

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF EXTENDING THE	)	RESOLUTION NO. 86-709
DATE SET IN RESOLUTION NO. 86-650	)	
BY WHICH THE COUNCIL WILL AMEND	)	Introduced by the
THE URBAN GROWTH BOUNDARY FOR	)	Executive Officer
CONTESTED CASE NO. 85-7 (KAISER)	)	

WHEREAS, Ordinance No. 85-189, Section 2, paragraph 3.01.070(c)(1), provides that when the Council of the Metropolitan Service District acts to approve petitions for major amendment of the Urban Growth Boundary that affect land outside Metro boundaries, "such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the District within six months of the date of adoption of the Resolution"; and

WHEREAS, On June 26, 1986, the Council adopted Resolution No. 86-650 adopting the Hearings Officer's Report in Contested Case No. 85-7 (Kaiser), furthering annexation of the affected property to Metro, and expressing Council intent to amend the UGB; and

WHEREAS, Resolution No. 86-650 approved a "triple majority" petition to annex the affected property to Metro; and

WHEREAS, Resolution No. 86-650 expressed the Council's intent to amend the UGB to include the affected property if, within six months of the date the resolution was adopted, Metro received notice that the Metro annexation had been approved; and

WHEREAS, The property owners submitted a "triple majority" petition to the Portland Metropolitan Area Local Government Boundary Commission for annexation to the city of Hillsboro and, automatically with that action, to Metro; and

WHEREAS, Action by the Boundary Commission on this petition was scheduled for December 1986; and

WHEREAS, In November 1986 the Court of Appeals ruled the "triple majority" annexation method unconstitutional; and

WHEREAS, Only the triple majority method allows for an annexation to become effective on the date of Boundary Commission approval, rather than after a 45-day remonstrance period; and

WHEREAS, As a result of the Court of Appeals' decision and thus for reasons entirely unforeseeable and beyond the petitioners' control, the petitioners are no longer able to annex to Metro within six months of the date Resolution No. 86-650 was adopted; and

WHEREAS, An extension of three months is not inconsistent with the purpose of the six-month deadline and will not adversely affect the rights of any person; now, therefore,

BE IT RESOLVED,

That based upon the findings adopted as Exhibit "B" of Resolution No. 86-650, the Council of the Metropolitan Service District expresses its intent to adopt an ordinance amending the UGB as shown on Exhibit "A" of Resolution No. 86-650 within thirty (30) days of receiving notification that the property has been annexed to the Metropolitan Service District, provided such notification is received by April 30, 1987.

ADOPTED by the Council of the Metropolitan Service District this 11th day of December, 1986.

  
Richard Waker, Presiding Officer

JH/gl  
6603C/485-2  
12/01/86

CONSIDERATION OF RESOLUTION NO. 86-709 FOR THE PURPOSE OF EXTENDING THE DATE SET IN RESOLUTION NO. 86-650 BY WHICH THE COUNCIL WILL AMEND THE URBAN GROWTH BOUNDARY FOR CONTESTED CASE NO. 85-7 (KAISER)

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Date: December 1, 1986

Presented by: Jill Hinckley

FACTUAL BACKGROUND AND ANALYSIS

On June 26, 1986, the Council of the Metropolitan Service District (Metro) adopted Resolution No. 86-650, approving the petition by Kaiser Development Company for an amendment of the Urban Growth Boundary (UGB) to add approximately 450 acres in the Sunset Corridor. Because the property was outside the Metro district boundaries, the Council lacked jurisdiction to actually amend the UGB at that time. Therefore, pursuant to its rules for such situations (Ordinance No. 85-189, Section 2, paragraph 3.01.070(c)(1)), Resolution No. 86-650 expressed the Council's intent to amend the UGB as petitioned once the property was annexed to Metro provided the annexation occurred within six months. This six-month deadline is intended to ensure that the findings of fact adopted by the resolution are still sufficiently current to be relied upon when the Council adopts the ordinance that actually amends the UGB.

The property owners in this case elected to seek Metro annexation in conjunction with annexation to the city of Hillsboro. Action on their request by the Portland Metropolitan Area Local Government Boundary Commission was scheduled for December 11, 1986, about two weeks before the December 26 deadline.

In November, however, the Court of Appeals ruled unconstitutional the "triple majority" annexation method under which the petitioners had filed. As a result, petitioners are no longer able to annex to Metro by the date established by Resolution No. 86-650. Because the delay was unforeseen and unavoidable, staff recommends that the deadline be extended to allow petitioners an opportunity to revise their annexation petition as needed. A March 30, 1987, deadline allows for Boundary Commission action at its January 15 meeting, followed by a 45-day remonstrance period for the action to become effective, and several weeks for Metro notification. No person's rights are adversely affected by this waiver of the Code deadline.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution  
No. 86-709.

JH/srs  
6603C/485-2  
12/01/86

Metro Council  
December 11, 1986  
Page 11

Officer costs, was excessively costly and cumbersome for so small and simple a proposed adjustment. The Councilor suggested keeping costs down by allowing the Council to hear the matter directly instead of a paid Hearings Officer.

Jill Hinckley, Land Use Coordinator, agreed the adjustment was very minor and if the Council adopted Resolution No. 86-708, the findings could be brought before the Council in January.

Motion: Councilor Kirkpatrick moved to adopt Resolution No. 86-708 and Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, DeJardin, Frewing, Gardner, Hansen, Kelley, Kirkpatrick, Knowles, Ragsdale, Van Bergen and Waker

Absent: Councilor Cooper

The motion carried and Resolution No. 86-708 was adopted.

Councilor Ragsdale was pleased the system for adjusting the Urban Growth Boundary worked well and was flexible enough not to be cumbersome.

8.4 Consideration of Resolution No. 86-709, for the Purpose of Extending the Date Set in Resolution No. 86-650 by which the Council Will Amend the Urban Growth Boundary for Contested Case No. 85-7 (Kaiser)

Ms. Hinckley reported the Council had adopted Resolution No. 86-650 on June 26, 1986, which approved the petition by Kaiser Development Company for an amendment to add about 450 acres the Urban Growth Boundary (UGB) in the Sunset Corridor. Because the property was outside Metro's boundaries, the Council lacked jurisdiction to amend the UGB at that time. Therefore, pursuant to its rules for such situations (Ordinance No. 85-189, Section 2, paragraph 3.01.070(c)(1)), Resolution No. 86-650 expressed the Council's intent to amend the UGB as petitioned once the property was annexed to Metro, provided the annexation occurred within six months. The deadline was intended to ensure the findings of fact adopted by the Resolution were current enough to be relied upon when the Council adopted the Ordinance that would actually amend the UGB. Due to the length of the process in seeking Metro annexation, the petitioners were unable to meet the Council's six-month deadline. Because the delay was unforeseen and unavoidable, staff recommended the deadline be extended to March 30, 1987. No person's rights were adversely affected by this waiver of the Code deadline, Ms. Hinckley noted.

Councilor Ragsdale questioned whether the March 30 deadline would allow adequate time for annexation proceedings. Ms. Hinckley said she wanted to keep the timeline firm but thought one month's additional time might be needed. Councilor Ragsdale suggested extending the deadline to April 30 to avoid the expense of appealing the deadline before the Council another time.

Motion to Amend: Councilor Ragsdale moved to amend the deadline stated in Resolution No. 86-709 to April 30, 1987. Councilor Frewing seconded the motion.

In response to Councilor Gardner's question, Ms. Hinckley said if the facts of the case were stale when the Council considered an Ordinance to amend the UGB, the Council would be briefed an additional time.

Vote on Motion to Amend: The vote resulted in:

Ayes: Councilors Collier, DeJardin, Frewing, Gardner, Hansen, Kelley, Kirkpatrick, Knowles, Ragsdale, Van Bergen and Waker

Absent: Councilor Cooper

The motion carried and Resolution No. 86-709 was amended.

Main Motion: Councilor Ragsdale moved to adopt Resolution No. 86-709 as amended and Councilor DeJardin seconded the motion.

Vote on Main Motion: The vote resulted in:

Ayes: Councilors Collier, DeJardin, Frewing, Gardner, Hansen, Kelley, Kirkpatrick, Knowles, Ragsdale, Van Bergen and Waker

Absent: Councilor Cooper

The motion carried and Resolution No. 86-709 was adopted as amended.

#### 10. COMMITTEE REPORTS

None.

Councilor Kirkpatrick asked staff to provide Councilors with current Zoo Master Plans.