &amp; Administration</b>			
Personal Services	\$ 548,224	\$ -0-	\$ 548,224
Material & Services	626,465	-0-	626,465
Capital Outlay	24,555	9,930	34,485
Subtotal	<u>\$1,199,244</u>	<u>\$9,930</u>	<u>\$1,209,174</u>
<b>Public Affairs</b>			
Personal Services	\$216,450	-0-	\$216,450
Material & Services	40,950	-0-	40,950
Capital Outlay	1,750	2,680	4,430
Subtotal	<u>\$259,150</u>	<u>2,680</u>	<u>\$261,830</u>
<b>General Expense</b>			
Contingency	\$ 74,896	\$(15,890)	\$ 59,006
Transfers	587,219	-0-	587,219
Subtotal	<u>\$662,115</u>	<u>\$(15,890)</u>	<u>\$646,225</u>
<b>Unappropriated Balance</b>	\$23,038	-0-	\$23,038
<b>Total General Fund Requirements</b>	\$2,525,585	-0-	\$2,525,585
<b><u>SOLID WASTE OPERATING FUND*</u></b>			
Personal Services	\$794,867	-0-	\$794,867
Materials & Services	6,017,483	-0-	6,017,483
Capital Outlay	39,400	3,280	42,680
Transfers	2,350,667	-0-	2,350,667
Contingency	643,263	(3,280)	639,983
<b>Total Fund Requirements</b>	\$9,845,680	-0-	\$9,845,680

\*NOTE: All other funds remain unchanged.

September 5, 1984

Don Carlson,  
Deputy Executive Officer  
METRO  
527 SW Hall Street  
Portland, OR 97201

Dear Don:

Subject: Regional Services Project Update

Phase I - Completed

- Committees appointed
- Information secured necessary to begin developing scenarios for service delivery options in the year 2010

Phase II - On-going

- Committees are meeting weekly
- Committees are exploring visionary options based on user/recipient point of view rather than provider bias
- Conference brochure is printed
- Organizational affiliates (sponsors) are being recruited
- Conference design/format is in place to substantively process conferees
- Facility for Conference is PSU, November 16-17
- Press development is in place to assure maximum exposure and the most broad-based audience possible
- Outreach in the community to develop participation of user-- "regular and not so regular" folks
- Committees are to finish their work by October 15, 1984 with all three Committees having final meeting October 18, 1984

Phase III - Conference Structure

- Have documents produced by Committees printed and available to the public
- Translate documents in Conference dialogue for each service area
- Prepare extensive pre-Conference packet for each conferee in each service area (conferees will have to chose 1 service area for personal participation)
- Make Conference happen with all the details/logistics that go with that -- facilities, programs, registration, materials, etc.

Adam Davis  
Chair  
Judy Phelan  
Vice Chair  
Trevor Griffiths  
Secretary  
Steven Ames  
Pauline Anderson  
Mike Barnes  
Kandis Brewer-Wohler  
John W. Broome  
Herb Cawthorne  
Don Clark  
Geri Ethen  
Jack Fried  
Jim Hanches  
Julianne Johnson  
Marge Kafoury  
David Lansky  
Steven Lowenstein  
Karen McMahon  
Ruth-Ellen Miller  
Burke M. Raymond  
Bill Rhodes  
Bill Robertson  
Betty Schedeen  
Randall Scheel  
Stephen Schneider  
Douglas Strain

**CWF**

Columbia Willamette Futures Forum/Center for Urban Education  
0245 SW Bancroft, Portland, Oregon 97201 (503) 221-0984

## Phase IV - Conference Follow-up/Action

- Prepare and print Conference results
- Make results known through media, group meetings and organizational affiliates
- Translate where applicable into legislative recommendations for 1985 Legislative session
- Provide appropriate individuals with legislative recommendations for legislative follow through

The Regional Services Project has received \$10,000 from Tri-Met, \$5,000 from METRO with a possibility of a second \$5,000 from METRO. The budget is based on a full \$20,000 project. The project duration is June 15, 1984 to December 15, 1984. During that time four major products will result:

- User/recipient visionary scenarios for the delivery of Library, Parks and Transportation services in the year 2010
- Conference will occur to clarify/modify/extend the scenarios
- Printed Conference follow-up document will track process and record Conference outcomes
- Conference outcomes will be translated into Legislative recommendations for 1985 Legislative session

## REGIONAL SERVICES PROJECT BUDGET

	Expended 6/15/84 - 9/15/84	Projected 9/15/84 - 12/15/84	TOTAL
Program Coordinator	\$ 4500	\$ 4500	\$ 9000
CUE Professional Services (program, data entry, clerical/conference support)	2500	2500	5000
Support to Committees (11 substantive committee meetings per month) staff, postage, printing, etc.	1300	1700	3000
Consumable supplies	300	700	1000
Administrative costs	1000	1000	2000
	<u>\$ 9600</u>	<u>\$10,400</u>	<u>\$20,000</u>

We are finding the budget to be pretty in line with projections, however, the major variable is the cost of properly providing the support necessary to keep the Committees at full speed.

ROSTER

LIBRARIES

Mary Devlin-Willis  
7232 North Washburne  
Portland, OR 97203  
226-8695 (w)  
At-Large

Molly Kohnstamm - Chair  
11476 Southwest Riverwood  
Portland, OR 97219  
636-1371 mtn. 272-3565  
Multnomah County

Linda Appel  
Tektronics, Inc.  
Mail Stop 63-531, Box 1000  
Wilsonville, OR 97070  
683-3986 (w) 656-6105 (h)  
Clackamas County

Judah Bierman  
16250 South Pacific Hwy #72  
Lake Oswego, OR 97034  
636-9769  
At-Large

Marina Britsky  
5520 Southwest Macadam #110  
Portland, OR 97201  
222-4656 (h) 222-7080 (w)  
At-Large

Patti Miller  
4088 Orchard Way  
Lake Oswego, OR 97034  
646-2713 (w)  
Washington County

Klaras Ihnken  
4715 Northwest Lincoln Ave  
Vancouver, WA 98663  
206-254-5777 (w)  
206-694-5608 (h)  
Clark County

Marc Blackman  
7515 Southeast 36th  
Portland, OR 97202  
228-0487 (w) 775-5311 (h)  
City of Portland

Muriel Goldman  
01280 Southwest Maryfailing Dr  
Portland, OR 97219  
229-3097 (w) 636-2283 (h)  
Metro Citizens' League

PARKS

Barbara Walker  
1906 Southwest Edgewood Road  
Portland, OR 97201  
227-6023  
City of Portland

Jane Baker  
1885 Southeast 104th Avenue  
Portland, OR 97216  
252-7386  
Multnomah County

Larry Espey  
5320 Southwest Mayfair Court  
Beaverton, OR 97005  
646-0184 (h)  
297-6043 (service)  
Washington County

Wayne Rifer  
1975 Northwest 113th  
644-2867  
At-Large

Scott Reese  
637-E Southeast Linn  
Portland, OR 97202  
982-5222 (w) 235-4222 (h)  
At-Large

Ben Shoop - Chair  
01544 Southwest Radcliffe Ct  
Portland, OR 97219  
636-4392  
Metro Citizens' League

Mitchell Bower  
P. O. Box 61486  
Vancouver, WA 98666  
206-696-3729  
Clark County

Lindsay Miller  
15560 Southeast Dana  
Milwaukie, OR 97222  
653-2736 (h) 242-8637 (w)  
Clackamas County

TRANSPORTATION

Bob Wiggin  
1111 Northeast 192nd  
Portland, OR 97230  
665-5989  
Multnomah County

Vivian Crow  
12860 Southwest Havencrest  
Portland, OR 97225  
644-8996  
Washington County

Les White, Exec Director  
C-TRAN  
P. O. Box 2529  
Vancouver, WA 98668  
696-4494  
Clark County

Bob Burko  
2468 Emerald Drive, NW  
Salem, OR 97304  
228-1095 (w) 585-0336 (h)  
At-Large

Paula Bentley  
1831 Southeast 6th  
Portland, OR 97214  
238-6133 (w)  
At-Large

Steve Nicholson  
26000 Southeast Stark  
Gresham, OR 97030  
667-7211 (w)  
At-Large

Linore Allison  
2607 Northeast 20th  
Portland, OR 97212  
287-2357 (h)  
City of Portland


Barbara Hartfeil - Chair  
4230 Terra Vista Court  
West Linn, OR 97068  
636-2272 (h)  
Clackamas County

Stan Pintarich  
53048 Northwest 11th  
Scappoose, OR 97056  
242-6248 (w) 543-7478 (h)  
Metro Citizens' League



# 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: August 30, 1984  
To: Donald E. Carlson, Deputy Executive Officer  
From: Keith Lawton, Technical Manager   
Regarding: Data Processing: Personal Computer Workstations

## Introduction

This memorandum responds to the request for investigation of the possibility of "automating" many of the common office tasks. Through a series of discussions and a review of available technology, it has become evident that in terms of resources and the modest size of Metro the most appropriate technology would be the use of personal computers. Following Rick's suggestion we have obtained proposals from each department showing proposed uses for such equipment. My recommendations on how to proceed are the primary subject of this memo. While these recommendations follow closely the strategy recommended in the Data Processing Plan of December 1983, they diverge from the recommendation to standardize on the MS-DOS operating system. Since that time new offerings and changing technology have rendered that recommendation obsolete.

In essence, the data processing plan at Metro is for acquisition of function-specific software and its accompanying hardware. This enables Metro to acquire computer-power as needed with minimum disruption to existing applications and minimum capital outlay. Any large applications requiring a large "mainframe" computer have been historically carried out by buying access to other computers. With a large computer service bureau at Multnomah County, it has not been appropriate for Metro to take the regional computer facility role that has been taken by many councils of government. In keeping with this philosophy, Metro currently has four function-specific applications:

1. The Manus accounting package, resident on the in-house mini-computer (DEC PDP 11-34A).
2. The Emme 2 transportation planning package resident on an in-house multi-user "super-micro" computer (PIXEL 100/AP).



3. The Apple-LISA project management package resident on the LISA micro-computer at the Zoo.
4. The Wang word processing package resident on the in-house Wang-20 computer.

### Personal Computer Workstations

The function currently under consideration is that of office automation/productivity improvement. The primary goal here is to replace the functions currently carried out manually with typewriters, calculators, pencils and paper. These being writing, document initiation, project analysis, descriptive graphics, report graphics and budget control. The software which makes this possible is sometimes known as "integrated" software which includes word processing, spread sheet manipulation, data-base/file management and business graphics programs, in a form where the programs are interlinked and can pass data and displays back and forth among each other. Typical offerings are the Microsoft suite of programs (Word, Multiplan, File, Chart), LOTUS 1-2-3, and LOTUS Symphony. The other need in office automation is the ability to communicate with other computers and among each other, primarily to move data and information.

### Recommendations

The use of personal workstations is aimed primarily at middle management and professional-level staff. As such, ease of use and minimization of time lost to learning are very important criteria. Availability of a range of software and purchase of a non-obsolete system are also important, to ensure continuing development of new applications and future availability of software/hardware support.

The two prime contenders are the IBM-PC and its clones using the MS-DOS operating system, and the new Apple Macintosh and LISA systems. The IBM-PC group of machines has a large installed base and a large set of available software. The Apple Macintosh is a new breakthrough in ease of use, it has good self documentation and "natural" or intuitive use, requiring very little loss to training time. Currently, there is not a great base of available software. However, the sales of Macintosh are rapidly developing a large installed base and software is beginning to appear from the pipelines of the major software houses. Apple Macintosh is the clear leader in interactive graphics integration.

The recommendation is to use the Apple Macintosh as the basic workstation, because of the incredible ease of use and because of the low training cost.

Because of the newness of this hardware and software, an incremental approach is recommended. In this manner, two workstations should be purchased and their use and utility evaluated prior to continuing the installation of workstations in all departments.

### Proposals

Each department has submitted proposals, and the Zoo divisions have been interviewed for a needs assessment. (The Zoo needs will be covered in a separate document.) While some departments have special or unusual needs, this application is based on the more common needs. A review of proposals shows that all have considerable merit. However, in the downtown Metro offices, the best tests of use would be in Public Affairs (a large base of writing and integrated graphics, and direct graphics applications) and Solid Waste (significant analysis of operations, scientific analysis, graphing, budget analysis and document initiation). These two departments are not currently sophisticated computer users and are thus a good test.

### Budget Needs

It is recommended that workstations be budgeted for Public Affairs, Solid Waste, Finance and Administration, and Executive Management departments, and the Intergovernmental Resource Center. This implies five basic workstations plus (ultimately) the shared resource of a hard disk and letter quality printer (primarily for mailing list use by Public Affairs).

It is further recommended that each workstation be individually applied for, assessed and purchased based on clearly demonstrated utility and availability of funds.

### Basic Workstation

<u>Item</u>	<u>List Price</u>
Macintosh w/Image-Writer Printer	\$2,990
Additional Disk Drive	495
Word Processing (Microsoft Word)	195
Spreadsheet (Multiplan)	195
Terminal Emulator (Communications)	100
Graphics (Microsoft Chart)	125
	<u>\$4,100</u>
Less 20 percent Discount	<u>-820</u>
Net Cost/Station	<u>\$3,280</u>

Memorandum  
August 30, 1984  
Page 4

<u>Department/Needs</u>	<u>Cost</u>
Public Affairs: Workstation Modem (300/1,200)	\$ 3,280 400
Solid Waste: Workstation	3,280
Executive Management: Workstation	3,280
Finance & Administration: Workstation	3,280
IRC: Workstation Mac Project	\$3,280 200
Shared Needs: Letter Printer Hard Disk	2,500 <u>2,000</u>
Total	\$21,500
Extras (cables, disks, other miscellaneous at 10 percent)	<u>2,150</u>
Grand Total	\$23,650

Immediate Request

The immediate request is for two basic workstations plus a modem.

Public Affairs: Workstation	\$3,280
Modem	400
Total	<u>\$3,680</u>
Solid Waste: Workstation	<u>\$3,280</u>
TOTAL	\$6,960

KL/srb  
1908C/338-3  
08/30/84

CONSIDERATION OF RESOLUTION NO. 84-496 FOR THE  
PURPOSE OF SUPPORTING THE COLUMBIA WILLAMETTE  
FUTURES FORUM CRITICAL CHOICES 1984 CONFERENCE

---

Date: August 30, 1984

Presented by: Ray Barker

FACTUAL BACKGROUND AND ANALYSIS

The Columbia Willamette Futures Forum (CWFF) will hold its second annual Critical Choices Conference November 16-17, 1984. Metro was a sponsor of the 1983 Conference and contributed \$5,000 to the Conference.

This year CWFF is requesting that Metro become more than a sponsor of the 1984 Critical Choices Conference. The CWFF is asking that Metro become an "organizational affiliate" (see attached letter dated August 13, 1984).

Metro's responsibility as an "organizational affiliate" would be to give public support to the 1984 Critical Choices Conference and the CWFF by encouraging participation at the Conference. In addition, CWFF requests that Metro provide Conference information through its newsletter and/or mailing list.

Adoption of Resolution No. 84-496 would make Metro an "organizational affiliate" of the CWFF and would commit Metro to the responsibilities indicated above.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 84-496.

RB/srb  
1910C/392-2  
08/31/84

August 13, 1984

Ms. Corky Kirkpatrick  
521 SW Hall  
Portland, OR 97201

Dear Ms. Kirkpatrick:

The Columbia Willamette Futures Forum will present its second annual Critical Choices '84 Conference: Libraries, Parks and Transportation on November 16-17, 1984, at Portland State University.

As a sponsor of the Critical Choices '83 Conference, we are sure you will agree it was a tremendous success! We are, again, seeking your support in recreating the broad-based coalition of organizations and government entities in the Portland/Vancouver metropolitan area to join together.

CWFF has a strong commitment to the four-county region and wants to diversify its communication vehicle. CWFF has identified four major communication arenas:

- Monthly Forums
- Monthly Newsletters
- Regional Services Project
- Annual Conference

CWFF is asking your organization to become more than just a sponsor for the Critical Choices '84 Conference, we are asking that you become an organizational affiliate. As an organizational affiliate your group will be a sponsor of Critical Choices '84, a supporter of CWFF and receive the monthly newsletter.

Your responsibility as an organizational affiliate is simply to give your public support of the Critical Choices '84 Conference and the Columbia Willamette Futures Forum. We would ask that you encourage the participation at the Conference of your membership and allow CWFF to provide Conference information through your newsletter and/or mailing list.

The design of the Critical Choices '84 Conference evolved after examining the outcome of the Critical Choices '83 Conference. At the Conference, the future of regional services delivery emerged as an issue of concern. Survey results confirmed that it was an issue of major interest to residents in the Portland four-county area, including Clark County, Washington.

Adam Davis  
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Vice Chair  
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Secretary  
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Jim Hanches  
Julianne Johnson  
Marge Kafoury  
David Lansky  
Steven Lowenstein  
Karen McMahill  
Ruth-Ellen Miller  
Burke M. Raymond  
Bill Rhodes  
Bill Robertson  
Betty Schedeen  
Randall Scheel  
Stephen Schneider  
Douglas Strain

**CWFF**

Columbia Willamette Futures Forum/Center for Urban Education  
0245 SW Bancroft, Portland, Oregon 97201 (503) 221-0984

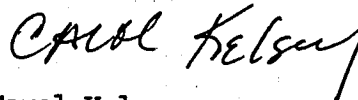
Therefore, CWF<sup>F</sup> appointed a Regional Services Task Force which began meeting in April and outlined a project framework to look at regional services from a futures perspective. This project will consider the future of a regional services — function, finances, and structure — in the area of Libraries, Parks, and Transportation, and

1. To have citizen sub-committees create some visionary service delivery options in the areas of Libraries, Parks, and Transportation.
2. To translate the citizen sub-committee findings into a discussion dialogue for use at a Critical Choices '84 Conference.
3. Hold a Critical Choices '84 Conference on November 16-17, entitled, Critical Choices '84 - Libraries, Parks, and Transportation.
4. To translate the concerns/information from the Conference into legislative recommendations for the 1985 Oregon Legislative session.

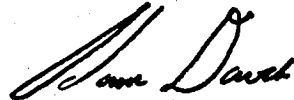
The activities of CWF<sup>F</sup> and the upcoming Conference can have a lasting value with a broad-based coalition of interested groups/organizations.

We will follow up this letter in a few days with a phone call. We hope you will join with us to look towards the first decade of the next century with vision.

Best regards,



Carol Kelsey  
Conference Coordinator



Adam Davis, Chair  
Columbia Willamette Futures Forum

CK/AD:jkb

Enclosures

PS: I have enclosed an overview of our Regional Services Project and our last newsletter for your information.

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF SUPPORTING THE ) RESOLUTION NO. 84-496  
COLUMBIA WILLAMETTE FUTURES FORUM )  
CRITICAL CHOICES 1984 CONFERENCE ) Introduced by  
 ) Councilor Kirkpatrick

WHEREAS, The Columbia Willamette Futures Forum (CWFF) will present its second annual Critical Choices 1984 Conference: Libraries, Parks and Transportation on November 16-17, 1984, at Portland State University; and

WHEREAS, The Metropolitan Service District (Metro) was a sponsor of the Critical Choices 1983 Conference; and

WHEREAS, The CWFF has requested that Metro become an "organizational affiliate" in order to strengthen the broad-based coalition of organizations and government entities in the region; now, therefore,

BE IT RESOLVED,

1. That Metro become an organizational affiliate to the Critical Choices 1984 Conference.

2. That as an organizational affiliate Metro will give public support to the Critical Choices 1984 Conference by encouraging participation at the Conference and provide conference information through Metro's newsletter and/or mailing list.

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

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

RB/srb  
1910C/392-3  
08/31/84



# 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: September 5, 1984  
To: Metro Council  
From: Eleanore S. Baxendale, General Counsel  
Regarding: Selection of Hearings Officer for Contested Cases

At the August 23, 1984, Council meeting the Council requested more information about the use and selection of hearings officers in UGB cases.

Metro Code, Chapter 2.05, provides the contested case procedure, which includes a hearing before a hearings officer. Contested cases as defined by the Code include a wide variety of cases including UGB amendments, personnel discharges, and revocation, suspension or alternation of permits and franchises. (See attached Code Section 2.05.005(a).)

All hearings in these cases are conducted by either the Council Presiding Officer or a hearings officer, except UGB cases which must be conducted by a hearings officer. The hearings officer is required to be a member of the Oregon State Bar. The hearings officer is selected by the Executive Officer from a Council approved list, or in personnel discharge cases by the affected employee from a list of three of the approved hearings officers. (See attached Code Section 2.05.025.)

Therefore, the hearings officer list serves at least two purposes: it allows the Executive Officer to select a land use attorney for land use cases and an appropriately skilled attorney for permit cases from a Council approved list; and, it allows an employee to select a qualified hearings officer for his or her case, similar to the strike off list practice.

The decision of the hearings officer is a recommendation to the Council, or in personnel discharge cases to the Executive Officer. It is not a final decision. Any possible bias can be cured at the Council level. The hearings officer is used as a neutral fact finder evaluating information presented by staff.

To date the only contested cases have been UGB amendments. In these cases the selection of the hearings officer is not made by a proponent or opponent of the amendment, but by Metro, as



Memorandum  
September 5, 1984  
Page 2

the representative of the public interest in fair and qualified application of the UGB amendment process. All of the hearings officers are qualified and impartial. The attached memo from Steve Siegel provides his observations on the way the selection process has been administered. A variety of alternatives is available, if the Council wishes to make changes.

ESB/gl  
1942C/D2-1



# 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: August 31, 1984  
To: Metro Council  
From: Steve Siegel, IRC Administrator  
Regarding: Policy on Selecting Hearings Officers for Contested Land Use Cases

Section 2.05.025(a) of the Metro Code provides that:

"The Council may from time to time approve and provide to the Executive Officer a list of prospective hearings officers from which hearings officers may be appointed by the Executive Officer."

At the August 23 Council meeting, some Councilors expressed concern about whether this provision allowed a practice comparable to "judge shopping" in other legal proceedings.

To respond to that concern, this memo discusses the process currently used for selecting hearings officers, why staff believes it is an appropriate one, and an alternative approach that could be undertaken if the Council remains uncomfortable with the current process.

In any legal proceeding, the nature of the decision made may depend in part on who is making the decision. Judge shopping becomes a concern when this unavoidable personal variability can be exploited by interested parties to bias the decision-making process in their favor. This is not the case with the Metro process.

The Council approves a list of prospective hearings officers, all of whom it has determined to be professionally qualified and personally skilled to hear Metro's contested cases. Staff then selects the individual best qualified to hear a given case, much in the same way as it would select a consultant to perform other types of professional services for Metro. In doing so, staff is not representing the interest of the applicant or any other interested party with an identifiable bias. Staff's interest is solely in assuring that Metro's adopted standards and procedures are effectively and efficiently complied with.

Memorandum  
August 31, 1984  
Page 2

Before a case is actually assigned, the prospective hearings officer is advised of its particulars and asked to disqualify himself if it poses any real or apparent conflict of interest.

Following the hearing before the selected hearings officer, staff reviews the hearings officer's report to evaluate whether Metro's standards and procedures have been appropriately addressed. The Council then makes a final decision based upon both the hearings officer's findings and any comments submitted by staff. Thus staff, at a technical level, and Council, at a policy level, function to correct any bias that might result from variations in the approaches of different hearings officers.

This process has worked smoothly and effectively in the past and has not been subject to complaint from any of the parties involved.

If the Council remains concerned about the process for selection of hearings officers, the simplest solution would be to select one hearings officer for all land use cases, with one or more alternates for use when the chief hearings officer is unavailable or has a conflict of interest. If desired, we will report back to you on the procedures we would follow to select a chief and alternate hearings officer.

JH/srb  
1919C/D5-2  
08/31/84

## CHAPTER 2.05

### PROCEDURE FOR CONTESTED CASES

#### SECTIONS:

2.05.005	Contested Case Defined, Notice of Opportunity for Hearing, Service
2.05.007	Rights of Parties in Contested Cases
2.05.010	Immediate Suspension or Refusal to Renew a License or Permit, Notice of Opportunity for Hearing, Service
2.05.015	Orders When No Hearing Requested or Failure to Appear
2.05.025	Hearing
2.05.030	Evidentiary Rules
2.05.035	Proposed Orders in Contested Cases Other Than Personnel Discharges
2.05.040	Proposed Orders in Contested Cases on Personnel Discharges
2.05.042	Ex Parte Communications to the Hearings Officer
2.05.043	Ex Parte Communications to Councilors
2.05.045	Final Orders in Contested Cases, Notification, Review
2.05.046	Motions
2.05.047	Service of Documents on All Parties
2.05.050	Reconsideration, Rehearing

#### 2.05.005 Contested Case Defined, Notice of Opportunity for Hearing, Service:

(a) A contested case exists whenever:

(1) Individual legal rights, duties or privileges of specific parties are required by statute or Constitution to be determined only after a hearing at which specific parties are entitled to appear and be heard.

(2) The District has discretion to suspend or revoke a right or privilege of a person; or

(3) There is a proceeding regarding a license, franchise or permit required to pursue any activity governed or regulated by the District; or

(4) There is a discharge of a District employee; or

(5) The District proposes to require a county, city or special district to change a plan pursuant to ORS 268.380 or 268.390; or

(6) There is a proceeding in which the District has directed by ordinance, rule or otherwise that the proceeding be conducted in accordance with contested case procedures.

(3) A reference to the particular sections of the statutes, ordinances and rules involved.

(4) A short and plain statement of the matters asserted, charged or proposed.

(5) A statement that the party may be represented by counsel at the hearing.

(6) A statement that if the party demands a hearing the District must be notified within thirty (30) days of date of the notice.

(7) A statement giving the reason or reasons for the immediate action.

(8) The effective date of the suspension or refusal to renew the license or permit.

(c) The notice shall be served personally or by registered or certified mail. (Rule No. 79-3)

2.05.015 Orders When No Hearing Requested or Failure to Appear:

(a) When a party has been given an opportunity and fails to request a hearing within the specified time or fails to appear at the specified time and place of a hearing, the District may enter an order which supports the District action or an order denying the petition upon which the hearing was to be held.

(b) The order supporting the District action shall set forth the material on which the action is based or the material shall be attached to and made a part of the order. (Rule No. 79-3)

2.05.025 Hearing:

(a) The hearing shall be conducted by, and shall be under the control of, the Council Presiding Officer or a hearings officer. Contested case hearings on amendments to the regional Urban Growth Boundary shall be before a hearings officer. The Council may from time to time approve and provide to the Executive Officer a list of prospective hearings officers from which hearings officers may be appointed by the Executive Officer. Unless the hearing is to be held before the Council, the hearings officer in a contested case shall be a member of the Oregon State Bar.

(b) In the case of a hearing on a personnel discharge, the employee shall be given the opportunity to select the hearings officer from a list of at least three (3) prospective hearings officers approved by the Council.

(c) At the discretion of the Presiding Officer or the hearings officer, the hearing shall be conducted in the following order:

EXECUTIVE SESSION

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

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

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

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

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

BE IT RESOLVED,

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

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

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

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

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

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



## SETTLEMENT AGREEMENT

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

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

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

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

Certain disputes have arisen between the parties and Coast has instituted litigation (Case No. AB303-01675) against Metro, Parker and Federal, among others, in the Circuit Court of the State of Oregon for the County of Multnomah, hereinafter "Litigation."

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

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

NOW, THEREFORE, IT IS AGREED:

1. Metro agrees to pay to Parker and Coast, upon the execution of this Agreement, the sum of \$456,000.
2. Metro, Parker, Federal and Coast each agree to release the other parties to this Agreement and their officers, agents, employees and sureties, if any, from any and all claims of any kind, whether known or unknown, which have accrued or which may hereafter accrue, arising out of or relating to the Project.

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

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

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

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

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

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

METROPOLITAN SERVICE DISTRICT

By \_\_\_\_\_

PARKER-NORTHWEST CONSTRUCTION CO.

By \_\_\_\_\_

FEDERAL INSURANCE COMPANY

By \_\_\_\_\_

COAST MARINE CONSTRUCTION, INC.

By \_\_\_\_\_

C O N F I D E N T I A L

MEMORANDUM

TO : METROPOLITAN SERVICE DISTRICT  
DATE : September 6, 1984  
SUBJ : Metropolitan Service District v. Black & Veatch  
FROM : ARTHUR L. TARLOW

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FACTS

In June, 1982, construction began on the Clackamas Transfer and Recycling Center (CTRC) located in Oregon City. Black & Veatch, an engineering partnership based in Kansas City, Missouri, provided both design and construction management services to Metro pursuant to two separate contracts. The general contractor on the Project was Parker Northwest Construction Company. Coast Marine Construction was the piling subcontractor engaged by Parker to drive the steel H-pile foundation which was to support the Project.

During 1981 and 1982, Black & Veatch prepared the design for the Project. A local geotechnical firm was engaged by Black & Veatch to obtain soil borings of the parcel and the adjacent areas. Because the CTRC was to be located in an area that had been previously filled, and based upon soils information obtained through the borings and other investigation, Black & Veatch recommended and Metro agreed to

use steel H-pile as the foundation in order to minimize differential settlement of the foundation. Black & Veatch ultimately prepared the contract documents, including the plans and specifications to be followed by the contractor.

The first major phase of construction was the installation of the steel H-pile foundation. The specifications prepared by Black & Veatch required driving the pile approximately 80 feet deep in order to comply with Black & Veatch's projected settlement and support requirements of the pile.

Pile installation began at the end of June, 1982. By mid-July, Coast Marine had experienced some difficulty in driving some piles. The driving was harder than Coast Marine had expected. On July 19, 1982, Coast Marine was unable to drive a pile to the specified tip elevation. After driving it to a certain depth, the pile would go no further, regardless of the force or the number of blows delivered by the pile driver. During the remainder of the project, more piles became similarly "hung up." Approximately 15% of the specified 275 piles were never driven to the specified tip elevation.

The general contract specifications required the general contractor (Parker) to pre-drill before driving pile with either drilling or augering equipment. Shortly after the contract was awarded to Parker, Coast Marine suggested this pre-drilling requirement be deleted and Parker offered Metro a credit for the deletion. Upon Black & Veatch's recommendation,

Metro signed Change Order No. 1, which was drafted by Black & Veatch, which deleted the pre-drilling and provided for the credit.

Black & Veatch contends that when the first pile hung up, they recommended, through their resident engineer, that Parker commence pre-drilling the pile. The contractors (Parker and Coast Marine) contended that pre-drilling would be expensive, time consuming and useless. They refused to pre-drill and instead asked Black & Veatch for other suggestions. Black & Veatch continued to suggest pre-drilling.

Coast Marine continued driving pile where they could, leaving the hung up pile standing where they stopped. Because of the hung up pile, it was virtually impossible for Parker to begin construction on top of any area of pile foundation. As more pile hung up, Parker and Coast Marine began to claim the difficulty in driving the pile was a "changed condition", that the subsurface driving conditions were different from what the contractors had reasonably anticipated from the contract documents and they were entitled therefore to an adjustment of the contract price. Still, nothing new was done to remedy the problem. Black & Veatch continued to tell the contractors to pre-drill. The contractors continued to insist that pre-drilling would not work, and that Black & Veatch should recommend something else.

On August 11, 1982, (about the originally Projected time that pile driving was to be completed), Coast Marine

finally pre-drilled and the pile went down easily. Another hole was pre-drilled, but no pile was driven in that hole until mid-September. No other pile was pre-drilled until early September, 1982, when Coast Marine pre-augered two holes before driving. Both piles stopped well above the specified tip elevation.

At this point Black & Veatch considered obtaining additional test holes in areas of hung up pile. Black & Veatch asked for and received Metro's authorization to obtain two additional borings to determine the cause of the piling difficulty. From analysis of the borings taken in mid-September, Black & Veatch concluded there was a very hard layer between the cobble layer below the fill and the deep stiff clay where the pile were originally to be driven. The hung up pile were unable to penetrate this very hard layer.

Ultimately, most of the hung up pile were accepted by Black & Veatch as driven and were incorporated into the foundation. The piling was completed on September 25, 1982, about six weeks later than planned by Parker Northwest and Coast Marine. Because of the piling delay, Parker was pushed into a winter mode for much of the construction, and additional delay in completion of the project resulted due to inclement weather. Parker's claim for additional compensation increased accordingly.

#### HISTORY OF THE LITIGATION

Black & Veatch's position has been that it had no

responsibility to require Parker Northwest or Coast Marine to pre-drill. It has also maintained that until the contractor proved pre-drilling would be unsuccessful, there was no reason to further investigate the subsurface conditions. Black & Veatch's engineers maintained that it was the contractor's job to determine the method of constructing the Project. Black & Veatch did not want to become the contractor.

Metro now believes that had the contractor been compelled to predrill earlier and had there been a more prompt subsurface investigation and procurement of borings in the affected areas, the cause and existence of the changed conditions would have been learned and confirmed earlier and the delays would have been minimized. In most cases, changed subsurface conditions result in the need for extra work which causes delays in completion. In this case, the delays and extra costs incurred by the contractors were, in part, the result of the delay in learning the nature and cause of the pile driving difficulties, and thus the solution. The same solution arrived at promptly would have resulted in less pile driving, not more.

Ultimately, Metro settled with Parker and Coast Marine for a total of \$456,000, of which \$195,000 was retainage. All of the parties expressly retained their rights against Black & Veatch, which refused to participate in the settlement.

Metro's original cross-claims against Black & Veatch included six claims for relief - three based upon the design agreement and three based upon the construction management

agreement. The theories propounded were breach of contract, negligence, and contractual indemnity. Judge Riggs granted (we believe erroneously) Black & Veatch's Motion to Dismiss the claims on the ground that all of the claims were for indemnity, which was barred because Metro's settlement did not discharge Black & Veatch's liability to Parker and Coast Marine. An amended cross-claim has been drafted alleging breaches of each Agreement, negligence in relation to the performance of each Agreement, and claims, based upon the contracts, for attorney fees incurred by Metro in defense of the Parker and Coast Marine claims. These claims allege the same damage as sought in the original pleadings.

The cross-claims allege that because of Black & Veatch's breaches of contract or negligence, the cost of construction of the Project was increased in the sums claimed as damages (\$261,000 based on design and \$182,700 based on construction management). The damages claimed for design error include amounts recoverable for construction management error. The amended cross-claims have not been filed pending the Metro Council's decision on whether to proceed further. Upon filing we anticipate further attack from Black & Veatch on the pleadings.

#### ANALYSIS

Our geotechnical expert will testify that the geotechnical experts hired by Black & Veatch could not have been



expected to have discovered the soil layer which became the changed condition. However, Coast Marine's geotechnical expert in a settlement discussion argued that Black & Veatch was negligent in design. We have little faith in this expert. Although the claims based upon design error are weak, they are being retained at this point for purposes of negotiation, and will probably be dropped just prior to trial.

The central issue of the case is the interpretation of Section 2C-4.03 of the General Contract Specifications, which provided: "If there is any difficulty attaining the specified tip elevation, the engineer shall be immediately informed and an alternate procedure shall be adopted upon his recommendations." Black & Veatch argues for a literal interpretation of "recommendations." Metro argues the implied conditions of the Construction Management Agreement requires more than a recommendation to the contractor with nothing else. Black & Veatch will also argue that delays and damages were the result of the changed condition and mismanagement of the changed condition by the contractors. Whether Metro prevails against Black & Veatch on the construction management cross-claims depends on whether the jury or judge decides Black & Veatch performed up to the standard of care implied in the Construction Management Agreement.

Due to the factual complexity of this case, it is difficult to predict the outcome, either as to the ultimate prevailing party or the amount of damages. The claims expert

retained on behalf of Metro is a strong and persuasive witness regarding Black & Veatch's liability for the construction management portion of the claims. Black & Veatch's personnel who were involved in the Project performed very well in the depositions and will be credible witnesses. The outcome will ultimately hinge on which expert (Metro's or Black & Veatch's) the jury or judge believes.

We estimate the prosecution of these claims against Black & Veatch through trial will cost an additional \$30,000. This estimate includes costs for completing discovery, motions, expert fees, trial preparation and trial. The difficulty of proof of damages involves the issue of responsibility between contractors and requires voluminous documents and testimony. We expect that Black & Veatch will incur similar fees. Since both the Design and the Construction Management Agreements provide for an award of reasonable attorney's fees to the prevailing party, the losing party could end up paying both its and its opponent's attorney's fees. The amount of fees awarded will be up to the discretion of the court.

Black & Veatch to date has refused to negotiate. They claim as a matter of principle they never pay any settlement. Black & Veatch considers any settlement to constitute an admission of guilt or irresponsibility. Black & Veatch refused to participate in the settlement with Parker and Coast Marine.

Black & Veatch also has an outstanding claim for approximately \$15,000, which sum has been withheld by Metro

pending this lawsuit. Metro has claimed additional grounds for nonpayment of this sum. In the event this lawsuit continues, we would expect Black & Veatch to counter-claim for this amount. Black & Veatch has refused to drop the \$15,000 claim as part of a proposal that each side drop all claims including attorney fees. Black & Veatch has not been approached to dismiss the pending case and waive attorney fee claims with no mention of the \$15,000 claim.

Neither Parker nor Coast Marine has pursued any claims against Black & Veatch since the February, 1984 settlement. We do not expect them to play an active role in the lawsuit, although we do expect them to cooperate with Metro. Metro will have to carry the fight against Black & Veatch.

Metro's options are:

1. Dismiss the suit and appeal the Judge's rulings on the indemnity theory;
2. Attempt to negotiate settlement;
3. Voluntarily dismiss and not proceed further; and
4. Continue to litigate, through trial if necessary.

It is not necessary to appeal the Judge's decision at this time. That issue would still be appealable at the conclusion of the suit, if Metro was unsuccessful. The damages sought can be recovered under the breach of contract and negligence theories without a separate indemnity theory.

Voluntary dismissal, without agreement to drop attorney fee claims, may result in an award to Black & Veatch of attorney

fees incurred since the filing of the cross-claims since Black & Veatch would be the prevailing party. This option was discussed in detail in our previous memorandum to Eleanor Baxendale and was considered at the Council meeting of August 23, 1984. However, Black & Veatch might still pursue its \$15,000 claim against Metro. In that event, Metro would have to decide whether to contest Black & Veatch's claim by reasserting claims from this lawsuit, relying on alternate theories of defense, or paying the claim.

The Council, in weighing these options, should decide whether it is willing to accept the risk of potentially paying both its and Black & Veatch's attorney's fees against the possibility of a \$100,000-plus recovery. If Metro wins, the recovery could be substantial. Losing would be expensive.

MEMORANDUM

TO: METRO COUNCIL CONFIDENTIAL  
FROM: ANDREW JORDAN  
SUBJECT: ALASKA TUNDRA PROJECT LITIGATION

At its August 23, 1984 executive session, the Council asked for an analysis of the issues that might arise in litigation by Metro against the sureties on the Alaska Tundra Project and for an analysis of the likelihood of success in such litigation. It is the purpose of this memorandum to provide the Council with my best judgment of the nature and potential outcome of such case, keeping in mind however, that "success" in complex litigation is usually a matter of degree. That is to say that one can prevail in a case without obtaining all to which he feels entitled. The ultimate question in this case is probably not whether Metro is entitled to money from the surety companies, but how much.

By way of background, the prime contract for the Alaska Tundra Project was awarded to The Project, Inc., which contractor subsequently defaulted. At the time of contract award, the contractor provided Metro with a performance bond for the entire amount of the contract (\$1,482,352.00). The bond was executed by three surety companies, Allied Fidelity Insurance Company, Surety



RALPH BOLLIGER  
LEWIS B. HAMPTON  
ARTHUR L. TARLOW  
KEITH W. GRIFFEN  
JOHN S. CAVANAGH  
BRUCE L. SCHAFER  
E. ANDREW JORDAN  
KATHERINE M. ZELKO  
MILTON E. BERNHARD

BILL MOSHOFSKY  
OF COUNSEL

1600 S.W. CEDAR HILLS BLVD.  
SUITE 102  
PORTLAND, OREGON 97225  
TELEPHONE (503) 641-7171  
TELEX: 360401 INTERPULSE PTL  
TELECOPIER: (503) 226-0271

Insurance Company of California, and American Centennial Insurance Company. The bond provides "limits of liability" for each company: Allied is limited to \$1,000,000.00, Surety Insurance is limited to \$400,000.00 and American Centennial is limited to \$82,352.00. In addition, American Centennial's limit of liability is designated as "excess" liability, indicating presumably that American Centennial is the last to pay. Allied Fidelity claims the "excess" denotation also applies to it, but the bond does not provide that.

Since the default by The Project, Inc., Surety Insurance Company of California has become insolvent and has been placed into receivership by the State of California Insurance Commissioner. The State of California has obtained an injunction against all creditors of the company barring suit against the company during the period of insolvency. Presumably the company will be liquidated and creditors will be paid from whatever assets may be obtained through liquidation.

The performance bond provides that if the contractor defaults, the sureties have three alternatives. The sureties may (1) remedy the default, (2) complete the project, or (3) accept bids and arrange for a contract for completion of the project and "make available as work progresses sufficient funds to pay the cost of completion of the balance of the contract price". In this case the

sureties opted for the third alternative and did obtain bids and arrange for a completion contract. However, the sureties have refused to make funds available to pay the cost of completion.

It is our position that the suretys' failure to make funds available for completion constitutes a breach of the bond. Because of Surety Insurance Company's insolvency, we have demanded that Allied Fidelity and American Centennial must make such funds available. Their position, indicated telephonically but not in writing, is that Surety Insurance Company is responsible for the first \$400,000.00 of the amount of the bond and that Allied and American Centennial have no liability under the bond until such time as the cost of completion of the project exceeds \$400,000.00. If their position is correct, and if Surety Insurance Company's insolvency precludes it from providing any of that \$400,000.00, Metro would be responsible for the first \$400,000.00 of the completion cost.

With respect to the above issue, it is our contention either that Allied Fidelity is responsible for the first \$1,000,000.00 of completion cost because Allied is the first named surety on the bond or that the sureties are Co-Sureties and therefore are responsible for a prorated share of the entire completion cost. In any event, it would be our position that the two solvent sureties are responsible to Metro for at least \$1,182,352.00 and that it

is the responsibility of those two sureties to seek reimbursement from the insolvent surety. The above theories of liability may be altered somewhat when it comes time to prepare the actual pleadings, but they fairly express our position at this time. Obviously, this issue is worth \$400,000.00 to Metro, and if Metro declines to pursue this issue it may never recover the \$400,000.00 from its own funds. I need also add that Surety Insurance of California, though insolvent, may have been re-insured for part of their \$400,000.00 obligation. We are pursuing this possibility.

The basis of our position on the above issue is that nothing on the face of the bond indicates that Surety Insurance Company of California is responsible for the first \$400,000.00. Allied and American Centennial will likely argue that Metro was told of that prioritization or that the order of execution of the bond was in error. In response, we know of no evidence that Metro was told of such prioritization, or if it was told, that Metro agreed. In addition, if there was an error in the order of execution of the bond, that error was made by the sureties, not by Metro, and therefore the sureties cannot profit by their own mistake. At this point, these positions appear well founded both in fact and law.

In addition to the issue of order of payment, the sureties are likely to raise other issues pertaining to faulty workmanship by the original contractor. Though it is



generally the rule that sureties are responsible for faulty work by a defaulting contractor, the sureties in this case may argue that Metro knew or should have known of the faulty work and should not have paid the defaulting contractor for such work. The sureties may argue that Metro should have defaulted the contractor at an earlier point, which of course would have mitigated some of the sureties' liabilities. In response, it is our position that Metro could not have lawfully defaulted the contractor at any time prior to the contractor's own default because the job was progressing close to the time schedule and Metro was unaware of any work sufficiently faulty to constitute a default. In addition, the surety companies had a "Joint Control Agreement" with the original contractor under which the sureties exercised substantial control over the project itself. In fact, a committee was formed, upon which the surety, Metro and the contractor were represented, for the purpose of determining the legitimacy of the contractor's requested progress payments.

Based upon the above, it is our position that the sureties' argument with respect to faulty workmanship has no merit, and if it had merit, we made payments to the contractor for his work, faulty or otherwise, based upon the advice of our architect and sureties. If those payments were wrongfully made, therefore, it would be our position that the architect and sureties bear some or all the responsibility for those payments.

The above analysis describes the nature of the case as we see it at this point in time. If new arguments are raised by the sureties after commencement of litigation we will, of course, have to respond to those arguments.

As I have indicated in the past, the Council has two alternatives with respect to the commencement of litigation. First, it can sue the sureties now for breach of contract for failure to make progress payments and for a declaratory judgment settling all of the rights and responsibilities of the parties under the bond. The alternative is to wait until the project is completed, at which time we would know the final cost thereof, and sue the sureties for breach of bond for nonpayment of the total completion cost. Under the bond, Metro has two years from the date on which final payment under the contract falls due in which to sue. Since final payment has not yet fallen due, the two years has not yet begun to run.

Based upon my telephone conversations with the surety companies, settlement without litigation appears unlikely. Allied Fidelity has determined that it will not pay until after the \$400,000.00 plateau has been reached and would not begin paying even then based upon their faulty workmanship position.

Under the provisions of ORS 743.114, it appears that Metro would be entitled to attorney's fees from the sureties, if Metro succeeds in obtaining a judgment for more

than the amount which may be tendered by the sureties. At this point, no tender has been made. Attorney's fees are allowed, however, only in litigation for breach of contract and not for declaratory judgment. If Metro were to bring both a breach of contract action and a declaratory judgment, it appears that attorney's fees would be allowed, if we prevail.

In summary, if litigation does not commence against the sureties at some point, Metro stands to lose at least \$400,000.00 and perhaps more. If Metro sues and prevails on all points, Metro should be responsible for no more than the cost of the original contract and should recoup its attorney's fees for the cost of litigation. If Metro sues and does not prevail on the breach of contract theory, Metro will not recoup its attorney's fees.

I hope the above analysis provides sufficient information for the Council to determine whether to commence litigation. If further information is required, I will provide it as soon as possible.



# Memo

CONFIDENTIAL

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

Date: September 5, 1984

To: Metro Council

From: Eleanore S. Baxendale  
Legal Counsel

*Eleanore S. Baxendale*

Regarding: Black & Veatch

Attached to this memo are some of the background materials requested by the Council: a memorandum from E. Andrew Jordan and Arthur C. Tarlow, a partial transcript of the Council meeting in February, 1984, and the resolution adopted at that meeting authorizing filing suit against Black & Veatch. In addition, Mr. Tarlow will provide a written analysis of the case, which will be mailed to the Councilors on September 7, 1984.

ESB:amn

Attachments

cc: Rick Gustafson  
Don Carlson  
Dan Durig  
Norm Wietting

Submitted 2-23-84

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

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

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

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

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

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

COUNCIL EXECUTIVE SESSION RE: CTRC LITIGATION  
February 23, 1984  
Held under the authority of ORS 192.660(1)(h)

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Mr. Andrew Jordan referred Councilors to his memo dated February 21, 1984, which explained background information about the litigation. He said the position was to settle the case as expeditiously as possible. Art Tarlow briefed Councilors on the basics of the case:

ART TARLOW: We always want in a settlement like this to appear that we have been very reluctant, that we paid more than we thought we should have, those kinds of things. Now, in fact, that's what we have said over and over again in these negotiations--the opposite is really true--we are extatic about the sum, we think it is a phenomenal settlement, but I think it is important, because these contractors and others, and these lawyers and others, are going to be involved later on that outside of this room, our pleasure at this settlement not be indicated. There are a very small fraternity of lawyers who do this kind of work, and we are all up against each other over and over again, and the ability to successfully conclude these things is dependent in large measure on the credibility with which you negotiate, so I wouldn't want our credibility to be compromised next time out.

Basically, a changed condition, which is what this case is about, in terms of the liability or the aspect or exposure aspect, is something different under the ground than was expected by the contractor when he bid the work. When you prepare the specifications and the documents from which contractors decide what the job is going to cost and they submit their pricing, they are entitled to rely on those documents as to what they are going to encounter under the ground.

The unfortunate nature of this kind of work is that nobody can see under the ground, so you do the best you can do to find out what's under the ground without the ability to see, and an engineering firm like Black and Veatch, or like Waker & Associates, hires a geotechnical expert, geotechnical engineer, to do the studies underneath the ground. They can't see under the ground either, but they are especially trained where they are supposed to know much better than even the regular engineer what's under the ground. In this case, Black and Veatch hired local people, local geotechnical engineers, who made reports to Black and Veatch from which the documents were prepared and the job was bid.

When the contractor got out on the job, it turned out that what was under the ground in terms of the soils that had to be penetrated to put down the pilings for this foundation were different than was anticipated, and this is not the kind of thing where you see a level strata here and a level strata there, and a level strata there, it is different all over, and one of the major areas of dispute in one of these kinds of things is what's really under the ground and where is it, and you draw maps, and you have charts, and we've got miles of paper in which we've charted and drawn and graphed and we -- what's under the ground, and the only thing you really know is that area which you really did. And there are test holes that are dug and all kinds of things, technical things, that are done, and as it turned out in this case, there is a change condition. This is not an uncommon circumstance any time you are doing any kind of work under the ground, it is very common in subway work, tunneling work, piling work, any kind of work which involves underground activities, you see change conditions, it's not uncommon.

When we first started this case we did two things -- we hired, we did one thing involving two people -- we hired two of the best experts that we could find based on the experience I and others have had. One of the people we hired is a geotechnical expert, an individual who has particular skill in forensic geotechnical work, which means that he is somebody who is not afraid to render a critical opinion of other engineers, that is not always easy to find, for obvious reasons people are reluctant to say unpleasant things about people in their industry. The particular individual we hired I have been involved with before and sat through an arbitration hearing where he told the engineers from the City of Portland and the experts retained, the geotechnical people retained by the City of Portland, that in the bluntest possible terms that they have blown it and convinced a panel of three expert arbitrators, so a very experienced, competent guy who is very willing under appropriate circumstances to say that mistakes were made. The other individual is a person who ran an, essentially all the work in Oregon and Washington for a major international contractor who no longer works in the area, they pulled out, didn't like to work in Oregon, and he didn't want to leave and so he stayed in Oregon, lives in southwest Washington, and does consulting work and has been involved in many, many major contract disputes and his job was to evaluate costs, damages, claims, if you will, that were made by the various contractors.



Now, Black and Veatch essentially had all their work and all their decisions evaluated by the local geotechnical person that we hired, and Black and Veatch, as part of their work, did some damage calculations which were, I guess, kind of what you expect from an engineer, they don't know anything about damages, and it was just abysmal, and so whatever they did on damages was a waste of time, we had to totally start all over again.

The, all contracts, let me take that back, almost all contracts, and I am qualifying that because there is a brand new attempt to handle this problem which has been litigated once in the United States successfully and is a kind of interesting approach to it, but that is really out of the realm of practical aspects and for this stuff. All these contracts say is if, in fact, there are change conditions then the contractors are entitled to recover those damages which were caused, directly caused, by the change condition, whatever their increased costs were, not entitled to increased costs for other reasons because they underbid the job, or because they had problems with their own subcontractors, or because they didn't handle their work effectively and efficiently, only those areas directly attributable to changed conditions and that's the rub in this kind of a case.

It's real easy when you have a lot of engineers saying there is a changed condition, say OK there is a changed condition, and that was what we had here, wasn't much dispute there was a changed condition, the problem was how much money is there directly attributable to that changed condition which is the owner's responsibility, but no other factor is and the game is when there is a changed condition contractors get well, they get well for underbidding, they get well for problems with their own subcontractors, they get well for not handling their personnel efficiently, they get well for price increases that occurred, and they get all the profit that they can get that they didn't have, as an example, for instance, to get the bid in a competitive circumstance Parker Northwest bid it at no profit, zero profit.

(Discussion of sorting out what costs relate to the changed conditions, judges, juries arbitration and negotiated settlements.)

ART TARLOW

The interest on that sum (the \$195,000 retainage), the statute says you have to pay interest on improperly withheld amounts, that interest amounts to

\$30,000. We just told them we never pay interest, I mean, I can, there are some arguments, how good they are or not how good they are, we can talk about them more if you want. Parker Northwest's claim for the things I talked about was about \$385,000. Coast Marine, the piling subcontractor, was in for \$265,000, they wanted in bond fees and attorney's fees \$49,000, which by the way turned out to be a pretty accurate number. Coast Marine wanted \$45,000 attorney's fees and then they wanted interest on these amounts of \$162,000, OK, so we're looking at a claim here of \$1.1 million. Now, what you end up with, let's go to here for a minute (pointing to charts), what we are proposing to settle for, then we will go back and talk about where our exposure might have been. We are going to pay them what they have coming on the contract, that number is the number we made in interest because we had it in the bank for a year, so that cost is essentially free money, if you will, because we had it in the bank, OK. We settled out all the rest of this, I mean the rest of \$1.1 million for \$245,000, which if you want to just look at how good did we do on the dollar, we did pretty good, we got, I don't know, this amounts to about \$900,000, we settled out for \$245,000. Now remember one thing we talked about this, there's no question that there was a changed condition and that we have a responsibility to pay whatever the costs are for that changed condition, so this wasn't a question of really any meaningful chance of coming out at zero, if you will, we had to pay them something, so you go in saying "how much." So you get \$456,000 which is the number on the materials you have which is the total payment. But let's not be confused that we are settling claims for \$456,000, we are settling claims for \$245,000.

[Continued description of what our experts thought Metro might have paid at trial - pointing to charts with numbers.]

ART TARLOW

This is what you spent, for us (pointing to a chart-- \$43,000?), and what does that include, does that include experts, Norm, that includes our fees plus all of our experts, so you haven't paid us as a law firm all that money, you paid the geotechnical engineer out of that, you paid a claims expert out of that, you paid a lot of cost for depositions, this case contains almost 4,300 pages of depositions, so far, with two days not transcribed and 17 more days of depositions scheduled, so you begin to get a feel for the complexity and the cost of this thing. In

the estimate to complete was about \$50,000. Now understand what that means, is that it would have cost us \$50,000 more to come out under optimum circumstances at \$245[,000]; see you spend another \$50[,000] to get where you are, where you settled, and that's why we think this is a very, very good settlement for the agency. The other areas which I thought you might be concerned about are what's left with regard to Black and Veatch, that may come up with the questions, and what we may have learned as an agency out of this that we can apply to the circumstances, but I will be happy to...

KIRKPATRICK: Yes, let's go with questions because I know there are several and we have a regular meeting scheduled for 7:30.

KAFOURY: What do you view as the case against Black and Veatch? Are you going to recommend that Metro pursue that case?

ART TARLOW: Oh yeah.

KAFOURY: And, could you give us a description of the nature of that case and what you want to ask what you want claim for.

ART TARLOW: We have two contracts with Black and Veatch -- one contract is the engineering contract and one contract is a supervision contract. They were hired as construction managers to supervise this whole situation. We think they've got liability under each contract separately. They are by no means cases in which I am going to tell you that I am certain we are going to win. They are cases in which experts tell us that they think they made mistakes. Black and Veatch was offered the opportunity to participate in a settlement for complete release. Black and Veatch refused to contribute one dollar to this settlement, not a dollar, we went around, and around, and around with them over a period of months, when it was coming down to do it or don't do it, we prevailed on Rick to call the engineers back in Kansas City on a businessman-to-businessman basis, essentially saying what you're talking about, we have enough of these \$43,000 lawyers, this is a business problem, let's solve the problem, let's get it settled, throw some money in the pot, less than you know, and admit it will cost you to finish, and let's get it done with, and they said no. Rick did better than any of us at getting to the right guy who made the decisions and in making the argument in a direct manner, and Rick understood exactly what we were doing, and made the arguments very well, unfortunately to no avail.

We have now, there are lawsuits pending against Black and Veatch. Each of the three parties, the subcontractor, the contractor, and the owner, us, have reserved specifically in these agreements our rights against Black and Veatch, and that this stage of the game everybody intends to proceed. Yesterday we met with the claims expert and said, alright Cliff, now I want to know of our \$245,000, which is all we are really out as a result of this, how much is attributable to Black and Veatch. It's a fairly simple answer if we prevail on the fact that their subcontractor made a mistake in evaluating the ground conditions. But that's not the end of the case, because the better case, if you will, is they did not handle the construction management properly when the change condition became apparent to everybody. I can't tell you how much of the \$245,000, I can tell you it's not more than \$245,000. I can tell you that it's the kind of thing that we think there is value in proceeding against, but that you continually evaluate at all times on whether or not it is going to be valid. If we can get away from alot more depositions, which we don't want to take, we have never wanted to do all these depositions, the other attorneys wanted the depositions, it should be a fairly simple, relatively inexpensive, relative to these kinds of numbers, case to complete against Black and Veatch one way or another, and I won't know that until we agree that we have a settlement and tomorrow morning I would then call Black and Veatch's lawyer and say, OK it's a new ball game, you want to arbitrate, you want to litigate, because one of the contracts is arbitration and one is litigation, and we start finding out how it's going to be conducted, but it's not something that you make a decision today which is a final decision that you go all the way through and don't quit, you continually evaluate.

Councilor Kelley asked if the \$50,000 quoted by Mr. Tarlow as legal expenses estimated to complete the suit were only for this suit or whether it includes money for suing Black & Veatch. Mr. Tarlow said he thought close to that amount would have been spent on litigation, arbitration, remaining depositions, trial preparations and the actual trial for the current suit, not for the Black & Veatch suit.

Councilor Oleson asked Mr. Tarlow to estimate how much money Metro could expect to recoup by this legal action. Mr. Tarlow answered he had no opinion on this yet and that was why experts had been hired. He had talked with the experts the previous day after it was known there was a settlement. He said the experts had estimated Metro could recover about 30 percent to 50 percent of \$245,000. He said until you know that number and how much the case will cost you, you don't know wheter to bluff about going forward, whether you do go forward and how far to continue.

Councilor Van Bergen said he was concerned about Mr. Tarlow's statement that the change in conditions of Black & Veatch's work was Metro's responsibility. Mr. Tarlow explained that under the terms of the contracts, it was the owner's responsibility to provide extra fees for changed conditions. All parties involved in evaluating the case agreed that conditions had changed.

Councilor Waker said he did not think we were really dealing with a changed condition. Rather, the information about the condition was incorrect. If the condition had been properly known, it is likely it would have cost more money to correct it, he said. Therefore, Councilor Waker thought the engineer's failure to note the situation correctly had created increased costs for the actual work and increased costs for the delay in correcting the work. Councilor Waker explained that in his profession, the cost of the work is the cost of the work under the actual conditions regardless of whether the engineer identified them correctly at the outset, although they may have been lower had the conditions been known at the beginning.

Councilor Van Bergen said it appeared many game decisions had been made by the Executive Officer and the Council had not been informed about these decisions. He asked whether the Council or the Executive Officer would make the decision to proceed with the case.

Mr. Jordan said it was common for local governments to refer to their councils about settlements of major pieces of litigation. He said the Council would be asked to authorize a contract expenditure that would be greater than the previously approved contract sum. Mr. Jordan said he agreed with the Executive Officer's recommendation.

Councilor Van Bergen said he felt too pressed to make a decision and asked about the time factors of this case. Mr. Jordan explained the Council would be asked to adopt a resolution authorizing approval of the settlement agreement, approval of payment of \$456,000 and approval of continuation of litigation or arbitration against Black & Veatch. He said the attorneys to both parties have agreed that if the Council approves the resolution, the documents will be signed tomorrow and payment will also be made tomorrow. Mr. Jordan said this crucial timing was part of the deal. Councilor Van Bergen said he would vote no on the resolution because he did not want to be pressed to make a decision.

Councilor Kafoury asked if Black & Veatch had been bonded for the contract. Mr. Jordan said personal services contracts did not require bonding. He added that about \$15,000 had been withheld from their contract payment pending satisfactory completion of the work, but that amount might be offset by our other claims against Black & Veatch. Mr. Tarlow said Black & Veatch's has Errors & Omissions Insurance but the deductible was \$250,000.

Councilor Oleson asked what would happen if the agreement were not signed. Mr. Tarlow said Metro would then go to trial and he did not think this would be to Metro's financial advantage. He said it could cost another \$50,000 to recovery the \$245,000.

Councilor Kirkpatrick asked for a quick check to see if Councilors were ready to vote on the issue. The Councilors generally agreed they were ready to vote. Mr. Jordan then asked that all material circulated at the Executive Session be considered very confidential.

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