

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING A) RESOLUTION NO. 85-545
COUNCIL POSITION ON PROPOSED)
LEGISLATION MODIFYING STATE) Introduced by
LANDFILL SITING AUTHORITY) Councilor Ernie Bonner and
) Executive Officer Rick Gustafson

WHEREAS, The process of siting a sanitary landfill is characterized by lengthy time requirements, ambiguous authority and criteria; and

WHEREAS, The need for a new sanitary landfill site in the Portland metropolitan area is manifest; and

WHEREAS, Legislation modifying existing state landfill siting authority is likely to be introduced by persons or organizations outside the Metropolitan Service District; and

WHEREAS, Metro is responsible for operating solid waste disposal sites and has an interest, therefore, in the siting process; now, therefore,

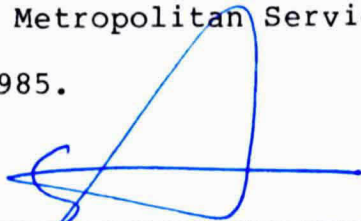
BE IT RESOLVED,

That the Council of the Metropolitan Service District supports legislation establishing state landfill siting authority which:

1. Protects the environment of the people of the tri-county area;
2. Reduces the time frame for the landfill siting decision and appeal process;
3. Permits Metro to request initiation of the state landfill siting process;

4. Allows a landfill to be sited within the Solid Waste Management Plan area for Washington, Multnomah and Clackamas counties; and
5. Applies State Land Use Goals, the Solid Waste Management Plan for the tri-county area, and DEQ's Solid Waste Disposal Rules as the sole criteria for state action in siting a landfill only if local governments fail to select a site after an opportunity to do so.

ADOPTED by the Council of the Metropolitan Service District
this 28th day of March, 1985.



Ernie Bonner, Presiding Officer

PF/srs
2952C/405-1
02/19/85

CONSIDERATION OF RESOLUTION NOS. 85-545 and
85-554 FOR THE PURPOSE OF ADOPTING A COUNCIL
POSITION ON PROPOSED LEGISLATION MODIFYING STATE
LANDFILL SITING AUTHORITY

Date: March 19, 1985

Presented by: Phillip Fell

FACTUAL BACKGROUND AND ANALYSIS

The Council has sorted through a number of principles contained in Resolution No. 85-545 in an attempt to identify those principles which it feels represent its concerns relative to a proposed state landfill siting process. At this time the principles which are still under consideration include:

1. Protects the environment of the people of the tri-county area;
2. Reduces the time frame for the landfill siting decision and appeal process;
3. Permits Metro to request initiation of the state landfill siting process;
4. Allows a landfill to be sited within the Solid Waste Management Plan area for Washington, Multnomah and Clackamas counties; and
5. Applies state land use goals, the Solid Waste Management Plan for the tri-county area, and DEQ's solid waste disposal rules as the sole criteria for state action in siting a landfill if local governments fail to select a site after having an opportunity to do so.

A second resolution, Resolution No. 85-554, has been brought forward at the Council's direction. This resolution is intended to be a more specific endorsement of state landfill siting policy -- it proposes support of SB 662 introduced by Representative Mike Burton.

As drafted, SB 662 establishes two distinct landfill siting processes: a local official process and a state EQC process. The local official process requires the county commissioners of Multnomah, Washington and Clackamas counties to identify a preferred landfill site within the tri-county area. In making their decision, the counties may consider only the statewide goals relating to solid waste management.

SB 662 states that the preferred site must be identified and recommended to Metro for review not later than July 1, 1986. Metro

is then given six months to review and approve the site, and to apply for the necessary permits. If this local process breaks down, i.e., if the county commissioners do not recommend a site, Metro does not approve the site, or the necessary permits cannot be obtained, the EQC is automatically given the authority to select a landfill site.

EQC site selection criteria are limited to compatibility with:

- provisions of the Solid Waste Management Plan adopted by Metro;
- statewide land use planning goals; and
- DEQ solid waste disposal rules.

Once a site has been determined, the EQC is authorized to issue all necessary permits in accordance with the following criteria:

- permit issuance must be consistent with statewide planning goals relating to solid waste management and the Solid Waste Management Plan adopted by Metro; and
- Metro must be unable to establish a landfill site.

The EQC is given one year to issue the necessary permits. Appeals of EQC action are directed to the Court of Appeals. Since the counties have failed to recommend a site, they are barred from appealing the EQC site selection.

Finally, the bill also adds a 50¢/ton surcharge to waste deposited in any landfill sited under this bill. The revenues from the surcharge are to be used for promoting economic development in the St. Johns area.

SB 662 addresses the concerns of the Council as outlined by the five siting principles established in Resolution No. 85-545. Environmental concerns are addressed by requiring compliance with the land use goals, DEQ's solid waste disposal rules and Metro's Solid Waste Management Plan. Time limits are placed on the process through the local official process and by diverting appeals of EQC action to the Court of Appeals. The automatic initiation of the EQC process eliminates the need for Metro initiation of the state siting process. Landfills will be sited within the Solid Waste Management Plan area, i.e., Washington, Clackamas and Multnomah counties. The criteria identified for choosing a site in the fifth principle are the criteria listed in the bill.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution Nos. 85-545 and 85-554.

LZ/gl
2952C/405-1
03/19/85



Memo

Agenda Item No. 7.4

Meeting Date Feb. 28, 1985

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

Date: February 20, 1985

To: Metro Councilors

From: Phillip Fell, Acting Public Affairs Director

Regarding: Resolutions on proposed legislation

**RESOLUTION NO. 85-543 FOR THE PURPOSE OF ADOPTING A COUNCIL POSITION
ON PROPOSED LEGISLATION EXTENDING ENERGY TAX
CREDITS**

The Metro Council has adopted positions favoring energy recovery facilities and recycling as methods of waste management. Oregon's Energy Tax Credit program is an important component of financing these energy recovery facilities by virtue of making them cost-effective to construct. Staff contacts with several area recycling firms indicate that these firms would not have invested in necessary equipment if they had not been able to count on the tax credit offered under the existing program. This program is scheduled to sunset this year unless H.B. 2053, which would extend the program until 1991, is passed.

**RESOLUTION NO. 85-544 FOR THE PURPOSE OF ADOPTING A COUNCIL POSITION
ON PROPOSED LEGISLATION ESTABLISHING A STATE
ADVISORY COMMISSION ON INTERGOVERNMENTAL
AFFAIRS**

Overlapping responsibilities and duplication of services have long been problems which all levels of government have tried to reduce. They contribute to an inefficient allocation of both functions and finances among governments and a public perception of government which is out of control and wasteful.

The Federal government acted to reduce these problems in 1958 by creating a Federal Advisory Commission on Intergovernmental Relations. Since that time, the ACIR has encouraged a reevaluation of relations between the federal and state governments which has reduced the duplication of services among levels of government. H.B. 2038, if passed, would create the same type of commission focusing primarily on state and local relations. The commission would be charged to recommend changes in the structural, functional and financial relationships existing among Oregon's cities, counties, special districts and the State. Although the Commission's authority would be limited to making recommendations, an analysis of the

existing relationships by an independent third party is clearly the first step toward reducing existing inefficiencies in governmental service provision.

RESOLUTION NO. 85-545 FOR THE PURPOSE OF ADOPTING A COUNCIL POSITION
ON PROPOSED LEGISLATION MODIFYING STATE
LANDFILL SITING AUTHORITY

Although the Metro Council has not introduced any legislative proposals seeking to streamline the landfill siting process, we are aware of the existence of at least one such bill. At its special Council meeting on the Legislature, the Council decided that it would be easiest to evaluate those principles which such a bill should contain, rather than attempt to analyze any specific bill when we aren't sure that we have all related bills in our possession. Accordingly, Resolution No. 85-545 contains the five principles which the Council had discussed prior to this date. Of these five principles, the greatest controversy has surrounded the proposal that statewide land use goals are a more appropriate criteria than an acknowledged comprehensive plan.

RESOLUTION NO. 85-546 FOR THE PURPOSE OF ADOPTING A COUNCIL POSITION
ON PROPOSED LEGISLATION ALLOWING METRO TO
CREATE CITIZEN COMMISSIONS

Citizen commissions are a time-honored Oregon mechanism for involving the public in administering the provision of various services. Local governments and the public at large are looking to Metro today as a vehicle to provide additional services, such as parks, on a regional basis. Should Metro actually assume a greater service delivery role, the Council should have the option of using citizen commissions to provide those services. Legislation which was originally introduced as an amendment to a Metro bill, would provide us the necessary authority, which we currently lack, to appoint citizen commissions. These amendments have since been introduced by the House Intergovernmental Affairs Committee as H.B. 2558. The language in the bill is exactly the same as the language in the attached amendments.

RESOLUTION NO. 85-547 FOR THE PURPOSE OF ADOPTING A COUNCIL POSITION
ON PROPOSED LEGISLATION TO PROTECT EXOTIC
ANIMALS

Under current law, a person can keep exotic animals without regard to any safety or hygienic standards as long as that person does not exhibit or sell the animals.

In September of last year, a raid on the Siletz Game Ranch resulted in the owner's arrest on charges of animal cruelty. Because the owner did not exhibit nor attempt to sell the animals, State Police were forced into an after-the-fact enforcement situation.

Legislation recently introduced in the Senate would require all keepers of exotic animals, for whatever reason, to comply with the regulations of, and receive a license from, the U.S. Department of Agriculture. The U.S.D.A. regularly inspects its licensees, such as the Washington Park Zoo, to assure that the animals are receiving

a certain standard of care. Passage of this legislation would provide authorities with a necessary tool to prevent animal cruelty, rather than limiting them to arresting an irresponsible keeper after-the-fact.

RESOLUTION NO. 85-552 FOR THE PURPOSE OF EXEMPTING METRO'S ZOO AND
SOLID WASTE SERVICES FROM A SALES TAX

Although the House version of a state-wide sales tax has emerged from the Revenue Committee, the final form of the sales tax will be determined by the Senate Revenue Committee. One of the more controversial elements of the tax plan has been the question of local government's responsibility to pay a sales tax on their purchases. Local governments have consistently pointed to the irony of being forced to increase either property tax revenues or fee schedules to raise the money they would be forced to pay the State in the form of a sales tax levied on their purchases. Resolution No. 85-552 would give Metro's legislative representative the authority to seek exemption from the sales tax for solid waste disposal fees; zoo admissions and food purchased for resale at the Zoo in the event that the Legislature determines that local jurisdictions should be included in the sales tax payments.

PF/cam

(c) Construction, loading and operation of vehicles used in performing solid waste collection service to prevent the contents thereof from dropping, sifting, leaking or escaping onto public highways.

(d) Definition of other "wastes" subject to regulation pursuant to ORS 459.005 to 459.105, 459.205 to 459.245, 459.255 to 459.285 and 459.992 (1), (2) and (3).

(e) Closure and post-closure maintenance of land disposal sites.

(2) The commission may by rule:

(a) Exempt a class of land disposal sites from the requirement to provide financial assurance under ORS 459.270; or

(b) Establish criteria which an individual land disposal site must meet to be exempted from the requirement to provide financial assurance under ORS 459.270.

(3) The commission shall adopt rules on other subjects as necessary to carry out ORS 459.005 to 459.105, 459.205 to 459.245 and 459.255 to 459.285.

(4) The commission shall adopt rules which have modified or limited application in different geographic areas of the state when special conditions prevail in specified geographic areas. Special conditions that shall be considered include, but are not limited to, climatic conditions, zone classification of the area, population characteristics, methods and costs of solid waste management, solid waste management plans and other conditions in the area. Modifications or limitations shall not be unreasonable, arbitrary or inimical to the policy and purposes of ORS 459.005 to 459.105, 459.205 to 459.245 and 459.255 to 459.285.

(5) All rules adopted under this section shall be adopted after public hearing and in accordance with ORS 183.310 to 183.550.

(6) Unless a rule adopted under this section is adopted pursuant to the authority granted by ORS 183.335 (2), the commission shall mail copies of the proposed rules to all persons who have requested such copies. The copies shall be mailed at least 30 days prior to the hearing required by subsection (5) of this section. [1971 c.648 §5; 1973 c.835 §137; 1981 c.709 §2; 1983 c.766 §6]

459.047 Landfill assistance from department; landfill disposal site certificate; effect of issuance. Upon request by a city or county responsible for implementing a department approved solid waste management plan which identifies a need for a landfill disposal site, and subject to policy direction by the com-

mission, the Department of Environmental Quality shall:

(1) Assist the local government unit in the establishment of the landfill including assisting in planning, location, acquisition, development and operation of the site.

(2) Site and issue a solid waste disposal permit pursuant to ORS 459.205 to 459.245, 459.255 and 459.265 for a landfill disposal site within the boundaries of the requesting local government unit. Subject to the conditions set forth therein, any permit for a landfill disposal site authorized by the Environmental Quality Commission under this subsection shall bind the state and all counties and cities and political subdivisions in this state as to the approval of the site and the construction and operation of the proposed facility. Affected state agencies, counties, cities and political subdivisions shall issue the appropriate permits, licenses and certificates necessary to construction and operation of the landfill disposal site, subject only to condition of the site certificate. Each state or local government agency that issues a permit, license or certificate shall continue to exercise enforcement authority over such permit, license or certificate. [1979 c.773 §3]

459.049 Mandated sites in certain counties; establishment by state. (1) Upon its own motion or upon the recommendation of the department, the Environmental Quality Commission may determine that a landfill disposal site within the counties of Marion, Polk, Clackamas, Washington or Multnomah must be established in order to protect the health, safety and welfare of the residents of an area for which a local government solid waste management plan has identified the need for a landfill disposal site. In making its determination on the need for a landfill disposal site or, where applicable, on the location of a landfill disposal site, the commission shall give due consideration to:

(a) The legislative policy and findings expressed in ORS 459.015, 459.017 and 459.065, and particularly the policy that action taken under this section be exercised in cooperation with local government;

(b) The provisions of the solid waste management plan or plans for the affected area;

(c) Applicable local government ordinances, rules, regulations and plans other than for solid waste management;

(d) The state-wide planning goals adopted under ORS 197.005 to 197.430;

(e) The need for a landfill disposal site;

(f) The availability and capacity of alternative disposal sites or resource recovery systems and facilities;

(g) The time required to establish a landfill disposal site;

(h) Information received from public comment and hearings; and

(i) Any other factors the commission considers relevant.

(2) If the commission makes a determination under subsection (1) of this section that there is a need for a landfill disposal site within a plan area, the commission may adopt an order directing the local government unit responsible for implementing the plan to establish a landfill disposal site within a specified period of time. The order may specify a time schedule for the completion of the major elements required to establish the site. A local government unit directed to establish a landfill disposal site under this section may request assistance from the department or request that the department establish the disposal site as provided in ORS 459.047.

(3) If the commission determines that the establishment of a landfill disposal site ordered by the commission under subsection (2) of this section is not being accomplished or that the completion of major elements has fallen behind the time schedule specified in the order, the commission may direct the department to establish the disposal site or complete the establishment of the disposal site undertaken by the local government unit. The commission may direct the department to establish or complete the establishment of a landfill under this section only if the commission finds that:

(a) The action is consistent with the statewide planning goals relating to solid waste management adopted under ORS 197.005 to 197.430 and any applicable provisions of a comprehensive plan or plans; and

(b) The responsible local government unit is unable to establish the landfill disposal site ordered by the commission under subsection (2) of this section.

(4) If the commission directs the department to establish or complete the establishment of a landfill disposal site under subsection (3) of this section, the department may establish the site subject only to the approval of the commission and the provisions of the solid waste management plan adopted for the area and in consultation with all affected local government units. Notwithstanding any city, county or other local government charter or ordinance to the con-

trary, the department may establish a landfill disposal site under this subsection without obtaining any license, permit, franchise or other form of approval from a local government unit.

[1979 c.773 §4; 1983 c.827 §54]

459.050 [1967 c.428 §5; 1969 c.593 §45; repealed by 1971 c.648 §33]

459.051 Procedural rules. In accordance with the requirements of ORS 183.310 to 183.550 and after public hearing, the commission shall adopt rules:

(1) To establish a procedure for local government units to request assistance from the department in the establishment of landfill disposal sites under ORS 459.047, and to give notice of such requests.

(2) To establish a procedure for obtaining public comment on determinations of need for landfill sites made by the commission under ORS 459.049.

(3) To provide for public hearings in the area affected by a proposed landfill disposal site to be established by the department under ORS 459.049. [1979 c.773 §5]

459.053 Powers of department regarding landfill disposal sites. Subject to policy direction by the commission in carrying out ORS 215.213, 215.214, 215.283, 459.017, 459.047 to 459.065, 459.245 and 468.220, the department may:

(1) By mutual agreement, return all or part of the responsibility for development or operation of the site to the local government unit within whose jurisdiction the site is to be established, or contract with the local government unit to establish the site.

(2) To the extent necessary, acquire by purchase, gift, grant or exercise of the power of eminent domain, real and personal property or any interest therein, including the property of public corporations or local government.

(3) Lease and dispose of real or personal property.

(4) At reasonable times and after reasonable notice, enter upon land to perform necessary surveys or tests.

(5) Acquire, modify, expand or build landfill disposal site facilities.

(6) Subject to any limitations in ORS 468.195 to 468.260, use money from the Pollution Control Fund created in ORS 468.215 for the purposes of carrying out ORS 459.047 and 459.049.



Memo

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

Date: March 11, 1985

To: Metro Council

From: Phillip Fell, Government Relations Manager *PF*

Regarding: Resolution on landfill siting authority

Attached are copies of two resolutions pertaining to a Council position on legislation modifying state landfill siting authority.

At the Council's informal meeting on solid waste issues last Thursday evening, staff was instructed to submit two resolutions, one dealing with general principles, the second dealing specifically with Rep. Mike Burton's bill.

We do not have a copy of the printed Burton bill. The staff review of the legislative counsel draft of that bill has generated two pages of questions for Metro's legal counsel. We have been guaranteed answers to those questions prior to Thursday night's Council meeting. If the answers are received in sufficient time, I will mail the staff report to you before the meeting.

PF/cam




Memo

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

Date: March 5, 1985

To: Metro Councilors

From: Phillip  Fell

Regarding: Resolution No. 85-545, State Landfill Siting Authority

On the agenda included in your packets, you will note that you will again be considering a Council legislative position on state landfill siting authority. You will also note that no resolution or staff analysis is included.

We have checked with the Senate Committee staff to determine if the proposed legislation has been printed. To this date, it has not. At your last meeting, you directed staff to return with a copy of the bill, so that your deliberations could have a more specific focus. I will have a copy of either the bill or the legislative counsel draft, accompanied by a staff analysis, to you by the end of this week.

I regret the delay.

9.2 Consideration of Resolutions for the Purpose of Adopting Council Positions on Proposed Legislation

Phillip Fell explained that as a result of the informal Council meeting of February 7, 1985, regarding Metro's legislative program, staff had prepared five resolutions for Council consideration on February 28, 1985. He encouraged the Council to review the proposed language of each resolution, ask questions and come back on February 28 ready to consider the following resolutions:

1. Resolution No. 85-543, Adopting a Council Position on Proposed Legislation Extending Energy Tax Credits (H.B. 2033)
2. Resolution No. 85-544, Adopting a Council Position on Proposed Legislation Establishing a State Advisory Commission on Intergovernmental Affairs (H.B. 2038)
3. Resolution No. 85-545, Adopting a Council Position on Proposed Legislation Modifying State Landfill Siting Authority
4. Resolution No. 85-546, Adopting a Council Position on Proposed Legislation Allowing Metro to Create Citizen Commissions (H.B. 2558)
5. Resolution No. 85-547, Adopting a Council Position on Proposed Legislation to Protect Exotic Animals

Executive Officer Gustafson asked the Council to review Resolution No. 85-545, regarding modification of state landfill siting authority, and recommend any language changes staff should consider before February 28.

Presiding Officer Bonner asked why paragraph 4 of the resolution wasn't stated more directly such as, "Allows a landfill to be sited outside the Metropolitan Service District as long as it is within the Solid Waste Management Plan area." Executive Officer Gustafson suggested it be worded, "Allows a landfill to be sited anywhere in the tri-county area." He said this would satisfy legal requirements of siting landfills only within the boundaries of the requesting jurisdiction. The Presiding Officer then suggested the following language: "Allows the site to be outside the boundaries of the requesting jurisdiction as long as it is within the boundaries of the Solid Waste Management Plan." The Executive Officer pointed out that language would allow any local jurisdiction to site a landfill in another local jurisdiction. He said the real question to be answered was which boundary would the state honor the solid waste planning agency designation or solid waste disposal agency designation in determining the boundary for the siting request.

In response to Councilor Gardner's question, Executive Officer Gustafson replied he would like Metro to have the authority to request initiation of the state landfill siting process (as outlined in paragraph 3 of the resolution) and that Metro would be making this request as a solid waste planning authority for the tri-county area (per paragraph 4).

Councilor Kelley said she had copies of ORS 459.047 which she would distribute to the Council and explained if the legislation addressed in Resolution No. 85-545 were viewed as emergency legislation, it would be desirable to have a safety net if Metro failed to site a landfill on the local level. She said the prob'em with this plan was if the state assumed responsibility for the siting process, the state would not be required to secure local land use permits and Metro could end up "shooting itself in the foot." Metro's primary responsibility is to provide solid waste services and a plan for the region, including a landfill site, and it would be important for Metro to respect local rules and regulations in meeting these responsibilities, she explained. Councilor Kelley said the process Metro used for siting a landfill must have integrity and must be unrepachable.

Councilor Waker said he did not agree with Councilor Kelley's statement, especially since he had not heard any critical comments about the selection of Wildwood as a landfill site from any of his constituents. He said he was willing to take the chance to follow through with the Wildwood site because the selection process was defensible. To not follow through would doom Metro to repeating the same lengthy process, he said.

Councilor Hansen said he agreed with Councilor Kelley because the basic flaw with the Executive Officer's plan was the local jurisdiction that would have the new landfill sited within its boundaries would have to trigger the emergency siting process. He said he would be happier with the language suggested by Presiding Officer Bonner.

Regarding paragraph 5, Executive Officer Gustafson said he had added a qualifier that the State Land Use Goals would only be applied if local governments failed to select a site after given an opportunity to do so. This, he explained, was consistent with State Representative Mike Burton's proposed landfill siting legislation and would give local governments the opportunity to responsively exercise their authority.

Councilor Hansen requested copies of Representative Burton's proposed legislation be included in the agenda packet for the February 28 Council meeting.

Mr. Fell explained two additional resolutions would be presented to the Council on February 28. One would address whether food for resale at the Zoo, Zoo admissions revenue and solid waste revenue would be subject to a sales tax. Metro's position would be forwarded to the State Legislature for further consideration, Executive Officer Gustafson said.

Mr. Fell said the second resolution would address restricting Tri-Met's bond covenants. The Executive Officer said he would recommend the Council support a set of state bills which would enable Tri-Met to save money when issuing bonds. Metro should also support an amendment which would limit Tri-Met's ability to place covenants on the bonds as they relate to Metro's ability to assume responsibility for operating Tri-Met, he said. He explained this amendment would be necessary because conditions of one of the applicable bond covenants required that if the appointment authority of the Tri-Met Board changed, the bonds would not be due and payable.

Regarding Resolution No. 85-546, adopting a Council position on proposed legislation to allow Metro to appoint citizen commissions, Executive Officer Gustafson said Metro could not delegate to any commission the power to budget, tax and adopt ordinances. Councilor Waker suggested the second "whereas" of the resolution would be inconsistent with that policy. Executive Officer Bonner requested staff provide new language to reflect Metro's intent.

10. COMMITTEE REPORTS

Councilor Kirkpatrick reported the Intergovernmental Resource Committee (IRC) had held its first meeting, attendance and enthusiasm were high and participants asked good questions. She said the Committee would be meeting the next two Fridays to discuss the IRC budget and the Council was invited to attend these meetings.

Councilor Kirkpatrick said she and Councilor Waker had attended the National Association of Regional Councils (NARC) federal briefing in Washington, D.C., with Executive Officer Gustafson. During the visit, the President's budget was released. She reported the budget recommended eliminating such programs as revenue-sharing (which could effect the level of dues Metro collects from cities and counties), the Small Business Administration, Economic Development Administration, transit operating funds and Section 3 relating to transit. Councilor Kirkpatrick reported there was a strong effort to initiate a freeze on this proposed budget and much more discussion would result before any budget were finally adopted.

Councilor Kirkpatrick also reported a metro caucus is being formed and Executive Officer Gustafson had been instrumental in pushing for

Resolution No. 85-544, for the Purpose of Adopting a Council Position on Proposed Legislation Establishing a State Advisory Commission on Intergovernmental Relations (ACIR). Mr. Fell explained that HB 2308 (erroneously numbered HB 2803 in the Council agenda packet) would establish a state ACIR with a similar mission as the federal ACIR: to review the structural and functional relationships of federal, state and local governments and to suggest changes that would increase efficiency and effectiveness in delivering services to the public. The state ACIR would be composed of 14 members from cities, counties, service districts, the Legislature, the Governor's staff, and two members representing the public.

In answer to Deputy Presiding Officer Waker's question, Mr. Fell responded the main business of the Commission would be to prepare reports and make recommendations. They would have no direct powers.

Motion: Councilor Kirkpatrick moved the Resolution be adopted, noting the reference in the Resolution to HB 2803 be changed to read HB 2308. Councilor Myers seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, DeJardin, Gardner, Hansen, Kirkpatrick, Kelley, Myers, Oleson, Van Bergen and Waker

Absent: Councilors Kafoury and Bonner

The motion carried and the Resolution was adopted.

Resolution No. 85-545, for the Purpose of Adopting a Council Position on Proposed Legislation Modifying State Landfill Siting Authority. Mr. Fell said Resolution No. 85-545 did not refer to specific proposed legislation, but rather to five specific principles: 1) protecting the people's environment; 2) reducing the time frame of the landfill siting appeal process; 3) permitting Metro to request initiation of the state landfill siting process; 4) allowing a landfill to be sited within the boundaries of Clackamas, Multnomah and Washington counties; and 5) if local governments fail to select a specific sanitary landfill site, allowing the criteria of an acknowledged comprehensive plan to be exchanged for state-wide land use goals. Mr. Fell explained if this Resolution were adopted, staff would be directed to take a position on proposed state legislation based on whether it would meet the above criteria.

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Councilor Hansen asked about the status of landfill siting legislation proposed by Representative Mike Burton. Mr. Fell said the bill had been introduced through the Senate Rules Committee but because it had not been printed, it was impossible to determine if this bill would be in conflict with the above five principles.

Councilor Gardner asked if any other landfill siting legislation had been or would be introduced. Mr. Fell said no other such bills had been introduced and the filing deadline had passed.

Councilor Kelley said an important issue not addressed in the staff report was whether Metro would encourage the state to use state or local land use goals in siting a landfill. She said she would not support any legislation that would encourage using state land use goals in place of local goals. She also objected to the lack of provision for the three metropolitan area counties to jointly request the state to initiate the siting process. For Metro to initiate this process alone would be a mistake, she said.

The Executive Officer said the intent of the first principle of the Resolution was to add Metro to the list of governments allowed to initiate the state to site a landfill. Under the current process, Metro does not have this authority, he explained. The fifth principle provided for a new concept, similar to that proposed by Representative Burton, that would allow Metro to initiate a siting process applicable to state land use goals only after local governments had been given that same opportunity and failed to site a landfill. Councilor Kelley said she was concerned about any proposed legislation that would allow Metro to independently invoke supersiting proceedings.

Councilor Oleson asked what action would staff take if Resolution No. 85-545 were adopted. The Executive Officer said this Resolution would support the bill introduced by Representative Burton, assuming that bill conformed to the five principles referenced in the Resolution, and the Council would certainly be informed of any changes in Burton's legislation. He said it was also his understanding that Senator Glenn Otto planned to introduce legislation to allow Metro to initiate the landfill siting under the current process.

Councilor Hansen asked if Senator Otto were to introduce this legislation, did the current process require adherence to local

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land use laws. Executive Officer Gustafson answered it would require same.

Judy Dehen, 7117 North Fiske, Portland, Oregon, Executive Committee member of the Columbia River Sierra Club, testified the Sierra Club was open to discussing the landfill siting problem with Metro. She said if the time frame for siting a landfill were reduced, citizen participation should not be reduced. She agreed Metro had experienced problems in siting a landfill, some of its own making, but having the power to initiate a state siting process would not be the proper way to solve that problem. Ms. Dehen explained that if the state were to override county land use laws, the county and Metro would become enemies which could further cement the feelings of people who advocated abolishing Metro.

Ms. Dehen foresaw problems if Metro were allowed to site a landfill outside its boundaries. This, she said, would be denying other people the same due process Metro had appealed before LUBA. Further, if a landfill were sited outside Metro's boundaries, Metro would have no responsibility to residents of that area because they would not be constituents, she said. The county would also be powerless to aid their own constituents and these people would have no local representation.

Finally, Ms. Dehen said that local comprehensive plans were drawn up to mesh closely with state land use goals. If Metro proposed to override those plans, it could be interpreted that Metro was trying to undo the entire system of Oregon land use regulation. She suggested Metro would be better off looking for other solutions to its problems. Ms. Dehen was concerned about what appeared to be an anti-environmental attitude on Metro's part and she said the Sierra Club would stay involved in this matter.

The Deputy Presiding Officer said Ms. Dehen's testimony pointed out some of the problems Metro had experienced in the landfill siting process and welcomed the Sierra Club's suggestions for alternatives in solving those problems.

Councilor Hansen asked Ms. Dehen if the Sierra Club would support Metro's siting an environmentally inferior landfill site within the District's boundaries versus an environmentally superior site outside the boundaries. Ms. Dehen said she could not comment on this because the Sierra Club had no position on the question. She said the Club was asking for alternatives to landfills.

Jean Orcutt testified there were alternatives to landfills and several Councilors had toured Sig Jensen's garbage burner which would burn tires inside a warehouse with no smokestack. She said these smaller plants could be strategically located throughout the area and haulers could reach them without having to travel great distances. She urged the Council to consider this alternative because it could relieve the need for landfills or a large garbage burning facility.

Douglas Franciscan, member of the Multnomah County Task Force on Solid Waste Disposal, said the Task Force met the previous morning and at least four members expressed considerable concern about the proposed Resolution. He thought the concern was because the counties didn't understand Metro's intent -- whether it would support the Burton legislation or other legislation that could still be introduced by Legislators. If the Resolution were adopted, he urged the Council to contact Metro area counties and the Task Force and tell them exactly the course of action it would take.

Councilor Oleson said he agreed coordination was very important which was why the Council also requested they be consulted on decisions about major legislation. Mr. Franciscan again expressed the need for good communication, especially because many of the area's local governments were currently involved in solving solid waste problems.

Councilor Cooper, also a member of the Multnomah County Task Force on Solid Waste Disposal, said the members were very interested in the content of Representative Burton's proposed legislation. He suggested the Council not act on Resolution No. 85-545 until the content of Representative Burton's legislation was known. The Executive Officer agreed with this proposal, saying it would avoid confusion that might result having not seen the proposed legislation. After reviewing the legislation, the Council could adopt a more specific position, he said.

Motion: Councilor Cooper moved to delay action on Resolution No. 85-545 until the Council could review proposed landfill siting legislation introduced by Representative Burton. Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

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Ayes: Councilors Cooper, DeJardin, Gardner, Hansen,
Kirkpatrick, Kelley, Myers, Oleson, Van Berger
and Waker

Absent: Councilors Kafoury and Bonner

The motion carried.

Councilor Myers said he had read a recent report about Representative Burton's bill in the Oregonian and he asked if this report was based on a draft of the bill. Mr. Fell responded Representative Burton met directly with the press and no written text of the bill exists to date. Councilor Myers requested staff send Councilors a copy of the draft bill as soon as it is available.

Deputy Presiding Officer Waker requested staff notify those testifying on this issue of future meetings when the item would again be considered.

Consideration of Resolution No. 85-546, for the Purpose of Adopting a Council Position on Proposed Legislation Allowing Metro to Create Citizen Commissions. This Resolution would support HB 2558 which has been introduced in the House, Mr. Fell reported. Should Metro assume responsibility for additional services, the ability to use citizen commissions in administering those services would enhance the public involvement process and allow for the participation of experts.

Motion: Councilor Myers moved the Resolution be adopted and Councilor Kelley seconded the motion.

Councilor Van Bergen said he would not support the Resolution because he did not think citizen commissions were necessary. He said the Council was capable of handling all matters if services were added and to establish special commissions could be creating another layer of administration that could be difficult to monitor.

Jean Orcutt testified she was also opposed to the Resolution because it could present an opportunity for Metro to handpick commission members to promote government ideas. For example, she said, Metro contributed \$10,000 to the Columbia-Willamette Futures Forum Study, a so-called independent study, on regional government services.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kirkpatrick, Kelley, Myers, Van Bergen, Waker and Bonner

Absent: Councilors Cooper, Kafoury and Oleson

The motion carried and the main motion to adopt the ordinance, made at the meeting of January 24, 1985, was amended.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 85-539, for the Purpose of Transmitting the FY 1984-85 Budget Amendments to the TSCC

Ms. Sims explained adoption of this Resolution was necessary to transmit the amended budget, discussed under agenda item 7.1, to the Tax Supervision and Conservation Commission (TSCC) as required by law.

Motion: Councilor Kirkpatrick moved to adopt the Resolution and Councilor Hansen seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kirkpatrick, Kelley, Myers, Van Bergen, Waker and Bonner

Absent: Councilors Cooper, Kafoury and Oleson

The motion carried and the Resolution was adopted.

8.2 Consideration of Resolution No. 85-545, for the Purpose of Adopting a Council Position on Proposed Legislation Modifying State Landfill Siting Authority

Phillip Fell reported at the meeting of February 28, the Council discussed the provisions of Legislative Counsel Draft 1353 regarding proposed processes for siting landfills. The Council had also requested staff prepare two resolutions regarding landfill siting process for consideration, one stated in general terms to respond to any state landfill legislation (Resolution No. 85-545) and another addressing a specific process (Resolution No. 85-554). Resolution No. 85-554 was prepared after the February 28 meeting and mailed to Councilors separate from the March 14 agenda packet. At the Presiding Officer's request, Mr. Fell then discussed the provisions of LC 1353.

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Motion: Councilor Hansen moved to adopt Resolution No. 85-545 and Councilor Kirkpatrick seconded the motion.

Councilor Kelley said she recalled receiving a copy of Resolution No. 85-554 earlier in the week and questioned why it was not available at this meeting. Mr. Fell said it was his understanding it was printed and circulated to the Council at this meeting and apologized for the error.

Councilor Myers noted Resolution No. 85-554 was not listed on this meeting's agenda and requested the Resolution be placed on the written agenda for the March 28 Council meeting to allow for adequate public notification.

Withdrawal of Motion: Councilor Hansen withdrew the main motion so that Resolution No. 85-545 could be considered with Resolution No. 85-554.

Councilor Hansen, referring to SB 662 which Resolution No. 85-554 addressed, stated he did not think Section 5(1) related to the goal Representative Burton wanted to achieve. Mr. Fell responded staff and General Counsel had reviewed SB 662 and were preparing a detailed response to the draft legislation. He agreed there appeared to be inconsistencies which would be addressed by Counsel.

Robert C. Smith, 5856 N.E. 27th Avenue, Portland, Oregon, representing the Sierra Club, testified Judy Dehen, also a Sierra Club representative, had addressed the Council on February 28. Subsequent to her testimony, Councilor Waker had sent her a letter requesting clarification about details of her testimony. Because Ms. Dehen was out of town attending a conference, Mr. Smith said he would address Councilor Waker's concerns.

Ms. Dehen had testified she thought limiting the time frame for a landfill siting decision and appeals process would also limit citizen involvement. Mr. Smith said he had no specific answer to what would constitute adequate citizen involvement, but the appropriate amount would be somewhere between the extremes of allowing no involvement and allowing involvement to go on to the point where citizens were still commenting five years after garbage was piling up and no landfill had been sited. He did not think Representative Burton's proposed legislation addressed the need for adequate citizen involvement.

Ms. Dehen had testified on February 28 that she was also concerned about the ability of Metro to site landfills beyond its boundaries because citizens outside the District would have no Metro Councilor

representing their area. At that meeting, Councilor Hansen had asked Ms. Dehen if it would be more acceptable to site an environmentally inferior landfill inside Metro's boundaries versus an environmentally superior one outside the District. Councilor Waker's letter asked the Sierra Club to prioritize the importance of these two factors. Mr. Smith said the Sierra Club primarily objected to Metro requesting the state of Oregon to site a landfill outside the District without going through the Comprehensive Plan and County Commission. He said people in the effected area would have no local representation.

In responding to Ms. Dehen's testimony, Councilor Waker's letter pointed out that landfill siting criteria in many local comprehensive plans were ambiguous. Therefore, it would be preferable to use state-wide planning goals in siting new landfills. Mr. Smith said he doubted Ms. Dehen had testified that state-wide goals were nearly identical to acknowledged comprehensive plans as Councilor Waker had indicated in his letter. If she had made this statement, Mr. Smith said Ms. Dehen was not expressing herself well. He explained that land use planning goals were not really standards for land use planning but rather, standards by which to set standards. Planning goals and comprehensive plans could not be used independently of each other. For example, he said, state planning Goal 4 addressed protected use of forest lands unless proposed changes were in conformance with the Comprehensive Plan. He questioned how Metro could site a landfill in a forested area under Goal 4 without following the rules set out in the Comprehensive Plan.

Mr. Smith said Ms. Dehen had discussed the possibility of alternatives to landfills when she testified before the Council on February 28. Ms. Dehen was suprised the Council had not heard about these alternatives because the Sierra Club had previously communicated to staff about their proposals. This, he explained, was why Ms. Dehen did not respond in more detail to the Council's request for information about these alternatives. Mr. Smith said he was concerned about the apparent lack of communication among staff, the Exeutive Officer and the Council.

Mr. Smith advocated a waste recovery system as a good alternative to another landfill. He said this would involve about four plants which would be no more difficult to site than a solid waste transfer station. He distributed materials to the Council which described this recovery system in more detail and expalined the system was proposed by a specific vendor. The Sierra Club was not endorsing any vendor but they supported the use of the system. He explained the recovery plants would handle almost 100 percent of the regional waste stream. He requested Metro investigate this system first and use landfills as a last resort.

Finally, Mr. Smith said Metro had reached a "dead end" in siting a landfill at Wildwood. He urged the Council not to limit themselves to this one alternative because at best, Metro would site a very poor landfill. At worst, he said, nothing would happen because of lengthy court appeals.

Presiding Officer Bonner said Metro was examining alternatives to landfills very closely and invited the Sierra Club's participation in this process. Mr. Smith said he hoped Metro was examining the alternatives as closely as they were studying new landfills because it thought it was the public's perception that landfills was the only alternative Metro were considering.

Councilor Hansen said he appreciated the Sierra Club's interest in solid waste issues and invited the Club and other citizen groups to bring information and issues directly to the Council.

Councilor Kelley requested staff to provide the Council with a comment on the report submitted by Mr. Smith about the solid waste recovery system.

Councilor Gardner said he had been informed by the Executive Officer that staff had a series of discussions with the vendor of the recovery system and talks broke down when the vendor, Mr. Dingman, failed to respond to staff's request for a sample contract and more specific information about guaranteed markets for the end product. Mr. Smith said Mr. Dingman told him Metro did not appear to be sincere about the system and he preferred to give his attention to other jurisdictions who were seriously interested.

Presiding Officer Bonner invited the Sierra Club to return when the Council considered adoption of the Resource Recovery chapter of the Solid Waste Management Plan.

9. OTHER BUSINESS

9.1 Consideration of a Contract with Swan Wooster Engineering, Inc. to Design the Washington County Recycling & Transfer Center (WTRC)

Buff Winn reviewed the process for selecting the recommended contractor, as outlined in the meeting's agenda materials. He explained staff recommended contracting with Swan Wooster Engineering, Inc. because their team had extensive experience with successful local projects and senior members of their firm would be working on the WTRC project. The other finalists considered had not addressed the question of estimated man hours required to design the facility satisfactorily, he said.

Jill Hinckley reported the city of Gresham and Multnomah County supported this action. No one spoke against the action and the Hearings Officer recommended approval, she said. Because there was no opposition to the case, public testimony was not received at this meeting.

The Presiding Officer announced a second reading of the Ordinance would take place April 11, 1985.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 85-545, for the Purpose of Adopting a Council Position on Proposed Legislation Modifying State Landfill Siting Authority

Phillip Fell explained Resolutions No. 545 and 554 were brought to the Council at its request. Resolution No. 545 was worded to address the general principles by which landfills should be sited, and Resolution No. 85-554 specifically addressed Metro's position regarding SB 662. There was no discussion regarding Resolution No. 85-545.

Motion: Councilor Kafoury moved to adopt Resolution No. 85-545 and Councilor Waker seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Kirkpatrick, Myers, Van Bergen, Waker and Bonner

Nays: Councilor Kelley

Abstent: Councilors Cooper, Hansen and Oleson

The motion carried and the Resolution was adopted.

8.2 Consideration of Resolution No. 85-554, for the Purpose of Adopting a Council Position on Senate Bill 662, Modifying State Landfill Siting Authority

Motion: Councilor Gardner moved to adopted Resolution No. 85-554 and Councilor Kelley seconded the motion.

Councilor Kafoury said she could not support the Resolution because she had not read SB 662. Councilor Kirkpatrick said she was concerned about the bill's incorrectly worded provision for a 50¢ surcharge and because she had not seen the latest draft, she was reluctant to support the Resolution.