

# Agenda

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Date: October 25, 1979

Day: Thursday

Time: 7:30 p.m.

Place: Council Chamber

CALL TO ORDER (7:30)

1. INTRODUCTIONS

2. WRITTEN COMMUNICATIONS TO COUNCIL

3. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

4. CONSENT AGENDA (7:40)\*

4.1 Minutes of Meeting of September 27, 1979

4.2 A-95 Review, directly related to Metro

4.3 Contracts

5. REPORTS

5.1 Report from Executive Officer (7:40)\*

5.2 Council Committee Reports (8:00)\*

5.3 A-95 Review Report (8:20)\*

5.4 Fiscal Year 1979 Fund Balance (8:25)\*

6. OLD BUSINESS - PUBLIC HEARINGS (8:30)\*

6.1 Administrative Procedure Rules

6.1.1 Rule No. 79-1, Establishing Notice Procedure  
for Rule Making (8:30)\*

Rule No. 79-2, Establishing Procedure for Rule Making  
(8:40)\*

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Metro Council

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6.1.2 Ordinance No. 79-74, Repealing Contested Case Hearings Procedures Adopted by MSD Ordinance No. 42 (1976) (Second Reading) (8:50)\*

Rule No. 79-3, Establishing Rules of Procedure for Contested Cases (9:00)\*

6.1.3 Ordinance No. 79-75, Amending Ordinance No. 79-73 (Personnel Rules) Relating to Personnel Discharge Procedures (Second Reading) (9:10)\*

6.1.4 Rule No. 79-4, Establishing Rules of Procedure for District Declaratory Rulings (9:20)\*

6.2 Public Contract Review

6.2.1 Ordinance No. 79-76, Designating and Creating Public Contract Review Board (Second Reading) (9:30)\*

6.2.2 Rule No. CRB 79-1, Adopting Rules of Procedure for Meetings of the Metro Contract Review Board and Superseding OAR Chapter 127, Divisions 80 and 90 (9:40)\*

6.2.3 Rule No. CRB 79-2, Adopting Rules for Exemption of Certain District Contracts from Competitive Bidding Requirements (9:50)\*

6.2.4 Rule No. CRB 79-3, Adopting Rule Exempting Washington Park Zoo Primate Exhibit Contract from Competitive Bidding Procedures (10:00)\*

7. NEW BUSINESS

7.1 Ordinance No. 79-77, Adopting Urban Growth Boundary and Findings (First Reading) (Public Hearing) (10:10)\*

7.2 Ordinance No. 79-78, Establishing Procedures Relating to Local Improvement Districts (LID) and Apportionment and Levy of Assessments Related Thereto (First Reading) (10:30)\*

7.3 Resolution No. 79-101, Authorizing New Positions, Solid Waste Division (10:50)\*

8. ANNOUNCEMENTS

ADJOURNMENT (11:00)\*

\* Times proposed are suggested - actual time for consideration of agenda items may vary.

mec

C O U N C I L

**Metropolitan Service District**  
527 SW Hall Portland, Oregon 97201 503/221-1646

## *Agenda*

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*Date:* October 25, 1979

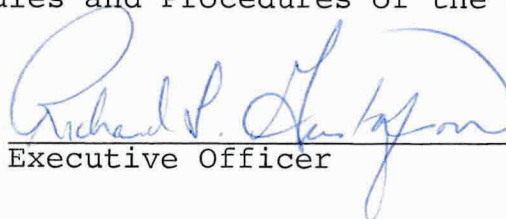
*Day:* Thursday

*Time:* 7:30 p.m.

*Place:* Council Chamber

### C O N S E N T   A G E N D A

The following business items have been reviewed by the staff and an officer of the Council. In my opinion, these items meet the Consent List Criteria established by the Rules and Procedures of the Council.

  
Executive Officer

4.1 Minutes of Meeting of September 27, 1979

Action Requested: Approve Minutes as circulated.

4.2 A-95 Review, Directly Related to Metro

Action Requested: Concur in staff findings

4.3 Contracts

Action Requested: Approve execution of contracts

mec

DIRECTLY RELATED A-95 PROJECT APPLICATIONS UNDER REVIEW

PROJECT DESCRIPTION	FEDERAL \$	STATE \$	LOCAL \$	OTHER \$	TOTAL \$
<p>1. <u>Project Title:</u> City-County Arson Control Task Force (#798-9)  <u>Applicant:</u> Multnomah County - City of Portland  <u>Project Summary:</u> To increase investigative and prosecuting capabilities for arson cases in Multnomah County. An Arson Task Force composed of an experienced deputy district attorney and two specially trained police detectives assigned to the Fire Bureau Arson Investigation Unit will thoroughly investigate all potential arson fraud cases and institute prosecution when suspects are identified.  <u>Staff Recommendation:</u> Favorable Action</p>	<p>\$198,081 (LEAA)</p>		<p>\$21,900</p>		<p>\$219,981</p>
<p>2. <u>Project Title:</u> Waluga Park Entrance Improvements Phase II (#799-13)  <u>Applicant:</u> City of Lake Oswego  <u>Project Summary:</u> The project consists of site clearance, rough and finish grading, installation of an automatic irrigation system and a concrete walk and restoration of an existing stone wall and landscaping.  <u>Staff Recommendation:</u> Favorable Action</p>	<p>\$10,288 (HCRS)</p>		<p>\$10,288</p>		<p>\$20,576</p>
<p>3. <u>Project Title:</u> Dairy Creek (Susbauer Rd.) Bridge (#799-16)  <u>Applicant:</u> ODOT  <u>Project Summary:</u> Replacement of a structurally deficient bridge  <u>Staff Recommendation:</u> Favorable Action</p>	<p>\$215,280 (DOT-FWHA)</p>		<p>\$60,720</p>		<p>\$276,000</p>

ADOPTED BY THE  
MSD COUNCIL  
THIS 25<sup>th</sup> DAY OF October, 1979  
Mary G. Cashe  
CLERK OF THE COUNCIL

DIRECTLY RELATED A-95 PROJECT APPLICATIONS UNDER REVIEW

PROJECT DESCRIPTION	FEDERAL \$	STATE \$	LOCAL \$	OTHER \$	TOTAL \$
<p>4. <u>Project Title:</u> Offender Based Transaction Statistics (#799-15)  <u>Applicant:</u> Oregon Law Enforcement Council  <u>Project Summary:</u> To compile information on a statewide basis of the disposition and sentences for felony arrests, rearrest and reconviction patterns of offenders. The data will be used for long range criminal justice planning, evaluating corrections programs and identifying high risk offenders.  <u>Staff Recommendation:</u> Favorable action.</p>	<p>\$90,000 (LEAA)</p>	<p>\$10,000</p>			<p>\$100,000</p>

## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
 FROM: Executive Officer  
 SUBJECT: Contract Review

EXECUTIVE MANAGEMENT

Contractor: Portland State University - Center for Urban Studies  
 Amount: \$5,000 maximum  
 Purpose: To perform research and data compilation to assist Metro staff in working with the general public and organizations in determining future options (incorporations, annexations, consolidation status quo, etc.) for the area of Multnomah County east of Portland and Maywood Park and west of Fairview, Gresham, Troutdale and Wood Village. A final report will be published.

CRIMINAL JUSTICE

## OPERATION SATELLITE

Grantee: Boys and Girls Aid Society  
 Amount: \$60,000  
 Description: This project is to develop an unobtrusive, nonstigmatizing, more natural alternative service model that serves both troubled youth and their families together, in lieu of extended out of home placement. The project provides preventive services on a child-by-child basis, and can function as one of the following forms of resource mechanisms: temporary shelter or close supervision alternative to detention, voluntary diversion resource from juvenile justice system, neighborhood resource that can be used in lieu of placement in a group care facility located outside the child's community, and as a reentry support mechanism for either parolee or a youth leaving an out-of-home resource to return home.

## YOUTH DIVERSION &amp; DELINQUENCY PREVENTION

Grantee: Albertina Kerr  
 Amount: \$100,000

Description: An expansion of the existing programs through State Initiative funds, the Albertina Kerr program will provide increased crisis intervention treatment services to 200 status offenders and their families in East Multnomah County during 1980. The major emphasis is on preventing status offenders from being removed from their parental home. The goal is to enable 85 percent of the youth handled through this program to remain intact. Utilization of the Multiple Impact Family Therapy will also be implemented and evaluated at the end of the project year.

#### VOLUNTEER FOSTER HOMES FOR STATUS OFFENDERS IN WASHINGTON COUNTY

Grantee: Boys and Girls Aid Society of Oregon

Amount: \$67,752

Description: A countywide program to recruit, screen, select, and support volunteer foster homes as shelter-care alternatives to jail or detention for status offenders. Youths will receive the following direct services: crisis and personal counseling, medical, clothing and personal needs, and, continuing follow-up contacts when returned home or placed in longer-term foster care. Families/parents of youth will also be involved in receiving direct services where appropriate. After-care services will be obtained from other community agencies when indicated. The intent of the project is the implementation of a model program in Washington County for subsequent replication statewide to divert status offenders from the Juvenile Justice System.

#### YOUTH PROJECTS DEVELOPMENT

Grantee: Clackamas County Youth Commission

Amount: \$50,400

Description: A countywide project implemented on 6/1/79, to provide direct personal, educational and employment counseling and job placement services, or, to broker those services to other Clackamas County agencies in addition to the purchase of recreational services for selected youth. Where no youth programs exist in a rural area or neighborhood (at least) one will be implemented. An evaluation will be conducted to measure project impact, effectiveness of inter-agency coordination and services delivered. The intent of the project is to reduce referrals to the Juvenile Department from schools, parents, other youth-serving agencies and other sources.

**VOLUNTEER FOSTER CARE**

Grantee: Harry's Mother/EMO

Amount \$108,567 (\$56,067-Multnomah County)  
(\$52,500-Clackamas County)

Description: This is an expansion of the existing Multnomah County program into Clackamas County. The main goal of the project is to provide an alternative to detention of status offenders through utilization of volunteer foster home network in Clackamas and Multnomah Counties. The program operates on a 24-hour-a-day basis and provides emergency temporary shelter-care, individual and family counseling, information and referral, follow-up and after-care services to youth, as well as transportation to and from juvenile court. A satellite counseling site and counselor team will be established in Clackamas County handle juvenile court referrals there.

**JUVENILE JUSTICE ADVOCACY**

Grantee: Oregon Legal Service

Amount: \$105,000

Description: The project goal is to reduce the over-reliance upon the juvenile justice system for resolution of youth behavioral and family problems for which there are or should be alternative means of resolution, and thus to help achieve compliance with the requirement of the Juvenile Justice Delinquency Prevention Act. The project will provide representation of juveniles and others to develop and implement standards through activities involving legal advocacy, development of standards, community education, support for other child advocates, clearinghouse function, and monitoring. An internal effort evaluation as well as an independent impact evaluation will be provided.

**SOLID WASTE/PUBLIC FACILITIES**

Grantee: Contractor yet to be selected. Interviews will be held October 12 and October 18, 1979.

Amount: \$110,000 maximum

Description: Contractor would review, analyze and confirm as appropriate, previously established developmental decisions; analyze remaining issues/obstacles for implementation; and formulate and execute a Resource Recovery Implementation Plan.

ADOPTED BY THE  
MSD COUNCIL

PB:ss  
5569A/0065A  
10/25/79

THIS 25<sup>th</sup> DAY OF October, 1979  
Mary G. Gaudin  
CLERK OF THE COUNCIL



# MSD METROPOLITAN SERVICE DISTRICT

527 S.W. HALL PORTLAND, OREGON 97201 503/221-1646

## A G E N D A

### Solid Waste/Public Facilities Council Committee Meeting

October 16, 1979 - Metro Offices, Room A at 3:00 p.m.

I. Meeting Report - October 2, 1979

Rick Gustafson,  
Executive Officer

SOLID WASTE

II. Contracts  
Project Management

MSD Council

Mike Burton,  
Presiding Officer  
District 12

III. Solid Waste Division Reorganization

Donna Stuhr,  
Deputy Presiding  
Officer  
District 1

IV. Collection Franchise Policy - Discussion

Charles Williamson  
District 2

V. Tigard Sand & Gravel

Craig Berkman  
District 3

PUBLIC FACILITIES

VI. Johnson Creek Progress

Corky Kirkpatrick  
District 4

VII. Action on Draft #4 of L.I.D. Ordinance

Jack Deines  
District 5

VIII. Contract: Manual of Practices for Urban Stormwater Runoff

Jane Rhodes  
District 6

IX. By-laws for Water Resource Policy Alternatives Committee

Betty Schedeen  
District 7

Caroline Miller  
District 8

X. Portland Air Quality Advisory Committee Recommendation  
on DEQ Open Burning Rules

Cindy Banzer  
District 9

Gene Peterson  
District 10

OTHER BUSINESS

Marge Kafoury  
District 11

## MEETING REPORT

DATE OF MEETING: October 2, 1979

GROUP/SUBJECT: Solid Waste/Public Facilities  
Council Committee

PERSONS ATTENDING: Councilors: Craig Berkman,  
Jane Rhodes, [REDACTED]  
Jack Deines

STAFF: Merle Irvine, Terry Waldele  
John LaRiviere, Pete Ressler  
Karen Hiatt, Andy Jordan

GUESTS: Mrs. S. Sharp

MEDIA: Phil Adamsack, Oregon Journal

### SUMMARY:

The minutes of the September 18, 1979 meeting were approved as submitted.

Mr. Irvine began the meeting by reviewing a proposed contract with Writing and Communication Service. This contract will be for technical writing assistance and the development of the Solid Waste Management Framework Plan. The contract is in the amount of \$3,200 and funds are currently available in the adopted budget. Councilor Rhodes expressed concern over the need for the framework plan and questioned the necessity of obtaining services from a consultant. Councilor Berkman indicated that a need exist to have an overall document that explains in an easy to understand manner the Solid Waste program. Councilor Deines moved and it was seconded by Councilor Rhodes that the contract with Writing and Communication Services, Inc. be approved. Motion passed unanimously.

Mr. Irvine reveiwed the proposed continuation of the CH2M Hill contract to donduct a technical feasibility study report on the Durham Pits. The initial contract was approved by the Metro Council on July 12 and authorization was given to proceed on Task I. He indicated staff is requesting approval to continue with the remaining work task necessary to complete the study. The cost for the remaining work task is a maximum of \$67,500. Funds are currently appropriated in the Solid Waste Operating Fund budget. Mr. Irvine expressed that approval of the remaining work scope does not automatically authorize the engineer to proceed. This authorization will be given by staff upon positive completion and findings of Task I. Councilor Rhodes moved and it was seconded by Councilor Deines that the Council approve the remaining work task for the Durham Feasibility Study Report and authorize expenditure of \$67,500. Motion passed unanimously.

SOLID WASTE/PUBLIC FACILITIES COUNCIL COMMITTEE

Minutes of October 2, 1979

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According to Mr. Irvine the Portland Sand & Gravel Pit located at S.E. 106th and Division has previously been identified by Metro as a possible sanitary landfill. Metro has received a letter from the owners and operator of the Portland Sand & Gravel Pit requesting the site be used as a sanitary landfill. Mr. Irvine indicated that the gravel pit has a capacity of approximately 2,750,000 tons and would be available to accept solid waste for 8 to 10 years. Since it is desirable to have a technical feasibility study completed on the Portland Sand and Gravel Site as soon as possible and in the approximate time period for completion of the Mira Monte and Durham studies it was staff's recommendation that the Portland Sand and Gravel Site be substituted for the Alford Site in Clackamas County. Since the Alford Site would not be available for a landfill in the near future Mr. Irvine pointed out that by making this substitution a new request for proposal for engineer selection would not be necessary. After some discussion it was moved by Councilor Deines and seconded by Councilor Rhodes that a. the Council adopt a resolution requesting that the Multnomah County Board of Commissioners appoint a local landfill siting advisory committee, b. that the Portland Sand and Gravel Site be substituted for the Alford Site as one of the four sites authorized for further study, and c. that a contract be approved with CH2M Hill in the amount of \$74,200 to conduct a Technical Feasibility Study Report. The motion passed unanimously.

In response to a request by the Washington County Landfill Siting Committee and the City Administrator for the City of Tualatin, the Metro staff conducted a preliminary investigation of the Tigard Sand and Gravel Site located approximately 1.9 miles west of the City of Tualatin according to Mr. Irvine. He indicated that Tigard Sand and Gravel is currently operating a stone quarry and an asphalt manufacturing facility on 178 acres. Further, the company has control of an additional 422 acres. According to Tigard Sand and Gravel sources two million cubic yards of rock have been extracted and future rock extraction potential is twenty million cubic yards which will occur over the next 50 years. Mr. Irvine stated that the Metro staff had met with Mr. Duey Mallory on July 27, 1979 to discuss the possible use of this site as a sanitary landfill. Mr. Mallory expressed little or no interest in the possibility of modifying the operational technique of Tigard Sand and Gravel so the site could be used as a landfill concurrently with rock extraction. Mr. Irvine indicated that it was the staff recommendation based on results of the preliminary investigation that a resolution be adopted by the Council recognizing the Tigard Sand and Gravel Site in Washington County as a possible sanitary landfill.

Councilor Deines, after some discussion, recommended that the words "and final design" be removed from the last paragraph of

SOLID WASTE/PUBLIC FACILITIES COUNCIL COMMITTEE  
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the draft resolution. Councilor Berkman expressed his concern and displeasure over the manner in which the Tigard Sand and Gravel Site was announced and that the owners of the site had not been contacted. He indicated that we were risking the credibility of Metro by the recent actions and that by announcing the Tigard Sand and Gravel Site as a potential sanitary landfill it gave the impression of taking the "heat" off Durham. Mr. Irvine indicated that the meeting with Mr. Mallory on July 27 was held because it was reported to Metro that he was part owner of the Tigard Sand and Gravel Site. However, according to Councilor Berkman this is not the case. Councilor Rhodes stated she felt a problem existed with defining the respected roles between the Council and the staff. She felt that Metro should explore all possible sites for sanitary landfills and this was the role of staff. In addition, she stated that once a site is found to have the characteristics that would lend itself to a possible sanitary landfill Metro interest to this site should be made public as soon as possible. Councilor Deines stated that both the Portland Sand and Gravel Site and the Tigard Sand and Gravel Site should not be made public at the same time since they were not of equal importance. The Portland Sand and Gravel Site would be available for landfilling within a year, however, the Tigard Sand and Gravel Site under current rock extraction schedules will not be available in the near future. Mr. Irvine indicated that the availability of both sites were made known to the media, however, in the various news articles that were printed this fact was not clear. After some discussion it was decided that the resolution be redrafted to clarify that the Tigard Sand and Gravel Site is identified to be a potential site for sanitary landfill. It was moved by Councilor Deines and seconded by Councilor Rhodes that the question of the Tigard Sand and Gravel Site be discussed further at the next meeting of the Council Committee to be held on October 16.

Mr. Irvine reviewed a contract for an energy consultant to the Resource Recovery Project. The purpose of this contract is to provide technical assistance in evaluating energy markets and energy economical analysis and is part of the EPA Urban Policy Grant work scope. Mr. Irvine stated that an RFP was issued and eight proposals were received. A "short list" of three firms was selected for interviews on Thursday, October 4, 1979. It was moved by Councilor Rhodes and seconded by Councilor Deines that a contract be approved with one of the three finalist firms in an amount not to exceed \$43,500. Motion passed unanimously.

Andy Jordan, Metro's Legal Council, reviewed the third draft of the Local Improvement Ordinance. In response to concerns raised by local officials that the ordinance as originally drafted would include all functions of Metro, Mr. Jordan suggested that in Section 2

SOLID WASTE/PUBLIC FACILITIES COUNCIL COMMITTEE  
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Page Four

(a) the ORS reference be changed to ORS 268.310 (a). Mr. Jordan indicated that a new clause or paragraph will be added to allow local jurisdictions to initiate a request to form a Local Improvement District. In response to discussions of the previous meeting Mr. Jordan felt that Section 7 should reflect a 50% remonstrance. Section 17 will be clarified to include Bancroft Bonding. Mr. Jordan also reviewed the method of determining and levying assessments. He indicated this was the charge to the Executive Officer, however, those within the improvement district could appeal to the Metro Council. The changes reviewed by Mr. Jordan will be included in forth draft to be reviewed by the Council Committee at their October 16 meeting. The ordinance will be scheduled for introduction at the October 25 Metro Council meeting.

Councilor Rhodes indicated that the Johnson Creek Task Force adopted the work statement for the Johnson Creek Pollution Abatement and Flood Control Facilities Plan and that the time schedule was extremely tight. It was moved by Councilor Rhodes and seconded by Councilor Deines to approve the Johnson Creek Pollution Abatement and Flood Control Facilities Plan work statement. Motion passed unanimously.

John LaRiviere reviewed a proposed contract to develop a manual of practices for Urban Storm Water Management. He indicated that the objective of this project is to revise and update the Snohomish/King County Storm Water Management manual and apply it to the Portland Metropolitan Area. He indicated that staff will return at the next Solid Waste/Public Facilities Council Committee meeting with a recommendation on contractor selection.

Mr. Waldele reviewed the Portland State University work statement for Monitoring Consulting Services. This contract was approved by the Council Committee at the last meeting of October 2, 1979.

Mr. Irvine announced that in response to the Washington County Landfill Siting Committee Metro was sponsoring a bus tour of possible sanitary landfills including the Durham Pits, Cipole Pits, Mira Monte Farms, and the Tigard Sand & Gravel Site. He invited the Councilors to attend the tour which will depart by bus from the Tualatin City Hall at 8:30 a.m., Saturday, October 6.

Mr. Irvine requested a Councilor to assist in evaluating proposals for project management, an element of the EPA Urban Policy Grant. Councilor Berkman appointed Councilor Peterson to assist in the effort.

Meeting report prepared by Merle Irvine.

## MEETING REPORT

DATE OF MEETING: October 16, 1979

GROUP/SUBJECT: Ways and Means Committee

PERSONS ATTENDING: Chairman Corky Kirkpatrick, Couns. Stuhr, Deines and Burton

Staff: Charlie Shell, Michele Wilder, Andy Jordan, Merle Irvine

MEDIA: None

### SUMMARY:

Chairman Kirkpatrick called the meeting to order and opened discussion on the new administrative procedure rules. Mr. Jordan explained the amendments to the rules which would clarify the role of the hearings officer in proceedings before the Council, and which stated that the Council would approve a list of prospective hearings officers. The Committee raised no objections to the rules or the amendments.

An amendment to the Personnel Rules changing the definition of "Anniversary Date" was discussed. Mr. Jordan explained that the change was needed to make the definition consistent with the new terminology in the Pay Plan. No objection was raised by the Committee.

Mr. Shell reviewed the ending fund balances for the 1979 fiscal year. He noted that the major ending balance in the General and Planning funds was \$24,857 lower than anticipated to be carried over to the current fiscal year. He also explained that the impact of this decrease would be evaluated as part of the review of the first quarter financial records for the 1980 fiscal year and discussed with the Ways and Means Committee on November 13.

Mr. Irvine reviewed a proposal for a reorganization of the Solid Waste Division which included a request for three new positions. The Committee questioned the possible duplication of effort with the proposed Resource Recovery Manager and the Director of Environmental and Technical Services. Coun. Kirkpatrick questioned the need for the lower level positions if the new Department Director position were filled and there was a shift in duties. Coun. Burton stated that he was not willing to support the request and the filling of the Director of Environmental and Technical Services at the same time.

Coun. Deines moved, seconded by Coun. Stuhr, that the Solid Waste Engineer, and the Solid Waste Technician, be recommended to the Council. Further justification was requested for the Resource

Recovery Manager position. The motion failed in a tie vote.

The Committee decided to try to establish a meeting time with Executive Officer to discuss the issues further.

Coun. Kirkpatrick gave a brief status report on the Finance Task Force. She expressed her concern over the tendency of the Committee to want to be concerned with specific dollars rather than broad strategies.

The Committee also discussed the budget retreat scheduled for December 1. Staff was requested to prepare proposals on the way retreat should be structured and what matters should be discussed. Couns. Kirkpatrick and Burton agreed to send a note to all Committee Chairpersons reminding them of the retreat and the need to be prepared with recommendations on program priorities. A future meeting of the Ways and Means Committee will be scheduled to discuss additional details for the retreat.

REPORT WRITTEN BY: Charlie Shell

COPIES TO: Ways and Means Committee  
Executive Officer

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5617A  
D/3

TABLE I

Local government expenditures by service category roughly approximate the following proportions:

General Purpose Local Government Expenditures by Category

General Government	11%
Public Safety	35
Public Works	22
Health and Welfare	2
Recreation and Culture	7
Debt Service	23
Total	100%

Adapted from: Burchell, R. W., and Listokin, D.  
The Fiscal Impact Handbook: Estimating Local Costs  
 and Revenues of Land Development. New Brunswick,  
 New Jersey, Center for Urban Policy Research, 1978,  
 p. 30.

Salary, wages, capital, supplies, debt, etc. are all included as costs. Education costs are approximately 1-1/4 times larger than general purpose local government costs. These costs may change in relation and importance to one another as local government population and/or geographic size increases. Additionally, the cost per unit of service or per capita may increase or decrease with changes in population or land area. Efficiency here may mean the minimization of input costs and/or the maximization of services. It may also include optimizing the level and mix of public services for a certain population size and composition.

DK/gl  
 5606A/D/3



TABLE II

Comparison of Selected Private and Public Costs  
Associated with Alternative Residential Densities

(Based on 1,000 Housing Units)

	Single Family Conventional (3 units/acre)	Single Family Clustered (5 units/acre)	Housing <sup>1</sup> Mix
<u>Private Capital Costs</u>			
1000 Housing Units			
(excl. land)	100%	100%	68%
Parking	100%	77%	60%
Utilities	---	---	--
Sewer	100%	85%	48%
Water	100%	87%	53%
Gas	100%	90%	65%
Electric	100%	91%	68%
Telephone	100%	84%	47%
Total <sup>2</sup>	100%	99%	67%
<u>Public Costs</u>			
Schools <sup>3</sup>			
Capital/Student	100%	100%	84%
O&M/Student	100%	100%	84%
Transportation			
Capital	100%	86%	67%
O&M	100%	75%	50%
Sewer			
O&M	100%	95%	88%
Water			
O&M	100%	100%	95%
Gas, Electric			
O&M	100%	100%	73%

Source: Adapted from The Costs of Sprawl,  
Tables 21, 23, 24, 27, 29-31.

<sup>1</sup>Housing Mix is comprised of 66 single family units at three units/acre; 40 single family units at five units/acre; 20 ten units/acre townhouses; 13, 15 units/acre apartments; 6, 30 units/acre apartments.

<sup>2</sup>Includes storm drains.

<sup>3</sup>The costs of providing school bus service to a sparsely populated school district vs. a more compact urban form are not considered.

Note: This is not an inclusive list of all public and private costs associated with alternative forms of urban development.

# Metropolitan Service District

527 SW Hall Portland, Oregon 97201 503/221-1646

## Memorandum

Date: October 16, 1979

To: Solid Waste/Public Facilities Council Committee

From: Merle Irvine

Subject: Project Management Contract for the Resource Recovery Facility

On August 23, 1979, the Solid Waste Division solicited proposals from private consultants for the Project Management Function of the Resource Recovery Facility. "Request for Proposals" were set to more than 80 consultants. An Advertisement was also placed in the Daily Journal of Commerce.

We received twelve proposals and four firms were selected for interview. Of the four firms interviewed, Batelle, Columbus Laboratories was determined to be most appropriate for this work.

The contract specifies the tasks, schedule of completion and estimated costs. Essentially, the Project Manager would review, analyze and confirm as appropriate, previously established developmental decisions; analyze remaining issues/obstacles for implementation; and formulate and execute a Resource Recovery Implementation Plan.

It is recommended that the Council approve as described in Agenda item 4.3 the contract with Batelle, Columbus Laboratories.

MI:WC:ak

cc: CF

*Approved*  
~~ACCEPTED BY THE~~

MSD COUNCIL

THIS 25<sup>th</sup> DAY OF October 1979

*Mary G. Carde*  
CLERK OF THE COUNCIL

Proposed Resolution for MSD adoption

Oct. 25, 1979.

WHEREAS the impact upon landowners in the areas designated as "REGULATED SPECIAL AREAS" is more extensive than the restrictions and limitations proposed for other parts of MSD's UGB, and

WHEREAS, in some instances, five minutes speaking time may not provide sufficient time to adequately address the issues, and

WHEREAS, in some instances, a more logical presentation may be made by one person speaking for several affected owners,

THEREFORE, BE IT RESOLVED BY THE METROPOLITAN SERVICE DISTRICT COUNCIL that at its public hearing on the UGB findings scheduled for November 8th, the Council hereby agrees that upon presentation of a certificate signed by a landowner within any one of the five areas designated as a "REGULATED SPECIAL AREAS", a speaker designated by the owner shall be entitled to the owner's allotted time.

Be it further resolved that no designated speaker may speak on the subject for more than 30 minutes.

*Jim Allison*

Submitted by Jim Allison, President, Washington County Landowners Association.

*I Concur with the above statement*

*Marjorie Stewart  
Mayor - Sherwood*

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## Agenda

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Date: October 22, 1979

Day: Monday

Time: 4:30 p.m.

Place: Room C

CALL TO ORDER

1. INTRODUCTIONS
2. WRITTEN COMMUNICATIONS
3. CITIZEN COMMUNICATIONS ON NON-AGENDA ITEMS
5. REPORTS AND BUSINESS
  - 5.1 UGB Findings\*
  - 5.2 Cornelius Plan Review (No action)
  - 5.3 Plan Review Progress Report
  - 5.4 Goals and Objectives Work Program\*
  - 5.5 Report on Preliminary Identification of Economic Development Problems -- PNR/EDA Grants
  - 5.6 Procedures for Conducting Public Hearings on the UGB\*

\* Materials Enclosed

Housing Work Program enclosed as an informational item

JS:lz

## MEETING REPORT

DATE OF MEETING: October 11, 1979

GROUP: Joint Policy Advisory Committee on Transportation (JPACT)

PERSONS IN ATTENDANCE: Carrie Miller, Vice-Chairperson, Betty Schedeen, Donna Stuhr, Robert Bothman, Connie Kearney, Bill Young, John Frewing, David Peach (for Dick Carroll).

Bill Ockert, Dick Arenz, Ted Spence, Bebe Rucker, Karen Thackston

As there was no set agenda, the Chair requested topics for discussion. Several items were listed:

1. Metro's role in local plans - Donna Stuhr
2. Transportation Financing - John Frewing
3. Energy concerns in transportation planning - Bill Young
4. School transportation - Carrie Miller

### Roles

Donna Stuhr explained her concerns about local plans and their coordination with the Regional Transportation Plan. She was interested in the coordination mechanism between jurisdictions and within a jurisdiction, and if Metro has the authority to intercede in local plans.

Discussion concerned the role question. It was agreed that while Metro can ensure conformance of local plans with the regional plan, it should rely primarily on a cooperative consensus building approach. Metro cannot force a jurisdiction to build a project. In most cases, to use federal transportation funds on a project, the project must first be initiated by a local jurisdiction.

The regional plan will define objectives, inadequacies of the transportation system to meet those objectives, and policy options and programs correcting the inadequacies. The new plan will make it much easier to compare local objectives/plans to regional objectives/plans. The role for Metro in local planning is primarily to guide and advise. In addition, the plan must set directions, using a cooperative process, for resolving regional issues.

### Transportation Financing

John Frewing discussed his concern about the shortage of transportation financing. He felt it will be necessary to ask the legislature for help. He also felt that someone (preferably Metro) should take a lead role in developing a financial package to present to the next legislature.

Consensus of the group was to stress to the Council the importance of getting a multi-modal transportation financing package to the next legislature and preferably giving the proposal to the Governor by August or September 1980.

#### Energy Concerns

It was pointed out by Bill Young that even with increased funding it will be impossible to keep up with transportation demand increases. He suggested this concern, combined with energy and air quality constraints, points to the need to emphasize transportation conservation planning. Ted Spence pointed out that to qualify for the windfall profits money, the region will have to have an energy conservation plan.

Carrie Miller stated that the Council Transportation Committee had decided to recommend that Metro take the lead for energy planning in transportation and asked for JPACT support. Group consensus was strong support for the recommendation.

#### School Transportation

Carrie Miller raised the issue of school busing in reference to public support of private industry versus public support of public industry, but felt the prior discussion on financing had covered the topic.

The group felt the open discussion meeting was a good idea on a limited basis. It was also suggested that some time be set aside at regular JPACT meetings to cover various issues being addressed by the Regional Transportation Plan.

Zoo Committee (MSD Council)  
Minutes: October 3, 1979  
5:00 p.m., Coco's Restaurant  
5457 S. W. Canyon Court

NEXT MEETING  
October 17, 1979 at 5:00 p.m.  
Gringo's Restaurant  
8640 S. W. Canyon Road

Those present: Cindy Banzer, Chairperson: Councilor Betty Schedeen,  
Councilor Craig Berkman. Staff: Kay Rich, Jack McGowan,  
Don Flatley, Dee Saeland, Kathy Tesdal, Sandy Grossmann,  
Judy Henry.

1. Minutes: Not discussed.
2. Staff Presentation - Visitor Services: Don Flatley, Head of the Visitor Services Division, introduced staff members of his Division. He explained that the Division is broken down into the following sections: Concessions, Main Gate, Cashroom, Gift Shop and Warehouse. The number of employees in this division fluctuate from the thirty full and part-time year-round employees to the addition of seventy temporary employees during the summer months. All revenue-related services fall under the Visitor Services Division except that of the railroad, and that exception is due to the fact that the railroad is more maintenance related.

Kathy Tesdal, who handles the cashroom, explained that all money coming into the Zoo ultimately comes to the cashroom. It is her responsibility to take in all cash from each station; to make up daily cash boxes (this comes to twenty-two boxes in the summertime), keep petty cash, bill the zoo accounts receivable, sell Tri-Met passes, order coin, take care of the vault and make up schedules for cashroom personnel. She also must make up several different types of reports, daily and monthly, samples of which she distributed to the Committee.

Dee Saeland, who manages the zoo concessions and gate personnel, outlined the following responsibilities: Gate personnel: management of ticket and reception personnel; sales and records of daily revenue, checking in and out of keys for zoo buildings and vehicles; daily registration of volunteers who work in the various zoo areas; telephone management; first aid and filling out of accident forms; address and bundling of outgoing mail; seeing that union rules are conformed to; scheduling of reservations; sending out of brochures; making up work schedules; and taking care of code-a-phone and postage meters. Concession personnel: hiring and firing of concession personnel; making up work schedules; inventory and purchasing of concessions; hourly readings of concessions; going out for bids on all concession items; and monthly inventory. Dee also distributed copies of the various reports she does.

Sandy Grossmann is manager of the Gift Shop, Stroller Shop, Souvenir Shop and Animal Snacker Sales. Her responsibilities include extensive planning, selection of products, development of customized products, analyzing of past sales and supervizing a small staff plus some volunteers. Her current projects include development of a zoo book, an accordion folder that is sent through the mail, and

postcards and posters showing our own animals. Other projects will be zoo sweatshirts, umbrellas and bumper stickers. The Gift Shop will also carry a selection of animal related books.

Don stated that we have recently been experimenting with selling some comcession items at the Washington Park Railroad Station and that there seems to be some market for this. Our Animal Snacker program is very successful, and our per capita sales has gone up 303% over past seasons. He also said that a survey was recently done over a five day period in which 1,300 people were interviewed. The results are just now being determined, but major indications are that most visitors had good remarks about the Zoo and the services offered. They did state that if there was a restaurant situated at the Zoo they would go to it, but would not go to the Zoo just to go to the restaurant.

The problem of long lines at the ticket windows was discussed. Staff pointed out that the slow processing is due to the fact that there is a reduced admission for Metro residents. It takes time for gate personnel to answer the questions about who is qualified to receive the discount. Jack McGowan is heading up a staff task force to look into this problem and come up with possible solutions to it. Councilor Berkman stated that it is his feeling that a single ticket policy that would increase gate admission and decrease the tax levy amount would be acceptable to the public. This topic will be a committee agenda item at a later time.

The following questions were asked:

Chairperson Banzer asked about the quality of our hotdogs and whether we taste-test our products. She stated that she would like to see good quality hotdogs sold at the Zoo. Dee replied that we do taste-test our products and that the hotdog currently being sold is up to standard.

Chairperson Banzer asked if the picnic boxes sold at the Jazz Concerts could be sold on a regular basis. Dee stated that they cannot be profitably sold during the winter season.

Councilor Berkman suggested the possible installation of a salad bar. Dee said that this is not possible due to the fact that the special cooling equipment needed for this (per regulation) is extremely expensive.

Kay stated that the Visitor Services Division is a difficult one in that it has a vast fluctuation in its work force and also falls under two separate unions. Chairperson Banzer stated that she feels the Division has done a very good job with the concessions and gift shop. Jack McGowan said that the people from the other zoos attending the National Conference of the American Association of Zoo Keepers hosted by our employees were impressed with the cleanliness and working conditions here. Other zoos do not seem to be addressing themselves to the problems that we are.



3. Old Business

- a. Public Hearings: Not discussed.
- b. Primate Project Negotiated Contract and Selection Procedure: Kay Rich explained that the application for exemption to the bid procedure will go to the Metro Council for approval. The Committee supported the exemption request.
- c. Beaver/Otter Project - Status Report: We are pleased with the preliminary design of the project. However, we have just learned that there is not nearly as much money available as we had been led to believe.

4. New Business

a. Contracts:

- 1) Security Contract: We are very unhappy with our current security firm. RFP's were sent out, and we are recommending that the highest bidder be contracted with. The reason for this is that they pay their employees the highest salaries and therefore would probably have more reliable personnel. The contract is for six months, at the end of which time we will re-evaluate the security situation.

Motion: Councilor Schedeen moved that the security contract as outlined by Kay Rich be approved for Council action.  
Motion carried unanimously.

b. Other:

- 1) Councilor Berkman mentioned that the telephone company might be willing to install, free of charge, an emergency phone system on the zoo grounds. Councilor Berkman took the name of the telephone contact man now exploring upgrading of the Zoo's telephone system.
- 2) Meeting Dates: The Metro Council has changed its meeting dates for November and December. The Zoo Committee should therefore change its meeting dates. Chairperson Banzer will make recommendations to Judy Henry, who will then notify the Committee members of the new dates.

DEVELOPMENT PROGRAM FOR THE WASHINGTON PARK ZOO

PUBLIC HEARING - OCTOBER 3, 1979

Meeting held at School District #1 Administrative Services Building.

Metro Zoo Committee

Cindy Banzer, Chairperson  
Councilor Craig Berkman

Washington Park Zoo

Kay Rich  
Jack McGowan  
Don Flatley  
Judy Henry  
Chet Gregg

Metropolitan Service District

Marilyn Holstrom  
Julie Gregg

Public

Carol Lewis, Friends of the Zoo, Too  
Ann M. Shepherd, City Club  
Sue Redman

Due to the very small number of people present it was decided that the hearing would be very informal and relaxed. No formal testimony was therefore given.

Chairperson Banzer explained that we are now three and one-half years through the zoo levy period. The purpose of the public hearings is to review the existing development plan and receive comments and suggestions from the public on it as we want it to be a very grass-roots oriented plan.

Kay Rich proceeded to outline the development plan as done by Warner, Walker and Macy and adopted by the Metropolitan Service District. When staff reviewed the plan they felt the more important projects to be: primate house renovation; renovation of outside feline areas; bear grotto renovation; maintenance building, penguin exhibit renovation; African Plains/rhino exhibit; Alaskan exhibit; reptile exhibits; and adequate open space for concerts.

Ms. Redman asked if there would be any major improvements to the Children's Zoo as it now stands. The reply was that there will be some changes, but since the Children's Zoo is eventually to be moved to where the entrance now is we do not want to make major changes. There is, however, no timeline on when this move is to take place. The Cascades Nature Center is just now being designed and will be located in what used to be the snack bar in the Children's Zoo. Ms. Redman commented that the farm-type children's zoo at Seattle is very nice.

Ms. Redman then commented on lack of programs such as tours for weekend visitors and also on the lack of current information available for the zoo visitor. Mr. Rich stated that we have newly installed informational kiosks situated inside the entrance. We are also trying to step up our tour guide program.

Councilor Berkman then asked those present their opinion on the lower zoo rate for Metro residents. He explained the rationale behind this is that those residents pay a tax for zoo support. However, the processing of customers at the zoo ticket windows is greatly slowed because of the ticket personnel having to explain this to the visitors. Councilor Berkman wished to know what the response would be to having a slight attendance fee increase with perhaps a family rate being made available and the amount of money asked for on the tax levy lessened.

Ms. Redman responded that the price reduction for Metro residents is nice, but she would visit the zoo if there was no reduction. However, a family pass would be nice.

The question was asked if the members of the Friends of the Washington Park Zoo coming through the gate with their discount passes slow up the line. The answer was that they come through for a standard 80% of the normal price and do not slow up the line.

The suggestion was made that on weekends everyone could pay the same rate, and then have the reduced Metro rate in effect on weekdays only. If there is no discount and no family pass a lot of people will be prohibited from coming to the zoo.

Chet Gregg, a zoo employee, stated that the split attendance is very much a problem. And it is a further problem at the railroad ticket window as those receiving an admission discount do not understand why they do not then receive a discount at the railroad.

Chairperson Banzer stated that she is very concerned about the zoo attendance and would personally prefer a dollar or more added onto her property tax in order to keep the zoo entrance fee low.

Ms. Redman concurred with Chairperson Banzer.

Mr. Rich pointed out that the previous Metro Board wanted the zoo to generate 60% of its revenue. The zoo now generates 49% of its operating budget which is excellent when compared to other zoos.

Chairperson Banzer thanked those who came for their interest and suggestions.

## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
FROM: Executive Officer  
SUBJECT: Exception to Hiring Freeze

### I. RECOMMENDATIONS:

- A. **ACTION REQUESTED:** Approve exceptions to the hiring freeze and permit filling the Accountant Technician position in Management Services Department and the Administrative Assistant position in the Executive Management Department.
- B. **POLICY IMPACT:** The positions requested to be exempted are in a critical area. Approval will not set an inappropriate precedent for future exemptions.
- C. **BUDGET IMPACT:**
1. **Accounting Technician:** The monthly salary, including benefits, is \$1,341. Ten percent, \$134, comes from local dues. Assuming that the position is filled for 1½ months, the expenditure would be \$201. This figure also represents the potential savings which will be lost if the position is filled.
  2. **Administrative Assistant:** The current monthly salary for this position is \$1,734, including benefits. The position is fully funded from local dues. The salary is recommended to be decreased to \$1,481 per month, including benefits, placing the position on the same level as the Clerk of the Council. This decrease would save \$1,800 for the remaining seven months of the fiscal year.

If this position is filled for the next 1½ months at the lower salary range, the expenditure will be \$2,221. This figure also represents the savings which will be lost if the position is filled.

### II. ANALYSIS:

- A. **BACKGROUND:** On May 26, 1979, the Council adopted Resolution No. 79-52 which established the policy of freezing any vacant position for two months. The Resolution did permit the Council to approve exceptions to the freeze where sufficient justification could be established.

B. ALTERNATIVES CONSIDERED:

1. Accounting Technician:

Not fill the position: If the position is not filled, the Accountant Technician duties would have to be shared among the other staff in the department. This will impede the daily accounting operations as well as the completion of special reports necessary to facilitate management decision making. Further, delay will also occur in writing the accounting system "Request for Proposal."

2. Administrative Assistant:

Not fill the position: The position has not been filled for the past two weeks. Staff from other departments have been assisting in handling the workload generated by the Executive Officer. This arrangement has not been satisfactory because of the lack of continuity of people in the position and the disruption in the work of other departments.

C. CONCLUSION: Both positions are critical and should be exempted from the freeze.

CS:ss  
5717A  
0065A  
10/25/79

*approved*  
~~ADOPTED~~ BY THE

MSD COUNCIL

THIS 25<sup>th</sup> DAY OF October, 1979  
*Mary E. Carde*  
CLERK OF THE COUNCIL

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council  
FROM: Executive Officer  
SUBJECT: Clackamas County Subdivision Appeals

I. RECOMMENDATION:

- A. ACTION REQUESTED: Motion authorizing staff to appeal the approvals of the Sunwood, Bush Garden III and Maple Lane Park Subdivisions to LCDC.
- B. POLICY IMPACT: The purpose of these appeals would be to prevent low-density residential development outside the UGB. Such prevention is in accordance with the Metro Framework Plan and the LCDC goals.
- C. BUDGET IMPACT: None

II. ANALYSIS

- A. BACKGROUND: Several weeks ago, Clackamas County approved three residential subdivisions of 2-3 acre lots per unit outside the Metro and UGB. Recent case law suggests that local housing needs are not to be met outside the UGB unless land for such needs does not exist inside the UGB. Staff appeared before the Board of County Commissioners to contest the approvals.
- B. ALTERNATIVES CONSIDERED: Efforts have been made to persuade the County that such subdivisions should not be permitted. To date, such efforts have been unsuccessful.
- C. CONCLUSIONS: Metro should appeal to LCDC not only to prevent these subdivisions, but to prevent future goal violations. Since acknowledgment of the County plan is several months away, such an appeal is the most expedient means for controlling inappropriate development.

AJ:bk  
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0065A  
10/25/79

*approved*  
ADOPTED BY THE  
MSD COUNCIL  
THIS 25<sup>th</sup> DAY OF October, 1979  
*Mary E. Gardner*  
CLERK OF THE COUNCIL

# Metropolitan Service District

527 SW Hall Portland, Oregon 97201 503/221-1646

## Memorandum

**Date:** October 16, 1979  
**To:** Metro Council  
**From:** Executive Officer  
**Subject:** A-95 Review Report

The following is a summary of staff responses regarding grants not directly related to Metro programs.

1. Project Title: Pacific Northwest Long-Term Care Gerontology Center (#798-11)  
Applicant: Institute on Aging -- P.S.U.  
Project Summary: To integrate health and social services through training, research and evaluation, continuing education and technical assistance for long-term care for older individuals.  
Federal Funds Requested: \$100,000 (Department of Health Education and Welfare)  
Staff Recommendation: Favorable Action
2. Project Title: Rural Community Assistance Program (#798-14)  
Applicant: Rural Community Assistance Corp.  
Project Summary: To involve community action agencies and local non-profit organizations in the development and support of rural water and sewer systems.  
Federal Funds Requested: \$750,000 (Community Services Administration)  
Staff Recommendation: Favorable Action
3. Project Title: State Mental Health Plan (#798-25)  
Applicant: Oregon State Department of Human Resources  
Project Summary: 1979-80 fiscal year state mental health plan report and update of 1976-81 five-year plan for mental health services for Oregon.  
Federal Funds Requested: None (Department of Health, Education and Welfare)  
Staff Recommendation: Favorable Action
4. Project Title: Oregon Venereal Disease Program (#798-26)  
Applicant: Oregon State Department of Human Resources  
Project Summary: To reduce the incidence of venereal disease in Oregon through epidemiology, screening, and education.

Federal Funds Requested: \$270,900 (Department of Health, Education and Welfare)

Staff Recommendation: Favorable Action

5. Project Title: Fetal Alcohol Syndrome Prevention Program (#799-1)  
Applicant: Oregon State Council on Alcoholism  
Project Summary: Development of prevention strategies to reduce the occurrence of Fetal Alcohol Syndrome and related consequences of consumption of alcohol during pregnancy.  
Federal Funds Requested: \$100,980 (Department of Health, Education and Welfare)  
Staff Recommendation: Favorable Action
6. Project Title: Modification of CETA FY 1980 Annual Plan (#799-3)  
Applicant: Clackamas County CETA  
Project Summary: Program Modifications due to new requirements by Department of Labor. Additional funds available make modification of Annual Plan necessary.  
Federal Funds Requested: \$3,969,074 (Department of Labor)  
Staff Recommendation: Favorable Action
7. Project Title: Miscellaneous Statewide Forestry Programs (#799-4)  
Applicant: Oregon State Department of Forestry  
Project Summary: Various Department of Forestry programs for Renewable Resource planning at federal and state levels, technical assistance to landowners, urban forestry assistance, rural forestry assistance, rural fire prevention and control, insect and disease control to enhance production of Oregon's commercial timber.  
Federal Funds Requested: \$1,224,900 (U.S. Forest Service)  
Staff Recommendation: Favorable Action
8. Project Title: Clackamas County Headstart (#799-5)  
Applicant: Clackamas County Children's Commission  
Project Summary: Funding for Clackamas County Headstart to serve 161 low-income and handicapped pre-schoolers for February 1980 through January 1981.  
Federal Funds Requested: \$276,335 (Department of Health, Education and Welfare)  
Staff Recommendation: Favorable Action
9. Project Title: CETA Title VII -- Private Sector Initiative Program (#799-6)  
Applicant: Multnomah/Washington CETA Consortium



Memorandum  
October 16, 1979  
Page 3

Project Summary: Programs providing vocational education and private sector on-the-job training and placement activities.

Federal Funds Requested: \$512,844 (Department of Labor)

Staff Recommendation: Favorable Action

10. Project Title: Professional Standards Review Organization (PSRO) (#799-9)

Applicant: Multnomah Foundation for Medical Care (MFMC)

Project Summary: MFMC has been the PSRO for Multnomah County since 1974, and reviews medical care to patients under the Medicare and Medicaid programs.

Federal Funds Requested: \$606,752 (Health Care Financing Administration)

Staff Recommendation: Favorable Action

TO:bk  
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D/3

## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
 FROM: Executive Officer  
 SUBJECT: Report on Fiscal Year 1979 Fund Balances

## I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Report is being given for information only, no action is requested.
- B. POLICY IMPACT: Because the General and Planning Fund balances are \$24,857 lower than anticipated, additional budgetary control policies may be needed. A report on the first quarter financial records to be presented to the Ways and Means Committee on November 13 and to the Council on November 20 will address these policy implications.
- C. BUDGET IMPACT: In order to accumulate \$100,000 in savings as targeted by the Council, additional controls may be needed for the planning and general funds. The decreases in anticipated balances in the Solid Waste Capital and Drainage Fund may be offset by decreases in expenditures without seriously disrupting programs. Fund balances in the Zoo and Solid Waste Operations accounts show substantial increases.

## II. ANALYSIS:

- A. BACKGROUND: The council adopted Resolution No. 79-52 on May 26, 1979, requiring a series of financial reports on the 1980 fiscal year budget. This report on the year end fund balances for FY 1979 will be followed by a report on the first quarter FY 1980 financial records.
- B. ALTERNATIVES CONSIDERED: The Council presented no alternatives in the reporting requirements.
- C. CONCLUSION: None.

CS:ss  
 5576A  
 0065A  
 10/25/79

ADOPTED BY THE  
 MSD COUNCIL

THIS 25<sup>th</sup> DAY OF October, 1979  
Mary G. Casper  
 CLERK OF THE COUNCIL

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# Metropolitan Service District

527 SW Hall Portland, Oregon 97201 503/221-1646

## Memorandum

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**Date:** October 16, 1979  
**To:** Metro Council  
**From:** Executive Officer  
**Subject:** Report on Fiscal Year 1979 Fund Balances

In accordance with Resolution No. 79-52, I am providing the Council with the fund balances for the 1979 fiscal year. This is the first of the financial report requested by the Council. A report on the first quarter of the current 1980 fiscal year will be presented to the Ways and Means Committee on November 13, and will be forwarded to the Council on November 20.

In comparing the actual ending FY 1979 fund balances with the amount anticipated to be carried forward to the current fiscal year, the most important change is that the combined balance of the General and Planning Funds is \$24,857 lower than anticipated. It is clearly recognized that adjustments will have to be made in these two funds to make up this revenue decrease and still provide the \$100,000 additional in savings to be accrued during the year to build the contingency. The status report on the first quarter of FY 1980 will specifically deal with this problem and provide information on the savings earned up to September 30, 1979.

The fund decreases in the Solid Waste Capital and Drainage Funds can be offset by reductions in expenditures without a major impact on programs.

### Fund Balance Summary

Fund	Actual FY 1979	Budgeted FY 1980	Difference
General and Planning	\$ 315,668	\$ 340,525	\$ (24,857)*
Zoo	2,279,131	1,026,777	1,252,354
Solid Waste Operations	1,072,467	588,651	483,816
Capital Projects	1,368,604	1,652,000	(283,396)
Debt Service	44,306	40,881	3,425
Drainage Fund	619	3,400	(2,781)

\*Brackets () identify a negative number.

CS:bk  
5561A/D/3

## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
 FROM: Executive Officer  
 SUBJECT: Procedure for Rule Making

I. RECOMMENDATION:

- A. ACTION REQUESTED: Hearing and adoption of Rule Nos. 79-1 and 79-2.
- B. POLICY IMPACT: None. The Council is required by ORS ch. 183 to adopt notice and rule making procedures.
- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: The enabling statute of the Metropolitan Service District (Metro) at ORS 268.360 (1) classifies Metro as an agency. A review of the legislative history shows that Metro was classified as an agency specifically so that it would be subject to the State Administrative Procedures Act (APA), ORS ch. 183, for purposes of rule making.

The APA requires Metro to adopt a rule establishing notice procedures for rule making. Proposed Rule No. 79-1 has been approved by the Attorney General as required by ORS 183.341 (4). The notice procedure established by Rule No. 79-1 will apply only to rule making. The detailed content requirements for rule making notice are governed by State law and District rule making procedures contained in the proposed Rule No. 79-2.

The APA mandates that all agencies adopt rules of procedure for rule making. The Oregon Attorney General has adopted "Model Rules" to meet the requirements of ORS ch. 183. The "Model Rules" closely resemble the provisions of ORS ch. 183 and almost certainly meet all the statutory requirements. The proposed rule for rule making, Rule No. 79-2, is patterned after the "Model Rules" and is designed to satisfy the mandate in ORS ch. 183 that we adopt a rule making procedure.

ORS 268.360 (1) requires that Metro adopt all legislative acts by ordinance in the manner provided in ORS ch. 198. The practical effect of this limitation may be that the rule making power will only be used as follows:

1. To adopt and revise contested case procedures which, under ORS ch. 183, Metro must adopt by rule.

2. To adopt a declaratory hearing procedure which Metro may adopt by rule under ORS ch. 183.
3. When acting as the Metro Contract Review Board which by statute must act by rule.

AJ/MH/gl  
5307A/0065A  
10/25/79

ADOPTED BY THE  
MSD COUNCIL  
THIS 25<sup>th</sup> DAY OF October 1979  
Maryta Gardner  
CLERK OF THE COUNCIL

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING )  
A NOTICE PROCEDURE FOR RULE MAKING )  
 )  
 )

RULE NO. 79-1

Introduced by the  
Ways and Means Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT ADOPTS  
THE FOLLOWING RULE:

Section 1. When Notice Required

In addition to any other notice required by State law, the Metropolitan Service District shall give notice as described in Section 2 of this rule before adopting, amending or repealing a rule.

Section 2. Notice of Rule Making

The District shall give notice of the proposed adoption, amendment or repeal of any rule by publication in a newspaper of general circulation throughout the region as follows:

- (a) Not more than fifteen (15) days nor less than five (5) days prior to a hearing on the proposed rule.
- (b) Not less than fifteen (15) days before the adoption of a rule without a public hearing.

Section 3. Contents of Notice

The contents of a notice of proposed adoption, amendment or repeal of a rule shall be as prescribed by State law and the District rule on rule making.

ADOPTED by the Council of the Metropolitan Service District this \_\_\_ day of \_\_\_\_\_, 1979.

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

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING )  
A PROCEDURE FOR RULE MAKING )

RULE NO. 79-2

)  
)  
)  
)  
Introduced by the  
Ways and Means Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT ADOPTS  
THE FOLLOWING RULE:

Section 1. Scope of Rule Making

District directives, standards and regulations may be adopted by rule if they implement the District's legislative authority or an ordinance adopted thereunder.

Section 2. Definitions

Unless otherwise required by context, as used in these rules:

- a. "District" means the Metropolitan Service District of Portland, Oregon.
- b. "Council" means the Metropolitan Service District Council.

Section 3. Notice of Rule Making

a. The District shall give notice of the proposed adoption, amendment or repeal of any rule:

- (1) By publication in a newspaper of general circulation throughout the region not more than fifteen (15) days nor less than five (5) days prior to the hearing provided for in Section 8 of these rules. Notices shall contain a brief description of the proposed rule, the time and

place of the hearing, the method by which interested persons may present testimony and the name of the District officer or employee from whom additional information can be obtained. The Executive Officer may also give other notice by any other means. Failure to comply strictly with the time limits in this Section shall not invalidate rules adopted under these procedures.

- (2) In the Secretary of State's bulletin at least fifteen (15) days prior to the effective date.
- (3) By mailing copies to persons on the mailing list established pursuant to ORS 183.335 (6).

b. The District shall include with the notice required in Sub Section (a) of this Section:

- (1) A citation of the legal authority for the rule.
- (2) A statement of the need for the rule and how the rule meets the need.
- (3) A statement listing the documents relied upon in preparing the rule and a statement of where those documents may be viewed.
- (4) A statement of the fiscal impact of the rule.

Section 4. Contents of Notice When The District Contemplates a Public Hearing

- a. When the District will hold or contemplates a public



hearing, the notice referred to in Section 3 shall include the following:

- (1) A description of the District's proposed action (adoption, amendment or repeal of rule), and where practicable and appropriate, the verbatim language of any rule proposed to be adopted, amended or repealed.
- (2) The subject matter and purpose of the proposed action in sufficient detail to inform a person that his/her interest may be affected.
- (3) The time and place of the public hearing and the manner in which interested persons may present their views.
- (4) A designation of the officer or other person(s) who will preside at and conduct the hearing.

b. If the proposed rule, amendment or repeal thereof is not set forth verbatim in the notice, the notice shall state the time, place and manner in which the rule or amendment may be obtained.

Section 5. Contents of Notice Where The District Does Not Intend to Hold Public Hearing

a. When the District does not plan to hold a public hearing, the notice referred to in Section 3 shall include the following:

- (1) A description of the District's proposed action (adoption, amendment or repeal of rule) and where practicable and appropriate, the verbatim

language of any rule proposed to be adopted, amended or repealed.

- (2) The subject matter and purpose of the proposed action in sufficient detail to inform a person that his/her interest may be affected.
- (3) The time and place at which data or views may be submitted in writing to the District.
- (4) A statement that any interested person desiring to express or submit his/her data or views at a public hearing must request the opportunity to do so.
- (5) A designation of the person to whom a request for public hearing must be submitted and the time and place therefor.
- (6) A statement that a public hearing will be held if the District receives a request for public hearing within fifteen (15) days after the notice required in this Section from ten (10) or more persons or an association having not less than ten (10) members.

b. If the proposed rule, amendment or repeal thereof is not set forth verbatim in the notice, the notice shall state the time, place and manner in which the rule or amendment may be obtained.

c. If ten (10) persons or an association having not less than ten (10) members request a public hearing, the District shall give notice thereof in conformity with Section 4.

Section 6. Submitting Adopted Rule to Legislative Counsel

The District shall submit a copy of any adopted rule to the Legislative Counsel within ten (10) days after the agency files a certified copy of the rule with the Secretary of State as required in Section 11.

Section 7. Postponing Intended Action

a. The District shall postpone its intended action upon request of an interested person received within fifteen (15) days after District notice to allow the requesting person an opportunity to submit data, views or arguments concerning the proposed action.

b. Postponement of the date of intended action shall be no less than ten (10) nor more than ninety (90) days. In determining the length of postponement, the District shall consider the time necessary to give reasonable notice of the postponement and the complexity of the subject and issues of the intended action.

c. The District shall give notice of the postponement pursuant to Section 3 except that publication in the Secretary of State's bulletin is only required when the publication date of the bulletin precedes the postponement date of the intended action.

d. This Section does not apply to the adoption of a temporary rule pursuant to ORS 183.335 (5) and Section 13.

Section 8. Conduct of Hearing

a. The hearing shall be conducted by and shall be under the control of a presiding officer. The presiding officer may be the Presiding Officer of the Council, or other person designated by the Council.

b. At the commencement of the hearing, any person wishing to be heard shall advise the presiding officer of his name,

address and affiliation. Additional persons may be heard at the discretion of the presiding officer. The presiding officer shall provide an appropriate form for listing witnesses which shall indicate the proposed action, and such other information as the presiding officer may deem appropriate.

c. At the opening of the hearing the presiding officer shall read the content of the notice provided in Section 4 or 5 as the case may be; or, if copies of the proposed rule are available at the hearing, only the title of the rule shall be read.

d. Subject to the discretion of the presiding officer, the order of the presentation shall be :

- (1) Presentation by District staff;
- (2) Statement of proponents;
- (3) Statement of opponents;
- (4) Statements of any other witness present and wishing to be heard.

e. The presiding officer, Council members, the Executive Officer or his designee, and the General Counsel shall have the right to question or examine any witness making a statement at the hearing. The presiding officer may, in his discretion, permit other persons to examine witnesses.

f. There shall be no rebuttal or additional statements given by any witness unless requested by the presiding officer. When such additional statements are given, the presiding officer shall allow an equal opportunity for reply.

g. The hearing may be continued with recesses as determined by the presiding officer until all listed witnesses present

and desiring to make a statement have had an opportunity to do so.

h. The presiding officer shall, where practicable, receive all physical and documentary evidence presented by witnesses. Exhibits shall be marked and shall identify the witness offering the exhibit. The exhibits shall be preserved by the District for one (1) year or, in the discretion of the District, returned to the witness offering the exhibit.

i. The presiding officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious or immaterial matter.

j. A verbatim oral, written or mechanical record shall be made of all the proceedings.

Section 9. Presiding Officer's Report

If the hearing is not held before the Council, the presiding officer shall, within a reasonable time after the hearing, provide the Council with a written summary of statements given and exhibits received and a report of his observations of physical experiments, demonstrations or exhibits. The presiding officer may make recommendations, but such recommendations are not binding upon the Council.

Section 10. Action of District

At the conclusion of the hearing, or after receipt of the presiding officer's requested report and recommendation, if any, the Council may adopt, amend or repeal rules covered by the description of the proposed rule.

Section 11. Notice of District Action: Certification to the Secretary of State

a. The District shall file in the office of the Secretary of State a certified copy of each rule adopted or amended, or notice of repeal of any rule.

b. The rule shall be effective upon filing with the Secretary of State unless a later date is required by statute or is specified in the rule.

Section 12. Petition to Promulgate, Amend or Repeal  
Rule: Contents of Petition, Filing of Petition

a. An interested person may petition the District requesting the adoption, amendment or repeal of a rule. The petition shall be in writing, signed by or on behalf of the petitioner, and shall contain a detailed statement of:

- (1) The rule petitioner requests the District to adopt, amend or repeal. Where amendment of an existing rule is sought, the rule shall be set forth in the petition in full with matter proposed to be deleted therefrom enclosed in brackets and proposed additions thereto shown by underlining or boldface.
- (2) Ultimate facts in sufficient detail to show the reasons for adoption, amendment or repeal of the rule.
- (3) All propositions of law to be asserted by petitioner.
- (4) Sufficient facts to show how petitioner will be affected by adoption, amendment or repeal of the rule.

(5) The name and address of petitioner and of any other person known by petitioner to be interested in the rule sought to be adopted, amended or repealed.

b. The petition, either in typewritten or printed form, shall be deemed filed when received by the District.

c. Upon receipt of the petition, the District:

- (1) Shall mail a true copy of the petition together with a copy of these rules to all parties named in the petition. Such petition shall be deemed served on the date of mailing to the last known address of the person being served.
- (2) Shall advise petitioner that he/she has fifteen (15) days in which to submit written views.
- (3) May schedule oral presentation of petitioner's views if petitioner makes a request therefor and the agency desires to hear petitioner orally.
- (4) Shall, within thirty (30) days after date of submission of the petition, either deny the petition or initiate rule making proceedings in accordance with these rules.

d. In the case of a denial of a petition to adopt, amend or repeal a rule, the District shall issue an order setting forth its reasons in detail for denying the petition. The order shall be mailed to the petitioner and all other persons upon whom a copy of the petition was served.

Section 13. Temporary Rules

a. The District may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that is practicable, to adopt, amend or suspend a rule without the notice otherwise required by ORS chapter 183 and these rules. In such case the District shall prepare:

- (1) A citation of the legal authority relied upon and bearing upon the promulgation of the rule.
- (2) A statement of the need for the rule and a statement of how the rule is intended to meet the need.
- (3) A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice.
- (4) A list of the principal documents, reports or studies prepared by or relied upon by the District in considering the need for and preparing the rule, and a statement of the location at which those documents are available for public inspection.

b. A temporary rule adopted in compliance with this rule becomes effective immediately upon filing the rule with the Secretary of State or at a designated later date. The statements required in Subsection (a) must be filed with the rule.

c. A temporary rule may be effective for no longer than



one hundred eighty (180) days. No temporary rule may be renewed after it has been in effect one hundred eighty (180) days. The District may, however, adopt an identical rule on notice in accordance with these rules.

d. A rule temporarily suspended shall regain effectiveness upon expiration of the temporary period of suspension unless the rule is repealed in accordance with these rules.

ADOPTED by the Council of the Metropolitan Service  
District this \_\_\_ day of \_\_\_\_\_, 1979.

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

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## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
 FROM: Executive Officer  
 SUBJECT: Rule Establishing Contested Case Procedures

I. RECOMMENDATION:

- A. ACTION REQUESTED: Hearing and adoption of Ordinance No. 79-74 and Rule No. 79-3.
- B. POLICY IMPACT: None. The Council is required by ORS ch. 183 to adopt rule making procedures.
- C. BUDGET IMPACT: The Metro budget will not be affected.

II. ANALYSIS:

- A. BACKGROUND: Metro's enabling statute at ORS 268.360 (1) classifies metro as an agency. A review of the legislative history shows that Metro was classified as an agency specifically so that it would be subject to the State Administrative Procedures Act (APA), ORS ch. 183, for purposes of contested cases. ORS ch. 183 mandates that all agencies adopt rules of procedure for the conduct of contested cases and sets minimum procedural requirements.

The Oregon Attorney General has adopted "Model Rules" to meet the requirements of ORS ch. 183. The "Model Rules" closely resemble the provisions of ORS ch. 183, and almost certainly meet all the statutory requirements. The proposed rule for contested case procedures is patterned after the "Model Rules" and is designed to both satisfy the ORS ch. 183 mandate and provide a workable procedure for the District to follow when it is acting in an adjudicative posture. Decisions such as whether to issue a license, and whether to grant requests for site specific changes to the Urban Growth Boundary, would be examples of decisions where contested case procedures would be followed.

Since Metro's current contested case procedures were adopted by MSD in 1976 by ordinance, an ordinance is required to repeal those procedures.

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ADOPTED BY THE

MSD COUNCIL

THIS 25<sup>th</sup> DAY OF October, 1979      
CLERK OF THE COUNCIL

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF REPEALING )  
CONTESTED CASE HEARINGS )  
PROCEDURES ADOPTED BY MSD )  
ORDINANCE NO. 42 (1976) )

ORDINANCE NO. 79-74

Introduced by the  
Ways and Means Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT ORDAINS

AS FOLLOWS:

1. That Ordinance No. 42, dated July 23, 1976 and  
codified at MSD Code Section 20.04, is hereby repealed.

2. That procedures for contested case hearings shall be  
as adopted by rule under the provisions of ORS chapter 183.

ADOPTED by the Council of the Metropolitan Service  
District this \_\_\_ day of \_\_\_\_\_, 1979.

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

Attest:

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

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BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING )  
RULES OF PROCEDURE FOR CONTESTED )  
CASES )

RULE NO. 79-3

) Introduced by the  
) Ways and Means Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT ADOPTS  
THE FOLLOWING RULE:

Section 1. Contested Case Defined, Notice of Opportunity  
for Hearing, Service.

- a. A contested case exists whenever:
1. A constitutional provision, a statute or an ordinance requires a hearing upon an action; or
  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 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 Oregon Laws 1977, Chapter 665, Section 17 or 18; 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.
- b. The District shall give notice to all parties in a

contested case. The notice shall include:

1. A statement of the party's right to request a hearing, or a statement of the time and place of the hearing;
2. A statement of the authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular sections of the statutes, ordinances or 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; and
6. When applicable, a statement that if the party desires a hearing, the District must be notified within a specified number of days.

c. The number of days within which the District must be notified that the party desires a hearing shall be as follows:

1. Within twenty (20) days of the date of mailing of notice; or
2. When the District refuses to issue a license or permit required to pursue any activity governed or regulated by the District, if the refusal is based on grounds other than the results of a test or inspection, the District shall grant the person requesting the license or permit sixty (60) days from the notification of refusal to request a hearing; or

3. In the case of a personnel discharge, within fifteen (15) days of the employee's receipt of the Notice of Discharge.

d. The notice shall be served personally or by registered or certified mail.

Section 2. Immediate Suspension or Refusal to Renew a License or Permit, Notice of Opportunity for Hearing, Service.

a. If the District finds there is a serious danger to the public health or safety, it may suspend or refuse to renew a license or permit immediately.

b. The District shall give notice to the party upon immediate suspension or refusal to renew a license or permit. The notice shall include:

1. A statement of the party's right to hearing.
2. A statement of the authority and jurisdiction under which the hearing is to be held.
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.

Section 3. 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.

Section 4. Subpoenas, Depositions.

a. The District shall issue subpoenas in hearings on contested cases on a showing of need, general relevancy and within reasonable scope of the proceedings.

b. An interested party may petition the District for an order that the testimony of a material witness be taken by deposition. Fees and mileage are to be paid as determined by applicable statutes.

Section 5. Hearing.

a. The hearing shall be conducted by and shall be under the control of a hearings officer. The hearings officer may be the Presiding Officer of the Council, if the hearing is to be before the Council, or any other person designated or approved by the Council. In addition to the requirements of Section 5 (c) of these rules, 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 hearing officer in a contested case shall be a member of the Oregon State Bar.

b. The hearings officer shall place on the record a statement of the substance of any written or oral ex parte communications on a fact in issue made to the officer during the pendency of the proceeding and notify the parties of the communication and their right to rebut such communications.

c. 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.

d. At the discretion of the hearings officer, the hearing shall be conducted in the following order:

1. Statement and evidence by the District in support of its action, or by the petitioner in support of a petition.
2. Statement and evidence of affected persons disputing the District action or petition.
3. Rebuttal testimony.

e. The hearings officer, a Council member, the Executive Officer or his designee, the General Counsel, and the affected parties shall have the right to question any witnesses.

f. The hearing may be continued for a reasonable period as determined by the hearings officer.

g. The hearings officer may set reasonable time limits



for oral presentation and may exclude or limit cumulative, repetitious or immaterial testimony.

h. Exhibits shall be marked and the markings shall identify the person offering the exhibits. The exhibits shall be preserved by the District as part of the record of the proceedings.

i. A verbatim oral, written or mechanical record shall be made of all the proceedings. Such verbatim record need not be transcribed unless necessary for Council or judicial review.

Section 6. Evidentiary Rules.

a. Evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible.

b. Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

c. All offered evidence, not objected to, will be received by the hearings officer subject to his power to exclude irrelevant, immaterial or unduly repetitious matter.

d. Evidence objected to may be received by the hearings officer with rulings on its admissibility or exclusion to be made at the time a final order is issued.

e. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

Section 7. Proposed Orders in Contested Cases Other Than Personnel Discharges.

a. Within seven (7) days of a hearing in a contested case other than a personnel discharge, the hearings officer shall prepare and submit a proposed order to the Council. If a majority

of the Council members who are to render the final order were not present at the hearing or have not reviewed and considered the record, and the proposed order is adverse to a party other than the District, the proposed order, including findings of fact and conclusions of law, shall be served upon the parties.

b. The parties shall be given the opportunity to file exceptions to the proposed order and present argument to the Council.

Section 8. Proposed Orders in Contested Cases on Personnel Discharges.

a. Within seven (7) days of a hearing on a personnel discharge, the hearings officer shall prepare and submit a proposed order to the Executive Officer. Said proposed order shall include rulings on evidence, findings of fact, conclusions of law and a proposed action.

b. Within seven (7) days of receipt of the proposed order, the Executive Officer shall issue a final order pursuant to Section 9 of these Rules.

Section 9. Final Orders in Contested Cases, Notification, Review.

a. Final orders in contested cases shall be in writing and include the following:

1. Rulings on admissibility of offered evidence.
2. Findings of Fact--those matters which are either agreed upon as fact or which, when disputed, are determined by the fact finder, on substantial evidence, to be fact over contentions to the contrary.
3. Conclusion(s) of Law--applications of the

controlling law to the facts found and legal results arising therefrom.

4. The action taken by the District as a result of the findings of fact and conclusions of law.

b. The Council or Executive Officer shall place on the record a statement of the substance of any written or oral ex parte communications on a fact in issue made to the Council or Executive Officer during its review of a contested case. The Council or Executive Officer shall notify all parties of such communications and of their right to rebut the substance of the ex parte communications on the record.

c. When the results of a contested case necessitates the adoption of an ordinance, the procedures for adoption of an ordinance in ORS chapter 198 and in applicable District regulations shall be followed.

d. Parties to contested cases and their attorneys of record shall be served a copy of the final order. Parties shall be notified of their right to judicial review of the order.

e. Judicial review of final orders adopted after contested case proceedings shall be solely as provided in ORS chapter 183 and every final order shall include a citation of the statutes under which the order may be appealed.

Section 10. Reconsideration, Rehearing.

a. A party may file a petition for reconsideration or rehearing on a final order with the District within sixty (60) days after the order is issued. In the case of a personnel discharge, such petition shall be submitted to the Executive Officer. Other petitions shall be referred to the Council.

b. The petition shall set forth the specific ground or grounds for requesting the reconsideration or rehearing. The petition may be supported by a written argument.

c. The District may grant a reconsideration petition if sufficient reason therefor is made to appear. If the petition is granted, an amended order shall be entered.

d. The District may grant a rehearing petition if sufficient reason therefor is made to appear. The rehearing may be limited by the District to specific matters. If a rehearing is held an amended order shall be entered.

e. If the District does not act on the petition within the sixtieth (60th) day following the date the petition was filed, the petition shall be deemed denied.

ADOPTED by the Council of the Metropolitan Service District  
this \_\_\_ day of \_\_\_\_\_, 1979.

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

Attest:

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

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## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
 FROM: Executive Officer  
 SUBJECT: Personnel Rules Amendment (Discharges)

I. RECOMMENDATION:

- A. ACTION REQUESTED: Second reading and hearing on Ordinance No. 79-75.
- B. POLICY IMPACT: Clarifies and coordinates the contested case rules and personnel rules relating to discharges.
- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: In designing the pending rules for Contested Cases, it was necessary to insure that the Metro Personnel Rules and the Contested Case rules are consistent regarding personnel discharges.

The Contested Case rules (a separate agenda item) provide for contested case hearings on discharges and afford discharged employees their constitutional rights to due process. In fact, the rules go beyond bare constitutional requirements.

The personnel rules provide that discharged employees may file grievances pursuant to the grievance procedure and have a "grievance hearing" as part of the grievance procedure. The Personnel Rules and proposed Contested Case rules are, therefore, inconsistent.

To achieve consistency, the Personnel Rules should be amended to provide that a discharged employee may, at his/her option, choose either the grievance procedure or the contested case procedure, but not both. The primary differences are 1) grievance procedure does not require a hearing while the contested case procedure does, 2) the grievance procedure does not provide for judicial review while the contested case procedure does, and 3) the grievance procedure requires an internal review while the contested case procedure requires an external review.

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 10/25/79

ADOPTED BY THE

MSD COUNCIL

THIS 25<sup>th</sup> DAY OF October, 1979  
Mary E. Carlsen  
 CLERK OF THE COUNCIL

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING )  
ORDINANCE NO. 79-73 (PERSONNEL )  
RULES) RELATING TO PERSONNEL )  
DISCHARGE PROCEDURES )

ORDINANCE NO. 79-75

Introduced by the  
Ways and Means Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

That Section 18 (g) of Metropolitan Service District Ordinance  
No. 79-73 (Personnel Rules) is hereby amended to read as follows  
(new language underlined, deleted language in brackets):

"(g) Except as provided in Section 9 (e) of these Rules, the  
Executive Officer shall give an employee whose discharge  
is sought at least fourteen (14) days written notice in  
person or by mailing to the employee's last known address  
of:

1. The proposed discharge;
2. Any and all reasons, specifically and in detail,  
for the proposed discharge; and
3. The employee's right to file a grievance  
pursuant to Section 19 of these Rules.
4. The employee's right to a hearing pursuant to  
contested case rules.

This notice becomes a permanent part of the employee's  
personnel record. [The employee shall notify the  
Executive Officer within seven (7) working days of the  
receipt of the notice of discharge that he/she desires a  
grievance hearing by filing with the Executive Officer a  
written Answer and Request for a grievance hearing. The

Answer shall set forth the employee's reasons for contesting the proposed discharge, with such offer of proof and pertinent documents as he/she is able to submit. In the absence of a timely Answer and Request for Hearing, discharge may be effected without further notice or hearing. The Executive Officer may reply in writing within three (3) working days following receipt of an Answer and Request for Hearing. An extension of time may be mutually agreed upon.] If the employee wishes to file a grievance, such grievance shall be submitted pursuant to Section 19 of these Rules. If the employee wishes to request a contested case hearing, such request shall be submitted pursuant to District rules on contested cases. If an employee requests a contested case hearing, the employee's right to file a grievance shall be deemed waived and any pending grievance for discharge shall be terminated."

ADOPTED by the Council of the Metropolitan Service District  
this \_\_\_\_ day of \_\_\_\_\_, 1979.

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

ATTEST:

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

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## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
 FROM: Executive Officer  
 SUBJECT: Establishing Procedures for District Declaratory Rulings.

I. RECOMMENDATION:

- A. ACTION REQUESTED: Hearing and adoption of Rule No. 79-4.
- B. POLICY IMPACT: The declaratory ruling procedure would provide a discretionary means of clarifying the District's view of the applicability of a District ordinance, rule or statute to a given situation or set of facts. The procedure could be used in proper instances to avoid costly and time consuming court or contested case actions.
- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: The proposed rule for District declaratory rulings is patterned after a "Model Rule" developed by the Oregon Attorney General for state agencies. Unlike the procedures for rule making and contested cases which Metro is required by statute to adopt, the procedure for declaratory rulings is optional.

The proposed rule establishes a procedure whereby the Council may, at its discretion, hear a petition by a person for a declaratory ruling on the applicability to any person, property or state of facts of any District ordinance, rule or statute. The procedure would result in a ruling that would be binding between the District and the petitioner on the state of facts alleged.

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 10/25/79

ADOPTED BY THE

MSD COUNCIL

THIS 25<sup>th</sup> DAY OF October, 1979  
Mary E. Casper  
 CLERK OF THE COUNCIL



BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING )  
RULES OF PROCEDURE FOR DISTRICT )  
DECLARATORY RULINGS )

RULE NO. 79-4

) Introduced by the  
) Ways and Means Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT ADOPTS  
THE FOLLOWING RULE:

Section 1. Institution of Proceedings for Declaratory  
Rulings.

On petition of any interested person the District may, in  
its discretion, issue a declaratory ruling with respect to the  
applicability to any person, property or state of facts of any  
ordinance, rule or statute enforceable by the District.

Section 2. Contents of Petition.

a. A petition to institute proceedings for declaratory  
ruling shall contain:

- (1) The ordinance, rule or statute for which  
petitioner seeks a declaratory ruling.
- (2) A detailed statement of the facts upon which  
petitioner requests the District to issue its  
declaratory ruling.
- (3) Sufficient facts to show how petitioner will be  
affected by the requested declaratory ruling.
- (4) All propositions of law or contentions to be  
asserted by petitioner.
- (5) The questions presented for decision by the  
District.

(6) The specific relief requested.

(7) The name and address of petitioner and of any other person known by petitioner to be interested in the requested declaratory ruling.

b. The petition shall be typewritten or printed.

Section 3. Filing and Service of Petition.

a. The petition shall be deemed filed when received by the District.

b. The District shall within thirty (30) days after the petition is filed, either notify the petitioner that the District will not issue a ruling or serve all parties named in the petition by mail:

(1) A copy of the petition together with a copy of these rules; and

(2) A notice of the hearing at which the petition will be considered.

Section 4. Contents of Notice of Hearing.

The notice of hearing at which time the petition will be considered shall set forth:

a. A copy of the petition requesting the declaratory ruling.

b. The time and place of the hearing.

c. A designation of the person who will preside at and conduct the hearing.

Section 5. Conduct of Hearing, Briefs and Oral Argument.

a. The hearing shall be conducted by and shall be under the control of a presiding officer. The presiding officer may be

the Presiding Officer of the Council or any other person designated by the Council.

b. At the hearing, the petitioner and any other interested party shall have the right to present oral argument. The presiding officer may impose reasonable time limits on the time allowed for oral argument. The petitioner and other interested parties may file briefs with the District in support of their respective positions. The presiding officer shall fix the time and order of filing briefs.

Section 6. Presiding Officer's Opinion.

a. Where the hearing is conducted before someone other than the Council, the presiding officer shall prepare an opinion in form and in content as set forth in Section 7 of these rules.

b. The Council is not bound by the opinion of the presiding officer.

Section 7. Decision of Agency: Time, Form and Service.

a. The Council shall issue its declaratory ruling within sixty (60) days of the close of the hearing, or, where briefs are permitted to be filed subsequent to the hearing, within sixty (60) days of the time permitted for the filing of briefs.

b. The ruling shall be in the form of a written opinion and shall set forth:

- (1) The facts being adjudicated by the District.
- (2) The statute, ordinance or rule being applied to those facts.
- (3) The District's conclusion as to the applicability of the statute, ordinance or rule to those facts.

(4) The District's conclusion as to the legal effect or result of applying the statute, ordinance or rule to those facts.

(5) The reasons relied upon by the District to support its conclusions.

Section 8. Effect of District Ruling.

A declaratory ruling issued in accordance with these rules is binding between the District and the petitioner on the state of facts alleged, or found to exist, unless set aside by a court.

ADOPTED by the Council of the Metropolitan Service District this \_\_\_ day of \_\_\_\_\_, 1979.

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

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## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
FROM: Executive Officer  
SUBJECT: Establishment of the Metro Council as the Metro Contract Review Board

I. RECOMMENDATION:

- A. ACTION REQUESTED: Hearing, second reading, and adoption of Ordinance No. 79-76
- B. POLICY IMPACT: The Council's assumption of the authority over District contracting procedures now held by the State Public Contract Review Board will permit more efficient and predictable response to needed changes in the District contracting procedures. The Council itself, within the statutory limits imposed upon the State Public Contract Review Board, would be able to adopt exemptions and establish prequalification procedures without the presently required involvement of the State Public Contract Review Board.
- C. BUDGET IMPACT: The Metro budget will not be affected by this ordinance.

II. ANALYSIS:

- A. BACKGROUND: Under 1979 Or. Laws ch. 804, the Metro Council is authorized to adopt an ordinance creating the Metro Council as the District Contract Review Board with all the powers of the State Public Contract Review Board. If the Metro Council is designated as the Metro Contract Review Board, the Metro Council, rather than the State Public Contract Review Board, would have the authority to do the following:
1. Prepare prequalification application forms for use in projects where the District wishes to prequalify bidders.
  2. Hear disqualification appeals from the prequalification procedure.
  3. Exempt certain contracts or classes of contracts from competitive bidding requirements.
  4. Exempt certain contracts or classes of contracts from bid security or performance security requirements.

5. Exempt certain products from the prohibition against specifying brand names in public contract specifications.
6. Investigate agency personal contract screening procedures.

The ordinance designating the Council as the District Contract Review Board gives the Council the full power of the State Board, including all the procedural rules and exemptions that have been or may be adopted by rule by the State Board. The Council, sitting as the District Contract Review Board, may adopt its own rules and thereby revise, reject or supplement the rules adopted by the State Public Contract Review Board.

AJ/gl  
5099A  
0065A  
10/25/79

ADOPTED BY THE  
MSD COUNCIL  
THIS 25<sup>th</sup> DAY OF October, 1979  
Mary G. Carde  
CLERK OF THE COUNCIL

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF DESIGNATING )  
AND CREATING A PUBLIC CONTRACT )  
REVIEW BOARD )

ORDINANCE NO. 79-76

)  
)  
)  
)  
Introduced by the  
Ways and Means Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT ORDAINS  
AS FOLLOWS:

Section 1. Creation and Designation

Pursuant to Oregon Laws, 1979, chapter 804, the Council is designated and created as the Metropolitan Service District (Metro) Contract Review Board.

Section 2. Powers

The Metro Contract Review Board shall have all the powers in the award of District contracts that the Oregon State Public Contract Review Board may exercise in the State at large under ORS Chapter 279 and OAR Chapter 127, including such revisions and additions to those Chapters as may later be adopted.

Section 3. Rules Prevail

The Metro Contract Review Board may adopt rules relating to the award of District contracts. Such rules shall prevail when in conflict with the rules of the Oregon State Contract Review Board at OAR Chapter 127.

Section 4. Rule Making Procedure

The rule making procedures adopted by the Council for the District shall apply when the Council acts as the Metropolitan Service District Contract Review Board.

ADOPTED by the Council of the Metropolitan Service

District this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

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

Attest:

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

AJ:MH:gl  
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## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Contract Review Board  
 FROM: Executive Officer  
 SUBJECT: Metro Contract Review Board Rules of Procedure

I. RECOMMENDATION:

- A. ACTION REQUESTED: Hearing and adoption of Rule No. CRB 79-1.
- B. POLICY IMPACT: None. The rule simply makes Metro Council and Metro Contract Review Board procedures consistent and permits the Council to act in both capacities at the same meeting, if it chooses.
- C. BUDGET IMPACT: The Metro budget will not be affected by this rule.

II. ANALYSIS:

- A. BACKGROUND: The ordinance that established the Metropolitan Service District (Metro) Council as the Metro Contract Review Board also adopted the rules of the State Public Contract Review Board. The rules of the State Public Contract Review Board include rules for meeting procedures, notice and agenda. The proposed rule would supersede those rules and substitute the current rules of procedure adopted by the Metro Council. The rule would thus allow meetings of the Metro Contract Review Board to be conducted as a part of, and under the same procedures as, regular meetings of the Metro Council.

AJ/gl  
 5303A/0065A  
 10/25/79

ADOPTED BY THE

MSD COUNCIL

THIS 25<sup>th</sup> DAY OF October, 1979

Mary G. Gardner  
 CLERK OF THE COUNCIL

BEFORE THE METROPOLITAN SERVICE DISTRICT  
CONTRACT REVIEW BOARD

FOR THE PURPOSE OF ADOPTING	)	RULE NO. CRB 79-1
RULES OF PROCEDURE FOR MEETINGS	)	
OF THE METRO CONTRACT REVIEW	)	Introduced by the
BOARD AND SUPERSEDING OAR CHAPTER	)	Ways and Means Committee
127, DIVISIONS 80 AND 90	)	

THE METROPOLITAN SERVICE DISTRICT CONTRACT REVIEW BOARD,  
ADOPTS THE FOLLOWING RULE:

Section 1. Meetings

The meetings of the Metropolitan Service District Contract Review Board shall normally, but need not, be conducted at the same time as, and as a part of, the regular meetings of the Metropolitan Service District Council.

Section 2. Meeting Procedures

The rules of procedure adopted by the Metropolitan Service District Council for its proceedings including, but not limited to, contested cases, rule making, and notice and agenda requirements for Council meetings shall also govern proceedings of the Metropolitan Service District Contract Review Board unless they conflict with rules adopted by the Board.

Section 3. State Public Contract Review Board Rules

Superseded

Sections 1 and 2 of this rule supersede the rules adopted by the Public Contract Review Board at OAR Chapter 127, Divisions 80 and 90.

ADOPTED by the Metropolitan Service District Contract

Review Board this \_\_\_\_ day of \_\_\_\_\_, 1979.

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

ATTEST:

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

AJ/MH/gl  
5217A  
0033A

## A G E N D A . M A N A G E M E N T S U M M A R Y

TO: Metro Council  
 FROM: Executive Officer  
 SUBJECT: Exemption of Contracts Under \$10,000 From Competitive Bidding Requirements

I. RECOMENDATION:

- A. ACTION REQUESTED: Hearing and adoption of Rule No. CRB 79-2.
- B. POLICY IMPACT: The rule makes all contracts where the amount is less than \$10,000 exempt from competitive bidding procedures. The only substantive change in current State Public Contract Review Board procedure is that contracts for \$5,000 to \$10,000 for construction, maintenance, repair or any contrat containing an element of personal service will be subject to a competitive quote procedure rather than a competitive bidding procedure.
- C. BUDGET IMPACT: The Metro budget will not be affected by this rule.

II. ANALYSIS:

- A. BACKGROUND: The ordinance designating the Council as the District Contract Review Board adopted the rules of the State Public Contract Review Board. Under the State Board's rules, contracts for the purchase of goods, materials and supplies which contain no element of personal service are exempt from competitive bidding if the contract is for less the \$10,000. Un the State Board rules, contracts for construction, maintenance, repair or a contract containing an element of personal service are exempt if the amount of the contract does not exceed \$5,000. The attached rule would eliminate the different dollar limits that must be exceeded before competitive bidding is required for certain contracts and adopt a single \$10,000 limit. The \$25,000 exception for road, highway, or parking lot maintenance restates the current State Board ruling without substantive change.

AJ/gl  
 5100A/0065A  
 10/25/79

ADOPTED BY THE

MSD COUNCIL

THIS 25<sup>th</sup> DAY OF October, 1979  
Mary E. Casler  
 CLERK OF THE COUNCIL

BEFORE THE METROPOLITAN SERVICE DISTRICT  
CONTRACT REVIEW BOARD

FOR THE PURPOSE OF ADOPTING RULES	)	RULE NO. CRB 79-2
FOR THE EXEMPTION OF CERTAIN	)	
DISTRICT CONTRACTS FROM COMPETITIVE BIDDING REQUIREMENTS	)	Introduced by the Ways and Means Committee

WHEREAS, The Board finds that the exemption of certain contracts where the amount is less than \$10,000 from competitive bidding requirements may be allowed without encouraging favoritism or substantially diminishing competition for public contracts; and

WHEREAS, The Board finds that exemption of such contracts from competitive bidding procedures will result in substantial cost savings; now, therefore,

THE METROPOLITAN SERVICE DISTRICT CONTRACT REVIEW BOARD,  
ADOPTS THE FOLLOWING RULE:

Section 1. Exemption of Contracts Under Certain Dollar Amounts.

(a) The District may, in its discretion, let contracts for the purchase of goods, materials and supplies without competitive bidding if the District has determined that the awarding of the contract without competitive bidding will result in cost savings and the following conditions are complied with:

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

(b) The District may in its discretion let public contracts, not to exceed \$25,000, for road, highway, or parking lot maintenance without competitive bidding if the District obtains 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 a written record of the effort to obtain the quotes is made.

Section 2. State Public Contract Review Board Rule Superseded.

Section 1 above supersedes the rule adopted by the Public Contract Review Board at OAR 127-10-020.

ADOPTED by the Metropolitan Service District Contract Review Board this \_\_\_ day of \_\_\_\_\_, 1979.

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

ATTEST:

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

MH:gl  
4894A/0065A

## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Contract Review Board  
 FROM: Executive Officer  
 SUBJECT: Exempting the Washington Park Zoo Primate Exhibit Project  
 from Competitive Bidding

I. RECOMMENDATION:

- A. ACTION REQUESTED: Hearing and adoption of Rule No. CRB 79-3.
- B. POLICY IMPACT: As this rule exempts a unique specific contract rather than a class of contracts, the policy implications are minimal.
- C. BUDGET IMPACT: It is unlikely that relying solely on competitive bidding will allow the District to secure a contract for the Primate Exhibit within the proposed \$1.5 million budget. The proposal will allow the District to actively pursue a cooperative effort to bring the project within the proposed budget.

II. ANALYSIS:

- A. BACKGROUND: The Metro Contract Review Board, under 1979 Or. Laws ch 804 and ORS 279.015, is empowered to exempt contracts from competitive bidding requirements. Exemption may be granted if the Board finds the exemption will result in cost savings and is not likely to result in favoritism or substantially diminish competition for District contracts.

The Primate Exhibit project has been advertised and bid with only one bid received, which was substantially in excess of the proposed budget. Due to the complexities and uncertainties inherent in this project and the lack of available contractors experienced in such construction, staff believes a rebidding of the project would be similarly unsuccessful. The negotiated contract procedure is proposed as an appropriate substitute for competitive bidding on this project to secure a contract at a price within the proposed budget.

The negotiated contract procedure first requires advertisement for response by interested contractors. Second, a selection review committee will select the three best qualified respondents. Following this selection a negotiation process is pursued which focuses on cost saving proposals in a way that allows the District and the other contractors to benefit from and incorporate individual cost saving ideas. The final selection is made after bids by the three contractors based on the project as revised by the negotiation process.

AJ/MH/gl  
 5343A/0065A  
 10/25/79

ADOPTED BY THE  
 MSD COUNCIL  
 THIS 25<sup>th</sup> DAY OF October, 1979  
Mary E. Gardner  
 CLERK OF THE COUNCIL

BEFORE THE METROPOLITAN SERVICE DISTRICT  
CONTRACT REVIEW BOARD

FOR THE PURPOSE OF ADOPTING )  
A RULE EXEMPTING THE WASHINGTON )  
PARK ZOO PRIMATE EXHIBIT CONTRACT )  
FROM COMPETITIVE BIDDING PROCEDURES)

RULE NO. CRB 79-3

Introduced by the  
Zoo Committee

THE METROPOLITAN SERVICE DISTRICT CONTRACT REVIEW BOARD ADOPTS  
THE FOLLOWING RULE:

Section 1: The Board finds that the construction of the Primate Exhibit at the Washington Park Zoo is a project that presents substantial unknown risk factors that have prevented effective use of competitive bidding procedures.

Section 2: The Board finds that for the reasons stated in Exhibit 1, which is attached and hereby made a part of this rule, a negotiated contract procedure may be substituted for competitive bidding procedures for this contract without encouraging favoritism or substantially diminishing competition for the contract.

Section 3: For the reasons stated in Exhibit 1, the Board finds that the negotiated contract procedure will result in substantial cost savings to the District.

Section 4: The Board, therefore, exempts the Washington Park Zoo Primate Exhibit contract from competitive bidding requirements and directs that the contract be let in accordance with the procedures contained in Exhibit 1, "PROCEDURES TO BE FOLLOWED IN NEGOTIATING THE CONTRACT."

ADOPTED by the Metropolitan Service District Contract Review



Board this \_\_\_\_ day of \_\_\_\_\_, 1979.

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

ATTEST:

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

AJ/MH/gl  
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0065A

APPLICATION FOR  
METROPOLITAN SERVICE DISTRICT BID EXEMPTION  
FOR PRIMATE EXHIBIT

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The Metropolitan Service District (Metro) hereby requests an exemption from the public bidding requirements for the construction of additions and renovations to the Primate Exhibit at the Washington Park Zoo (Zoo). (Legal authority ORS 279.015)

After proper advertisement and promulgation of contract documents, only one bid was received for the Primate Exhibit. On August 31, 1979, the bid received was 30 percent in excess of the proposed \$1.6 million budget and was therefore rejected.

In the last several weeks we have had opportunity to query and receive comments from seven contractors that obtained bid documents but did not quote. The following is a recap of the information obtained:

1. Most contractors were already situated with ample work;
2. Several jobs of similar size were bid and let within 60 days of our bid date;
3. Most contractors felt the job was very complicated and harbored too much risk;
4. Specialty items, i.e. cages for the primates were not bid by subcontractors, therefore complete bid packages were impossible to obtain; and
5. The contractor that did bid the job could only estimate the items of work he could not get prices for and added considerable safety and insurance factors to his bid.

The following is a compilation of some of the favorable aspects obtained from future prospective contractors:

1. Three major contractors, including the contractor presently bidding the Elephant Facility, will be available to attempt negotiation for the subject project;
2. Due to the intricacy of the work, negotiation lends itself to providing in-depth discussions and resulting understanding of the work to be performed;
3. Subcontractors have been discovered that will bid the animal holding and shifting cages;

APPLICATION FOR BID EXEMPTION

Page 2

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4. Contractor input during negotiation can reduce prices; and
5. Contract language can be safely modified to reduce contractor contingencies.

We feel the negotiated contract approach will provide the following advantages:

1. Greater contractor interest;
2. More effective Metro, Zoo, and contractor relations during and prior to construction;
3. Zoo staff and consultants will provide in-depth clarifications of all work items not normal to construction;
4. Identify areas of cost savings;
5. Produce a contract price within budget limitations; and
6. Save public monies.

To insure an objective selection of contractors interested in negotiation of the Primate Exhibit, the Zoo and consultants will do the following:

1. Notify qualified contractors who have previously indicated an interest in doing Zoo work;
2. Contact contractors who have experience in work of this nature and scope;
3. Announce the contractor selection process in the Daily Journal of Commerce and other news forms in areas other than the immediate Metro boundaries;
4. Establish and distribute the following criteria by which a contractor will be selected:
  - a. Work performed of a similar nature;
  - b. Work performed of equal or greater value;
  - c. Personnel available that will be assigned to the work (complete background information requested);
  - d. Bondability;
  - e. Experience in remodel of Class "A" structures;

APPLICATION FOR BID EXEMPTION

Page 3

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- f. Complete analysis of references given (minimum of six required);
  - g. Visit to three job sites completed by contractor;
  - h. Interviews with assigned personnel;
  - i. List of previous negotiated contracts and owner's/ architect's identity; and
  - j. Job history for the last three projects completed by contractor, indicating original bid and schedule and the final cost of project and completion schedule (references should be provided).
5. Appoint a six or seven member selection committee with knowledgeable members, including a disinterested general contractor, an architect representing the A.I.A., and a person from the Zoo master planning firm of Warner, Walker & Macy (appointments to be made by the Zoo Director and appropriate Zoo personnel).

We believe the above process is consistent with the criteria contained in ORS 279.015 and will lead to an objective selection of a qualified contractor who will produce the proposed scope of work within the approved project budget.

Your timely action on this exemption application will be greatly appreciated.

PROCESS TO BE FOLLOWED  
IN NEGOTIATING THE CONTRACT

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1. Assign and confirm the Selection Review Committee.
2. Advertise project to discover interested contractors.
3. Review and evaluate interested contractors and screen applicants to three.
4. While 1), 2) and 3) are progressing, revise contract documents to reflect negotiated features. This is to include all changes arrived at by committee review as well as the following:
  - a. Provide the architect's estimate for project by trade and itemize contingencies, profits and all other features with a value of \$5,000 or more;
  - b. Insert a blank form with identical trade breakdown to architect's estimate to be completely filled in by contractor;
  - c. Include a standard form for cost savings proposals to be filled in by contractor;
  - d. Provide form for lump sum estimate not including cost saving proposals;
  - e. Provide written guarantee that each contractor's cost saving proposal will remain the contractor's property, but will be discussed with others until the low bid is assessed and all contractors are notified. After the contract award, each contractor's cost saving ideas will be further negotiated with the successful contractor for mutual agreement as to value, which will be the basis of a deductive change order to the contract;
  - f. Guarantee the bidding contractors that the award will be made to the low bidder based on the lump sum proposal for plans and specifications work as shown, plus the deduction of the individual contractor's acceptable savings ideas; and
  - g. Guarantee the three selected bidding contractors that a contract will be awarded. However, Metro will reserve the right to reduce the scope of work to a minimum of \$1 million.

PROCESS TO BE FOLLOWED  
IN NEGOTIATING THE CONTRACT

Page 2

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5. Provide revised bid package to three selected bidders.
6. Establish one meeting one day after bid package release to clarify questions and completely explain all forms and procedures.
7. Allow fifteen working days to present bids.
8. Allow fifteen working days to negotiate award of contract.
9. Allow five working days to negotiate all cost savings proposals and formalize final deductive change order.

## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
 FROM: Executive Officer  
 SUBJECT: Urban Growth Boundary (UGB) and Findings

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: First reading of an ordinance adopting the UGB and Findings.
- B. POLICY IMPACT: Oregon Law 1979, chapter 402 gives Metro the responsibility and authority to establish a UGB for the Metropolitan region. This action will be a final step toward compliance with that policy.

Once adopted by Metro, the UGB and Findings will be presented for LCDC acknowledgment in December, 1979. Once acknowledged, Metro's UGB and land use management policies will be further substantiated as key policies against which to evaluate all other land use plans in the region. The plan review process will be facilitated by having the UGB firmly in place with State acknowledgment.

Additionally, the exceptions process now in force in the IGA-UGB area will be eliminated so that development may occur in a more timely and efficient manner.

- C. BUDGET IMPACT: Metro did not allocate funds to develop UGB Findings in this fiscal year. The project therefore has drawn from other budgeted projects. Continued delay will seriously jeopardize completion of these other budgeted tasks.

II. ANALYSIS

- A. BACKGROUND: Since January 1979 when Metro submitted the UGB and Findings to LCDC, the following events are noteworthy:

July 11-12, 1979 -- LCDC reviewed the Findings, a Hearings Officer's report and their own staff analysis of the findings. LCDC issued a Continuance Order and directed Metro and DLCD to respond to five LCDC questions.

August, 1979 -- Metro adopted by Resolution a "Reply to LCDC Questions Regarding Implementation of the UGB" which included five Policy Guidelines to control sprawl.

September, 1979 -- LCDC reviewed Metro's reply and again issued a Continuance Order, requesting that Metro develop an analysis of locational factors that may commit land

inside the UGB to urban use, and to demonstrate how residential densities assumed in the Findings could be accomplished, and what impact the development of lots of record would have on development of the UGB. Metro is invited to present these additional Findings to LCDC at its December 6- 7, 1979, meeting.

Several other meetings were held between Metro and DLCD staff and local governments that are not listed above.

These additional Findings will support the original Boundary. Major additions include the analysis of key public facilities and development patterns inside the UGB, further support for a market factor and additional information that responds to LCDC's concerns about sprawl within the UGB.

B. ALTERNATIVES CONSIDERED: One other alternative considered was rejection of the original Findings and creation of a totally new boundary. This was rejected because:

1. The first boundary involved two years of public discussion and coordination to resolve its placement. A new process would not result in any less time required or perhaps any different boundary.
2. The original Findings included a market factor concept which was new for the LCDC and for another UGB findings process. Although roundly criticized the end analysis has shown the need for such a factor. The question remaining is how large it should be. Redoing the Findings would not eliminate this issue.

C. CONCLUSION: This appears to be the final step to LCDC's acknowledgment of the UGB. The analysis of location factors and additional testimony builds a stronger case for the original Boundary than could be formulated for a new boundary.

RB:bk  
5587A  
0065A  
10/25/79

ADOPTED BY THE

MSD COUNCIL

THIS 25<sup>th</sup> DAY OF October, 1979

Mary G. Gardner  
CLERK OF THE COUNCIL



BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING )  
AN URBAN GROWTH BOUNDARY FOR )  
THE REGION )

ORDINANCE NO. \_\_\_\_\_

) Introduced by the  
) Planning & Development  
) Committee

Section 1: The Council finds that:

(a) The Metropolitan Service District is required by Oregon Laws 1979, chapter 402 to prepare and adopt an urban growth boundary for the District consistent with applicable statewide planning goals;

(b) The LCDC, upon acknowledgment review pursuant to ORS Chapter 197, has found that additional findings to support the urban growth boundary adopted in December, 1978, by the Columbia Region Association of Governments are required to merit acknowledgment;

(c) Sufficient evidence exists to support the boundary adopted by CRAG; and

(d) It has been determined by LCDC that it is necessary for the District to establish policies for conversion of urbanizable land to urban use beyond the requirements of Statewide Goal No. 14.

Section 2:

(a) The Metropolitan Service District Urban Growth Boundary (UGB), as indicated and described on the map attached hereto as Attachment A and by this reference incorporated herein, is adopted.

(b) Attachment A is a reduced copy of the original map of the UGB, dated \_\_\_\_\_, which original is on file at District offices. Where conflicts may exist between the original and a copy

of the UGB, the original shall control.

Section 3:

The document entitled "Urban Growth Boundary Findings," dated October, 1979, a copy of which is attached hereto and by this reference incorporated herein, is hereby adopted as the Findings in support of the UGB adopted by Section 2 of this Ordinance.

Section 4:

The record of the adoption of this Ordinance and its attachments is declared to include:

(a) All evidence, testimony and other information submitted to or generated by CRAG in connection with its adoption and amendment of the CRAG Regional UGB in December, 1978, (CRAG Order No. 78-35) and supporting Findings in November, 1978, (CRAG Order No. 78-22).

(b) All evidence, testimony and other information submitted to the LCDC by the District during its UGB acknowledgment proceedings of June, 1979.

(c) All evidence, testimony and other information submitted to or generated by the District relating to this proceeding.

Section 5:

Pursuant to the 1977 Oregon Laws, chapter 665, Section 25, this ordinance supersedes CRAG Order No. 78-22 (November 16, 1978), CRAG Order No. 78-35 (December 21, 1978), and the documents adopted therein, which orders and documents are no longer of any force or effect. Previous orders of CRAG which were superseded by Order No. 78-22 and Order No. 78-35 are not revived except to the extent that

the records and findings supporting such orders have been readopted  
by Section 3 and Section 4 of this ordinance.

ADOPTED by the Council of the Metropolitan Service

District this \_\_\_ day of \_\_\_\_\_, 1979.

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

Attest:

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

AJ/gl  
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0065A

## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
FROM: Executive Officer  
SUBJECT: Metro Local Improvement District (LID) Ordinance for  
Drainage and Flood Control

I. RECOMMENDATION:

- A. ACTION REQUESTED: Hold first reading of Ordinance No. 79-78. This ordinance fulfills the requirement in Metro's enabling legislation (ORS 268.510) that, before LID's can be created, a "general ordinance" must be enacted which defines procedures for such creations in the future.
- B. POLICY IMPACT: There is no direct policy impact of the requested action. This ordinance simply establishes procedures by which Metro would exercise its authority to create LID's for control of surface water drainage. The authority to create such LID's was granted in the enabling legislation.

This ordinance will be the policy foundation for a subsequent LID ordinance for the Johnson Creek project. There will be no direct impact until such an ordinance is adopted. The impacts will be specified for the Council at that time.

- C. BUDGET IMPACT: There is no direct budget impact of the requested action. The budget impact of subsequent LID ordinances will be specified for the Council as they are proposed.

II. ANALYSIS

- A. BACKGROUND: The development of this ordinance has been coordinated with the Johnson Creek Task Force and the Water Resources Policy Alternatives Committee. On October 9, 1979, the Council Solid Waste/Public Facilities Committee recommended the proposed ordinance for first reading.
- B. ALTERNATIVES: Other alternative methods of financing the Johnson Creek project that were considered were: (a) a Special District, (b) federal grants such as "208" Water Quality Management grants, etc., and (c) Corps of Engineers assistance. These alternatives are either less efficient and effective than a LID or cannot provide the total resources needed.

Development of the LID ordinance also involved consideration of alternative provisions within the ordinance. The ordinance was drafted in the following stages as alternatives were considered:

1. General ordinance that enables Metro to create LID's of all types permitted by enabling legislation, including drainage, sewerage, public transportation, major cultural facilities, etc. (ORS 268.310 (1) through 268.310 (6)). The first draft did not specify a remonstrance level (expressed in percent).
2. In response to a request from the Solid Waste/Public Facilities Committee, the proposed ordinance was amended to include a fifty (50) percent remonstrance level under Section 8. Under this provision written remonstrances from more than fifty (50) percent of the affected property owners owning more than fifty (50) percent of the affected property will "kill" a proposed LID unless overruled by the Metro Council.
3. In response to concerns raised by Multnomah County and city of Gresham representatives on the Task Force regarding the desire for more local jurisdiction influence on Metro's formation of LID's (for such improvements as streets and sewers), the proposed ordinance was revised to exclude all but drainage LID's. In addition, a provision was added that permits local jurisdictions to petition Metro for the formation of an LID.
4. A section (Section 19) was added to the proposed ordinance to inform homeowners about "elderly homestead deferrals" under ORS 311.706. This program can be used by homeowners on limited incomes to obtain state financing of their property assessments.

- C. **CONCLUSIONS:** Local jurisdictions on the Johnson Creek Task Force and Water Resources Policy Alternatives Committee are supporting this ordinance as a vital step in the implementing of solutions to the problems in the Johnson Creek Basin and to other regional drainage problems. It has been revised to accommodate most of the concerns that have been raised and is ready for first reading.

TW:bk  
5562A  
0065A

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING	)	ORDINANCE NO. <u>79-78</u>
PROCEDURES RELATING TO LOCAL	)	
IMPROVEMENT DISTRICTS AND THE	)	Introduced by the
APPORTIONMENT AND LEVY OF	)	Solid Waste/Public
ASSESSMENTS RELATED THERETO.	)	Facilities Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT ORDAINS  
AS FOLLOWS:

Section 1. Purpose

The purposes of this Ordinance are to establish a procedure for constructing, operating, and maintaining public improvements which are to be financed wholly or in part by special assessments against benefited property and to establish a procedure for levying, collecting and enforcing the payment of such special assessments, all in accordance with the authority granted by ORS 268.510.

Section 2. Definitions

As used in this Ordinance, unless the context requires otherwise:

(a) "Public Improvement" means an improvement constructed or maintained pursuant to district powers specified in ORS 268.310 (3).

(b) "Local Improvement District" means the property which is to be assessed for the cost or a part of the cost of a public improvement and the property on which the public improvement is located.

(c) "Council" means the Council of the Metropolitan

Service District.

(d) "Executive Officer" means the Executive Officer of the Metropolitan Service District.

(e) "District" means the Metropolitan Service District.

### Section 3. Public Initiation of Local Improvement Districts

Whenever the owners of more than 50 percent of the property to be benefited propose an improvement and desire to form themselves into a local improvement district for the purpose of accomplishing such improvements, they may by written petition request the Council to initiate such a district pursuant to Section 5 of this Ordinance.

### Section 4. Local Jurisdiction Initiation of Local Improvement Districts

Whenever the governing body of a city, county or special district within or partly within the District desires the formation of a local improvement district, it may by resolution request the Council to initiate such a district pursuant to Section 5 of this Ordinance.

### Section 5. Council Initiation of Local Improvement Districts

(a) Local improvement district proceedings may be initiated by the Council upon the adoption of a resolution directing the Executive Officer to prepare plans and preliminary engineering estimates, and specifications for such improvements.

(b) The Executive Officer shall file with the Clerk of

the Council, within the time specified in the resolution adopted pursuant to paragraph (a), the preliminary engineering report containing the following information:

(1) A description of the project, its boundaries and the general plan proposed therefor.

(2) A description of each lot to be benefited.

(3) An estimate of the probable cost of such project including legal, administrative, engineering, planning, construction, finance and assessment costs attributable thereto.

(4) An estimate of the probable annual cost for maintenance and operation of the project.

(5) A proposed method of assessment apportionment, and an estimate of the portion of total costs to be specially assessed.

(c) Where a single hearing is to be held as provided in Section 8(b) of this Ordinance, an apportionment of the estimated assessment based on the special benefits to be received by lots within the improvement district shall be prepared and filed with the preliminary engineering report.

#### Section 6. Determination of Intention to Proceed

If and when the Council determines that the proceedings for the proposed improvement should go forward, the Council shall adopt a resolution stating its intention to proceed with the proposed local improvement. The resolution shall contain the name or designation of the improvement, the location of the improvement, the general character of the proposed improvement, the Executive



Officer's estimate of the cost of the improvement, a description of the specially benefited properties to be assessed, and directions to publish the resolution.

Section 7. Publication and Notices of Intention to Construct

(a) The Executive Officer shall publish the resolution determining the Council's intention to proceed in at least three (3) successive publications in a newspaper of general circulation within the district.

(b) Within five (5) days after publication of the resolution, the Executive Officer shall cause to be posted conspicuously, within the area of the proposed improvement, at least two (2) notices headed "Notice of Proposed Improvement," containing a copy of the resolution indicated in Section 5, and the date of its adoption.

(c) Within ten (10) days after publication of the resolution, the Executive Officer shall mail notice to affected landowners informing them of the proposed improvements and their right to remonstrate before the Council. The notice shall include:

- (1) A description of the proposed improvement.
- (2) The total estimated cost of the improvement to be assessed within the Local Improvement District.
- (3) The total estimated annual cost of maintenance and operation of the improvement to be assessed within the Local Improvement District.
- (4) The portion of estimated costs to be assessed

against each affected landowner (unless apportionment is to be decided at a subsequent hearing).

- (5). The number of lots within the boundary of the assessment district.
- (6). The date of the last day for filing remonstrances (twenty (20) days after the first day of publication).
- (7). The date and place of hearings on the proposed improvement.

(d) No record need be kept of the mailing of any notice and the failure to mail, or a mistake in the mailing shall not be fatal when notice is posted or published as herein required.

#### Section 8. Remonstrances Against Proposed Improvement

If the District receives written remonstrances, prior to or during the hearing upon the proposed improvement, from more than fifty (50) percent of the affected property owners owning more than fifty (50) percent of the affected property, the proposed improvement will not be implemented unless the remonstrance is overruled as provided in Section 9 (d) of this Ordinance.

#### Section 9. Hearing on the Proposed Improvement

(a) No sooner than twenty (20) days after the notice required by Section 6 the Council shall hold a public hearing on the proposed improvement. At such hearing, persons wishing to object and persons favoring the improvement shall be entitled to be heard.

(b) The Council may, at its discretion, hold a single hearing to comply with the hearing requirements of the proposed improvement hearing under Section 8 and the assessment and apportionment hearing under Section 12.

(c) At such hearing, the Council may continue the proceeding, modify the resolution and direct a modification of the engineering report to alter the scope of the improvement. If new property owners become affected or proposed assessments will be increased as a result of such modifications, the notice requirements of the prior sections shall be followed; and new notices shall be sent to property owners within the proposed district and another hearing shall be held.

(d) The Council may, if it determines and adopts findings that the improvement is needed to correct a health or safety hazard, overrule all remonstrances.

(e) The Council may adopt an Ordinance establishing the local improvement district, adopting the total proposed assessment and directing the Executive Officer to implement the proposed improvements by contract.

(f) The Council may, if a combined hearing as provided in Section 8 (b) is held, adopt an Ordinance apportioning and levying the assessment with the Ordinance creating the Local Improvement District and adopting the total proposed assessment.

#### Section 10. Contracts for Improvement Construction

(a) Within a reasonable time following adoption of the Ordinance establishing the Local Improvement District, the Executive

Officer shall advertise for bids to construct the improvement.

(b) After determination of the lowest responsible bidder the Executive Officer may enter into a contract with such bidder for the construction of the improvement, provided such bid does not exceed the total proposed assessment adopted under Section 8 of this Ordinance, by more than 10 percent.

(c) In lieu thereof, or if no bids are received, the Executive Officer may provide for construction by contract with another unit of government, provided such contract does not obligate the District to pay an amount that exceeds the total proposed assessment adopted under Section 8 of this Ordinance by more than 10 percent.

(d) After execution of contract documents, the Executive Officer may direct the contractor to proceed as appropriate.

#### Section 11. Assessments

(a) Property within a Local Improvement District shall be subject to assessments of two classes.

(1) Assessments may be levied against benefited property for the purpose of defraying the costs of public improvements within the Local Improvement District including but not limited to administration, assessment, planning, engineering, purchase, construction, supervision, reconstruction and repair.

(2) Assessments may be levied against benefited property for the purpose of defraying the cost of maintenance and operation of public improvements within a Local Improvement District. Administrative and enforcement costs may be included in

the assessment for maintenance and operation of public improvements within a Local Improvement District.

(b) Within a reasonable time following adoption of the Ordinance establishing the Local Improvement District, the Executive Officer shall prepare estimated assessments by apportioning the cost of the improvements upon the lots benefited by said improvements and within the assessment district fixed by the Council.

(c) The assessment shall be apportioned based on the special benefit received as determined by the zone, frontage, area, service unit, assessed value, or other method or any combination of methods which the Executive Officer, in his discretion, determines to be the most equitable and reasonable method of apportioning the said benefits.

(d) Where the Council has determined that a portion of the cost of the project shall be paid with public funds, the Executive Officer shall deduct from each proposed assessment the proportion of such assessment which the amount of public funds to be contributed bears to the total cost of the project.

(e) When an apportionment of cost has been made, in accordance with the special benefits to be derived by each property, the Executive Officer shall file a list of the proposed assessments with the Clerk of the Council.

#### Section 12. Notice of Proposed Assessments

(a) The Executive Officer shall mail notice to all affected property owners of the proposed assessments apportioned to their property.

(b) Notice shall be mailed within a reasonable time after the filing of the proposed assessment apportionment with the Clerk of the Council.

(c) Any owner of property proposed for assessment may remonstrate by filing objections to the proposed assessment, in writing, with the Clerk of the Council. Any such objection shall set forth the basis for the objection, and must be filed within ten (10) days of the date when notice was first mailed.

### Section 13. Assessment Apportionment Hearing and Ordinance

(a) The Council shall hold a hearing on the apportionment of proposed assessments at which time it shall consider written remonstrances.

(b) The Council may overrule any and all remonstrances against assessment apportionment.

(c) At the hearing, the Council shall determine the amount to be assessed upon each lot. The assessment shall not exceed the special benefits accruing to such property from the improvements.

(d) The amount of the assessment apportioned need not be the amount of a proposed assessment adopted at an earlier hearing.

(e) The Council may pass an Ordinance apportioning and levying assessments against the affected properties.

(f) Upon such passage and the expiration of the period for application for installment payment, the District Finance Officer shall enter the assessments in the docket of district liens with a statement of the amounts assessed against each lot, a

description of the improvement, the name of the owner, the date of the order levying the assessment and the date upon which payment or installment payment is due.

(g) Upon entry in the lien docket, the amount so entered, with interest at the legal rate as it accrues, shall become a lien and charge on the respective lots assessed for improvements. All payments shall be entered in the lien docket and shall discharge the lien to the amount of such payment.

(h) Any owner may at any time discharge the lien by paying the whole amount of the assessment for which the lien is docketed together with the full amount of interest and costs accrued thereon to such date of payment.

#### Section 14. Notice of Assessment

(a) Promptly after passage of the Ordinance levying the assessment, the Executive Officer shall cause to be published, in a newspaper of general circulation within the district, a notice that such an Ordinance has been passed specifying the whole cost or estimated cost of the improvement, the boundaries of the district assessed, the number and title of the assessment Ordinance, and that the assessments are payable and due, the time when the same shall be delinquent and the charges and penalties related thereto.

(b) The Executive Officer shall also mail notice to each affected landowner of the assessment upon the property, and landowner's right to deferred payment under Section 17 of this Ordinance and all of the information specified in paragraph (a) above.

Section 15 Subsequent Operating and Maintenance Assessments

(a) For public improvements involving continuing operating and maintenance expenses, the Council shall annually adopt a budget based on an estimate by the Executive Officer of operating and maintenance expenses. All levies of assessment and expenditures shall correspond as nearly as possible to adopted budgets. However, the Council may amend such budgets from time to time as it deems necessary.

(b) A proposed assessment for maintenance may be designated a maximum annual assessment. When the requirements of paragraph (2) of this subsection are met, a maximum annual assessment shall operate as described in paragraph (1) of this subsection.

(1) Each year the Council shall determine and include in its budget for the Local Improvement District the portion or all of a maximum annual assessment that it deems necessary for maintenance and operation during the ensuing year. The Council may thereafter levy and collect the assessment without the notice and hearing otherwise required by this Ordinance if the amount levied does not exceed the maximum annual assessment.

(2) The fact that a proposed assessment will be a maximum annual assessment shall be stated in the Ordinance creating the Local Improvement District and notice of hearing on the proposed improvement. The effect and operation of such an assessment shall be explained in the notice. If approved, the Ordinance authorizing the improvement shall also clearly designate the character of the assessment.

(3) The existence of a maximum annual assessment in



a Local Improvement District shall not prevent the Council from making additional assessments of both classes described in Section 10.

(c) Subsequent maximum annual assessments shall be apportioned on the same basis as the original assessments unless changed as follows:

(1) The Council, at its own discretion, has taken action to reapportion all or any part of the maximum annual assessment.

(2) If, after the expiration of five years from the initial maximum annual assessment, a petition is filed with the Council signed by at least 50 percent of the owners or the owners of 50 percent the land area of the Local Improvement District, setting forth that the original assessments of benefits is inequitable, the Council may cause a reapportionment to be made.

#### Section 16. Deficits and Surplus

(a) Where the total sum assessed specially is found insufficient to cover the total cost of the project the Council may initiate additional assessment proceedings to finance the deficit.

(b) The procedures for adoption of an Ordinance spreading the additional assessments shall be substantially the same as those in Sections 10 through 14.

(c) Where the total cost of the project is found to be less than the assessments levied, the surplus shall be calculated and returned to the property owners pro rata except where the surplus results from an assessment under the provision for a maximum

annual assessment in which case the surplus shall reduce the following year's assessment.

Section 17. Contracting Out Assessment Functions

(a) The Executive Officer, in his discretion, may contract with local agencies to provide the district with services to meet the requirements of this Ordinance.

(b) Such services may include engineering, surveying, recording of assessments, billing and collection of assessments, the keeping of a Lien docket, notice to property owners and other related assessment functions.

Section 18. Deferred Payment of Assessment

(a) Any owner of property which has been assessed more than \$100 for an improvement beneficial to such property shall have the right to pay such assessment in installments. If an assessment or a portion of an assessment is for operating or maintenance expenses, the right to pay the assessment in installments shall not apply to such assessment or portion of an assessment.

(b) To preserve the right to pay in installments the property owner must, within ten (10) days after notice of such assessment is first published, file with the district financial officer a written application to pay:

- (1) The whole of the assessment in installments; or
- (2) If part of the assessment has been paid, the unpaid balance of the assessment in installments.

(c) At the option of the district written application may

be filed after ten (10) days after notice of assessment is first published.

(d) The written application must include the following:

(1) A statement that the applicant and property owner waives all irregularities or defects in the assessment or apportionment proceedings.

(2) An agreement to pay the assessment in equal semi-annual installments over a period not to exceed thirty (30) years as the Council may provide, with interest of seven (7) percent per annum on all assessments which have not been paid.

(3) A description by lot, block, or other convenient description of the property of the applicant assessed for improvement.

(e) No application for installment payment shall be accepted if the amount remaining unpaid upon such assessment together with the unpaid balance of any previous assessments for improvements against the same property equals or exceeds double the assessed valuation of the property.

(f) The district finance officer shall:

(1) Keep all applications for installment payments filed in convenient form for examination. Applications for each improvement shall be kept separate.

(2) Enter in a book, under separate heads for each improvement, the date of filing of each application, the name of the applicant, a description of the property, and the amount of the assessment as shown on the application.

Section 19. Elderly Homestead Deferral

A property owner who qualifies for an elderly homestead deferral under ORS 311.706 through 311.735 may claim the deferral by submitting the form required by ORS 311.708.

ADOPTED by the Council of the Metropolitan Service

District this \_\_\_\_ day of \_\_\_\_\_, 1979.

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

Attest:

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

AJ/MH/gl  
2856A  
0065A

## A G E N D A   M A N A G E M E N T   S U M M A R Y

TO: Metro Council  
FROM: Executive Officer  
SUBJECT: Solid Waste Division Staff Reorganization

I. RECOMMENDATION:

- A. **ACTION REQUESTED:** In order to proceed in a timely manner with the implementation of the various elements of the Solid Waste Management Plan it is recommended that the Council approve a reorganization of the Solid Waste Division which includes the creation of three new positions. These positions are: Resource Recovery Project Manager, Solid Waste Engineer, and Solid Waste Technician.
- B. **POLICY IMPACT:** The Metro Council has stated that implementation of the Solid Waste Plan is of high importance. The approval of the reorganization and of these new positions will assist in this endeavor. The Solid Waste Engineer and the Solid Waste Technician will be recruited immediately upon approval. The duties of the Resource Recovery Manager will be performed initially under a Personal Service contract. This position will be filled with a permanent employee when the decision is made to implement the Resource Recovery Project. This decision is scheduled to be made in January, 1980.
- C. **BUDGET IMPACT:** The projected cost of the Solid Waste Technician and the Solid Waste Engineer for the remaining fiscal year, assuming a hire date of November 1, is \$27,670. However, because of the available funds from the EPA Urban Policy Grant, and the unused portion of the Director of Environmental and Technical Services salary, it will be necessary to transfer from the Solid Waste Contingency line item to the Personal Service category \$8,200. Monies are currently available in the Material and Services category to pay for the Resource Recovery Project Manager on a contract basis. When this position is filled with a permanent employee, a transfer will be required from the Materials and Services category to the Personal Services category. It is projected that this transfer will be approximately \$18,000. This additional level of support can be paid from existing revenue, i.e., Solid Waste User Fees, and no increase in the amount imposed at the landfill will be necessary either this fiscal year or next.

II. ANALYSIS:

- A. **BACKGROUND:** The majority of the Metro area's garbage is currently disposed of by landfilling in sites which will be at capacity within the next few years. Metro is

charged with the responsibility of providing adequate Solid Waste Disposal Facilities and to accomplish this a Comprehensive Solid Waste Management Plan has been adopted. The Solid Waste staff is actively pursuing implementation of the Plan's various elements, including resource recovery, public and commercial transfer stations, recycling drop centers, and new sanitary landfills. In order to accomplish this, our schedule indicates that the Metro Council must make a decision on selecting a new landfill site by June, 1980, approve proceeding with a public transfer station in January, 1980, commence operation of the recycling drop centers in January, 1980, enter into the necessary contractual arrangements in early 1980 for the resource recovery project, implement a disposal franchise by August, 1980, and obtain consensus on implementation of a shredding facility in the northern section. In addition, the field monitoring program and user fee audits are ongoing efforts.

Based on the schedule for implementation, man-month requirements for the various elements of the Solid Waste Management Plan have been projected through September, 1980. It appears that staff requirements vary from 8.7 to 9.8 employees. This compares with the current staff level of six. It should be noted that existing and proposed staff requirements do not reflect secretarial assistance.

- B. **ALTERNATIVES CONSIDERED:** In determining staff requirements for the Solid Waste Division, three alternatives were considered. The first was to retain the current staff level of six employees. This would result in stalling implementation of certain elements of the Solid Waste Management Plan. Another consideration was to increase the staff by adding a Solid Waste Engineer, Solid Waste Technician, and a Resource Recovery Manager. While this alternative adds to the total number of Metro employees, it allows for timely implementation with all additional costs can be paid from existing revenue sources. The last consideration was to retain the current level of six employees and provide project management for the various tasks through Personal Service contracts. This alternative would eliminate adding new employees to Metro. However, it would place an additional burden on existing staff for contract management and coordination.
- C. **CONCLUSIONS:** It is Metro's responsibility to implement an adequate solid waste disposal program and avert a pending disposal crisis. The Solid Waste issue has become extremely controversial and visible within the last few months. Current Solid Waste staff level does not allow sufficient time to adequately address all the Solid Waste issues facing Metro in a timely manner. By approving the immediate hiring of a Solid Waste Engineer and Solid Waste Technician and approval of the position of Resource Recovery Project Manager, with that position being filled

initially through a Personal Service contract, maximum flexibility can be achieved while still providing a level of staff necessary to implement the Solid Waste Management program in a thorough and timely manner.

MI/gl  
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0075A  
10/25/79

ADOPTED BY THE  
MSD COUNCIL  
THIS 25<sup>th</sup> DAY OF October, 1979  
Mary E. Gable  
CLERK OF THE COUNCIL

Proposed Resolution for MSD adoption

Oct. 25, 1979.

WHEREAS the impact upon landowners in the areas designated as "REGULATED SPECIAL AREAS" is more extensive than the restrictions and limitations proposed for other parts of MSD's UGB, and

WHEREAS, in some instances, five minutes speaking time may not provide sufficient time to adequately address the issues, and

WHEREAS, in some instances, a more logical presentation may be made by one person speaking for several affected owners,

THEREFORE, BE IT RESOLVED BY THE METROPOLITAN SERVICE DISTRICT COUNCIL that at its public hearing on the UGB findings scheduled for November 8th, the Council hereby agrees that upon presentation of a certificate signed by a landowner within any one of the five areas designated as a "REGULATED SPECIAL AREAS", a speaker designated by the owner shall be entitled to the owner's allotted time.

Be it further resolved that no designated speaker may speak on the subject for more than 30 minutes.

*Jim Allison*

Submitted by Jim Allison, President, Washington County Landowners Association.

*I Concur with the above statement*

*Marjorie Stewart  
Mayor - Sherwood*

*Reported  
Oct. 25, 1979  
Mary E. Baker  
Clk of Council*



Excerpt from Minutes of October 25, 1979

Mr. Gustafson said he had hoped that he could reserve some comments until later, but he wanted to talk a little bit about the purpose of the hearings. First of all, what the Council was doing was adopting findings to justify the UGB, based upon the market factor and land committed to urban area because of the location of public facilities and development. Testimony should focus upon whether or not the location of information and the market factor is accurate and justifies the UGB. On November 8 the Council will take final action to submit to LCDC. Without final action on November 8 the December 11 meeting with LCDC will have to be cancelled. It would probably be more appropriate to attend the meeting on the 29th or 30th with the Planning and Development Committee to formalize that report, because it is clear that it will be exceedingly difficult to hear public testimony and reach a decision at the meeting of November 8.

17050 S.W. Arkenstone Dr.  
Tigard Oregon 97223  
October 16, 1979

Dear Mr. Burton,

Approximately two years ago I became a homeowner in the town of Durham. At that time I was looking forward to a peaceful and environmentally safe life in this very pleasant community. Shortly after moving into my home I became aware of the fact that the Durham pits were being considered as a possible garbage dump. Because you are a council member of MSD, I wanted to make you aware of my feelings regarding this subject. My feelings are shared by all my neighbors with whom I have been in contact.

I have been following closely the evolution of events regarding the use of the Durham pits as a possible landfill. There are many reasons and arguments as to why the Durham pits should not be used as a landfill. I am sure you are aware of all the issues ranging from environmental impact to economic impact on the surrounding area. Upon studying the issues closely it has become apparent to me and I hope also to you that the risks of locating a landfill in the populated Durham area far outweigh any benefits. This is especially true when you consider that the Durham site is a short term site in a populated area, and that there are other suitable long term sites in much less populated areas where the impact on human life and health will be minimal. It seems to me that the logical approach would be to locate a landfill in an area which has long term potential and does not have the many risks associated with a landfill in the populated Durham area.

Regardless of the environmental and economic issues of locating a landfill in the Durham area, the health issues are foremost in my mind. As a physician the primary concern I have and I hope you also share is the impact a landfill will have on the health of the residents in the area. The Durham pits are surrounded by large populations of adults and children as well as by business concerns ranging from restaurants to hotels. It is unthinkable that you can even consider the pits as a possible landfill when you consider the possible risks to the health of the considerable number of residents in the area. These risks include contamination of the water supply, air pollution and spread of infections all of which directly effect the life and health of many human beings. It seems to me these potential risks far outweigh any benefits from location of a dump in this area. This is especially true when you consider the fact that there are available sites away from populated areas, which are suitable for landfills, and which do not carry the high danger to human life that locating a landfill in the Durham area carries.

B-4

You have the power to put a stop to consideration of the Durham Pits as a possible landfill. I only hope you will put aside all economic and political issues and will consider the health issues when deciding whether to use the Durham pits as a landfill. I am sure if you consider seriously these health issues and the risks they pose to human lives and the quality of life you will have no alternative but to stop any further consideration of the Durham pits as a landfill. By putting a stop to the preliminary studies and by withdrawing the pits as a possible landfill site you will be making a great stride toward preserving the health and quality of life of the many residents in the area. We will all be watching with interest your handling of future developments regarding this entire situation.

Truly Yours,

*Ronald Pausig*

Ronald Pausig M.D.

Faint, illegible text, possibly a list or report, located in the lower-left quadrant of the page.

**RECEIVED**  
OCT 18 1979  
METRO SERVICE DISTRICT

MSD COUNCIL  
ROLL CALL ROSTER

AGENDA ITEM

MEETING DATE

Alison Lee

10-25-79

	<u>AYE</u>	<u>NAY</u>
<u>DISTRICT 5</u>		
Jack Deines	_____	_____
<u>DISTRICT 6</u>		
Jane Rhodes	_____	_____
<u>DISTRICT 7</u>		
Betty Schedeen	_____	_____
<u>DISTRICT 8</u>		
Caroline Miller	_____	_____
<u>DISTRICT 9</u>		
Cindy Banzer	_____	_____
<u>DISTRICT 10</u>		
Gene Peterson	_____	_____
<u>DISTRICT 11</u>		
Marge Kafoury	_____	_____
<u>DISTRICT 12</u>		
Mike Burton	_____	_____
<u>DISTRICT 1</u>		
Donna Stuhr	_____	_____
<u>DISTRICT 2</u>		
Charles Williamson	_____	_____
<u>DISTRICT 3</u>		
Craig Berkman	_____	_____
<u>DISTRICT 4</u>		
Corky Kirkpatrick	_____	_____
Total	_____	_____

MSD COUNCIL  
ROLL CALL ROSTER

AGENDA ITEM

MEETING DATE

Rollcall

10-25-79

	<u>AYE</u>	<u>NAY</u>
<u>DISTRICT 4</u> Corky Kirkpatrick	_____	_____X
<u>DISTRICT 5</u> Jack Deines	_____X	_____
<u>DISTRICT 6</u> Jane Rhodes	_____X	_____
<u>DISTRICT 7</u> Betty Schedeen	_____X	_____
<u>DISTRICT 8</u> Caroline Miller	_____X	_____
<u>DISTRICT 9</u> Cindy Banzer	_____X	_____
<u>DISTRICT 10</u> Gene Peterson	_____X	_____
<u>DISTRICT 11</u> Marge Kafoury	_____X	_____
<u>DISTRICT 12</u> Mike Burton	_____X	_____
<u>DISTRICT 1</u> Donna Stuhr	_____X	_____
<u>DISTRICT 2</u> Charles Williamson	_____X	_____
<u>DISTRICT 3</u> Craig Berkman	_____	_____X
Total		

MSD COUNCIL  
ROLL CALL ROSTER

AGENDA ITEM ,'

MEETING DATE

William  
as amended

10-25-79

	<u>AYE</u>	<u>NAY</u>
<u>DISTRICT 12</u> Mike Burton	<u>X</u>	_____
<u>DISTRICT 1</u> Donna Stuhr	<u>X</u>	_____
<u>DISTRICT 2</u> Charles Williamson	<u>X</u>	_____
<u>DISTRICT 3</u> Craig Berkman	<u>X</u>	_____
<u>DISTRICT 4</u> Corky Kirkpatrick	_____	_____
<u>DISTRICT 5</u> Jack Deines	<u>X</u>	_____
<u>DISTRICT 6</u> Jane Rhodes	<u>X</u>	_____
<u>DISTRICT 7</u> Betty Schedeen	<u>X</u>	_____
<u>DISTRICT 8</u> Caroline Miller	_____	<u>X</u>
<u>DISTRICT 9</u> Cindy Banzer	<u>X</u>	_____
<u>DISTRICT 10</u> Gene Peterson	<u>X</u>	_____
<u>DISTRICT 11</u> Marge Kafoury	<u>X</u>	_____
Total	_____	_____

*motion  
carried*

MEETING TITLE

Metro Council

DATE

10/25/79

NAME

AFFILIATION/ADDRESS

JOHN HANKEE

RAW Engineering

Bob Wright

RA Wright Engineering

Jack Bails

Metro

Wm. Ockert

Metro

Tom O'Connor

Metro

Caryl Waters

Metro

C. Spill

"

Michelle M. Wildens

Metro

Karen Diatt

"

MERLE IRVING

Judy Rount

OR Envtl Council

JERRY POWELL

MSD SW PAC

Mel Huie

Metro

Marilyn Helstrom

Metro

[Redacted Name]

[Redacted Affiliation]