

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF TRANSFERRING) RESOLUTION NO. 87-750
AN EMPLOYEE TO THE POSITION OF)
COUNCIL ADMINISTRATOR AND) Introduced by the
AUTHORIZING AN EMPLOYMENT) Presiding Officer
AGREEMENT)

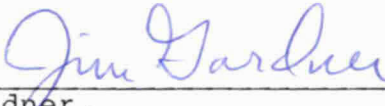
WHEREAS, The Council of the Metropolitan Service District wishes to retain services of Donald E. Carlson and provide certain benefits and terms of employment; now, therefore,

BE IT RESOLVED,

1. That the incumbent Director of Finance and Administration is transferred to the position of Council Administrator as a regular employee.

2. That the Council authorizes the Presiding Officer to negotiate an Employment Agreement with Donald E. Carlson and to submit it to the Council for consideration at the earliest possible date.

ADOPTED by the Council of the Metropolitan Service District this 26th day of March, 1987.



Jim Gardner,
Deputy Presiding Officer

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03/24/87

CONSIDERATION OF RESOLUTION NO. 87-748, FOR THE PURPOSE OF AMENDING THE FY 1986-87 BUDGET AND APPROPRIATIONS SCHEDULE; RESOLUTION NO. 87-749, FOR THE PURPOSE OF AMENDING THE CLASSIFICATION AND PAY PLANS; AND RESOLUTION NO. 87-750 FOR THE PURPOSE OF TRANSFERRING AN EMPLOYEE AND AUTHORIZING AN EMPLOYMENT AGREEMENT.

Date: March 23, 1987

Presented by: Councilor Gardner

FACTUAL BACKGROUND AND ANALYSIS

The purpose of these three resolutions is to reorganize and increase the Council staff so the Council can meet its policy-making and fiscal and administrative oversight responsibilities in an effective manner. A more detailed description of the Council functions and activities to be provided by the staff is provided in Attachment 1.

RESOLUTION NO. 87-748

This resolution amends the FY 1986-87 Budget and Appropriations Schedule as follows:

1. Authorizes the position of Council Administrator in the Council Department and eliminates the position of Finance & Administration Director in the Department of Finance & Administration. \$17,728 (\$13,533 for salary and \$4,195 in fringe costs) are proposed to be moved from the Finance & Administration budget to the Council budget.
2. The entire position of Council Clerk and a one-half time equivalency of the General Counsel and Government Relations Manager positions are proposed to be moved from the Executive Management Department to the Council Department. It should be noted that the FTE amounts in Exhibit A reflect the fact that only one quarter remains in this fiscal year and the amounts shown are on an annualized basis. It should also be pointed out that the amount budgeted for FY 1986-87 for the Government Relations Manager position has already been spent to date because of the transition costs for the prior incumbent. Therefore, these amendments include a transfer of funds (\$2,386) from

the temporary line item in the Executive Management budget to the Governmental Relations Manager line item to pay for such services during the remainder of this fiscal year. The assumptions were 545 hours times the current incumbent's salary (Kim Duncan at \$17.51 per hour) divided by two since Ms. Duncan also works in the Convention Center Project office and is budgeted in that fund also. \$19,388 (\$14,800 for salaries and \$4,588 in fringe costs) are proposed to be moved from the Executive Management budget to the Council budget.

3. The request includes services of two temporary employees -- a full-time person hired at an Analyst 3 level and a half-time person at the Secretary level. \$10,482 (\$9,130 for salaries and \$1,352 for fringe costs) are proposed to be moved from the Executive Management budget to the Council budget.

The Executive Officer has expressed an objection to the Deputy Presiding Officer concerning this proposal particularly the elimination of the Director of Finance and Administration position. Council staff has been instructed to work with the Executive Officer to develop an alternate proposal for consideration at the March 26 meeting.

Summary

The proposed adjustments are made to enable the Council to better meet its responsibilities as described in Attachment 1. The services to be provided to the Council are funded through a reallocation of existing budgeted resources rather than adding additional resources to the General Fund.

The purpose of budgeting the General Counsel and Governmental Relations Manager positions in both the Council budget and the Executive Management budget is a recognition of the fact that these two positions represent and serve the entire organization. While it is expected that the Executive Officer provide day-to-day supervision for the employees in these positions, the intent of these budget adjustments is to ensure Council access to the services of those employees, and that the employees speak and act on behalf of the District and not any single individual or separate branch of the District.

RESOLUTION NO. 87-749

This resolution amends the Classification and Pay Plans to include the classification of the position of Council Administrator (see Exhibit A) and set the salary for the position at level 15.0. Other positions at this level include the IRC Administrator, Director of Transportation Planning, and the Deputy Executive Officer.

The resolution also assigns the duties and responsibilities of the Finance & Administration Director position to the Deputy Executive Officer and instructs the Executive Officer to submit a revised classification specification for the Deputy Executive Officer position for Council consideration. Prior to January 1987 the Deputy Executive Officer had the responsibility to administer the Department of Finance & Administration as well as assist the Executive Officer with the management of the entire agency.

If the Council does not eliminate the Finance & Administration Director position, then item #3 in Resolution No. 87-749 should be deleted.

RESOLUTION NO. 87-750

This resolution does two things: first, it transfers the incumbent Director of Finance & Administration (Donald E. Carlson) to the position of Council Administrator effective March 27, 1987; and second, it authorizes an Employment Agreement to be negotiated with Donald E. Carlson for consideration by the Council at the earliest possible date.

EXECUTIVE OFFICER'S RECOMMENDATION

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PROPOSED ADJUSTMENT TO COUNCIL BUDGET: FY 1986-87

Currently the Council budget is \$134,666. Included are two positions --a full-time Council Assistant and a full-time Secretary. The need for additional staffing for the Council has become readily apparent since the new Executive Officer has proposed a more distinct separation of the legislative and executive functions of the District. For the Council to assume its proper place as the policymaking and administrative oversight body additional assistance assigned directly to the Council is needed.

The following functions and activities are important to the Council and need to be addressed in a more organized and rigorous manner:

Policy Development: The Council has the responsibility to assure that sound, well thought out policies and procedures are adopted to carry out the purposes for which the District was created. Included are a periodic review of the District's Mission Statement and Priorities and Objectives; functional plans, policies and programs; long range financial policies; procedural policies such as the Personnel rule and Contract rules; the Affirmative Action Plan and Disadvantaged Business Enterprise program; etc. The Council has the responsibility to annually set the District's work program through the adoption of the budget. It is necessary that such a one year action plan is consistent with the mission and policies listed above.

Fiscal and Administrative Oversight: The Council has the responsibility to assure that the District's financial affairs are conducted in an appropriate manner. Included is assurance that the budget is being followed, that appropriation levels are not exceeded, that funds are invested in compliance with adopted policies and that the annual financial statement of the District is audited.

The Council has the responsibility to assure that programs approved by the Council are carried out in an efficient and effective manner. This assurance is possible through receipt and analysis of information and reports from the Executive and staff. Performance audits and other periodic investigations will be necessary to assure that the District is being efficiently and effectively managed.

Legal Assistance: The Council has a need from time to time for legal advice and assistance and a

responsibility to assure that policies and procedures adopted by the Council meet current legal standards and criteria. In addition the Council has a responsibility to assure that litigation entered into by or on behalf of the District is in the best interest of the District.

Council Agendas and Records: Formal Council business is conducted at approximately 30 Council meetings a year and 50 committee meetings including the Management, Solid Waste, Convention Center, and Zoo Policy committees. Each meeting requires the preparation and distribution of agendas and support material and the keeping of a record of the meeting. Official Council documents such as ordinances, resolutions, the Metro Code, etc. must be kept safe and available for future reference.

Legislative Liason: The Council has a responsibility to assure that the adopted legislative program is carried out in an effective manner. Council members will be called upon from time to time to represent the District in meetings with legislative committees and with individual legislators. Council and legislaive liason activities will need to be carried out in the interim period between legislative sessions.

External Liason: Council members have a responsibility to maintain communication with various community groups interested in the affairs of the District. The Council and individual members can play a significant role in cummunicating with the public about the purpose, policies and programs of the District.

Clerical and Adminsitratve Support: Council members have a need for clerical support including scheduling of meetings with constituent groups, periodic mailings of material to interested citizens and groups, and the processing of individual per diem and expense reimbursement requests.

In order to provide for these functions and activities of the Council the following staffing requirements are suggested:

1. Create a new position of Council Administrator. The person in this position would be in charge of the Council staff and would work under the supervision of the Presiding Officer. The suggested salary range number is 15.0 which is comparable to the Deputy Executive Officer, IRC Administrator and the Director of Transportation. The objective should be to accomplish this without increasing the total expenditures in the General Fund. The objective can be accomplished by reallocating budgeted resources for this purpose.

2. Retain the existing Council Assistant position. This position is at the 11.5 salary range which is equivalent to a Senior Analyst position.
3. Transfer the Council Clerk position from Executive Management to the Council budget.
4. Retain the Council Secretary position .
5. Transfer .50 FTE of both the General Counsel and the Legislative Liason positions from Executive Management to the Council budget.

Based on the staffing requirements listed above the Council budget needs to be adjusted accordingly (assuming an effective date of April 1, 1987).

SUMMARY

The Council needs additional assistance if it is to carry out its policy making and administrative oversight functions effectively and efficiently. The issue of seperation of powers raised by the Executive Officer signals the development of a new relationship between the Executive and the Council. One which will be more formal and which will place a greater burden on the Council to carry out its statutory responsibilities. The proposed staffing changes reflect the responsibilities and duties of the Council and can be acheived without increasing the total expenditures in the General Fund.

Motion: Councilor Ragsdale moved to adopt Resolution No. 87-743 and Councilor Knowles seconded the motion.

Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors DeJardin and Waker were absent.

The motion carried and Resolution No. 87-743 was adopted.

11.5 Consideration of Resolution No. 87-748, for the Purpose of Amending Resolution No. 86-659 to Revise the FY 1986-87 Budget and Appropriations Schedule (Regarding Council Department Reorganization);

Consideration of Resolution No. 87-748A, for the Purpose of Amending Resolution No. 86-659 to Revise the FY 1986-87 Budget and Appropriations Schedule (Regarding Council Department Reorganization);

Consideration of Resolution No. 87-749, for the Purpose of Amending the Classification Plan and the Pay Plan to Add the Position of Council Administrator;

Consideration of Resolution No. 87-750, for the Purpose of Transferring an Employee (Donald E. Carlson) to the Position of Council Administrator and Authorizing an Employment Agreement (with Donald E. Carlson); and

Consideration of Resolution No. 87-751, for the Purpose of Ratifying Recruitment Waivers and Confirming Appointments (for Richard Engstrom, Tor Lyshaug, Marc Madden and Raymond Phelps)

Deputy Presiding Officer Gardner first explained that as a result of an agreement with the Executive Officer, Resolution No. 87-748A would replace Resolution No. 87-748. He referred to his memo to Councilors dated March 26, which explained the difference between the two Resolutions:

1. Resolution No. 87-748A would provide for maintenance of the Finance and Administration Director position. Resolution No. 87-748 would have eliminated the position.
2. Resolution No. 87-748A would provide for the General Counsel and Governmental Affairs Manager positions to remain in the Executive Management budget and supervisory responsibility for those positions would remain with the Executive Officer. Resolution No. 87-748 would have budgeted the two positions in both the Executive Management and Council budgets.

3. Resolution No. 87-748A would authorize the budget adjustment to the Council budget be reduced to \$35,688. The funds would come from unspent Personal Services costs in the Executive Management budget (\$29,921) and the Data Processing Division budget (\$5,767).

The Deputy Presiding Officer concluded that Resolution No. 87-748A would accomplish a more defined separation of the Council and Executive branches of government without having to increase expenditures during FY 1986-87.

Councilor Bonner read into the record a letter he had received from Donald N. Johnson, 3655 S.E. Tolman Street, Portland. Mr. Johnson had served on the Portland Planning Commission and had recently retired after 25 years of services with the Bureau of Governmental Research. His letter stated "Many of our public institutions have developed separate legislative and executive capabilities . . . This is, in fact, quite a common practice and appears to meet the need created by the separation of power proposed by Metro's new Executive Officer. I would support the proposal even though it were more costly, for I believe that a weakened legislative branch threatens the democratic process."

The Deputy Presiding Officer read a letter he had received from Donald S. McClave, 7719 S.E. 28th Avenue, Portland. Mr. McClave endorsed the Council's proposed action to transfer Donald E. Carlson to the position of Council Administrator. He proposed "In the long-term, it may be advisable to alter Metro's charter in such a way that the Executive reports to and is directly responsible to the Council. In the short-term, it seems clearly in the best interest of orderly functioning of the Council to pass the three resolutions under agenda item 11.5 . . ."

Motion: Councilor Knowles moved, seconded by Councilor Bonner, that Resolution No. 87-748A be adopted with the following amendments: 1) The second "Whereas" be changed to read: "Legislation proposed by the Executive Officer recognizes, clarifies and encourages the separation of powers between the [legislative] Council and [executive branches of this government] Executive Officer causing the [legislative branch] Council to reallocate resources so it can effectively meet its statutory responsibilities; and . . ."

Don Williams, former staff assistant to Clackamas County Commissioner and for former MSD Board Chair Robert Schumacher, testified he had been interested in the development of the Metro organization and had served as an advisor during the transition merger of the CRAG

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and MSD organizations in 1979. He noted the government was unique and it was difficult to compare its structure to other governments. He said Resolution No. 87-748A would be necessary to formalize the relationship between the Council and staff.

James L. Knoll, 2738 S.W. Robins Crest, Portland, said he agreed with Mr. Williams' testimony. He explained that as a former Budget Advisory Committee member, he had observed excellent cooperation between the Executive, Council and staff. He said he regretted the changes that appeared to be taking place but acknowledged those changes were inevitable as the agency grew.

Denise M. Amos, 4610 N.W. Imnaha Court, Portland, testified she was speaking for the Metro Watch organization. She said the organization wanted to see Metro work because the success of the convention center was at stake. She questioned why the Council was not considering Resolution No. 87-751, proposed by the Executive Officer, before it considered other structure-related resolutions.

Deputy Presiding Officer Gardner explained that because Resolution No. 87-751 considered confirmation of the Finance & Administration Director position, the Council could not logically adopt that Resolution until it was established that the position would continue to exist. Adoption of Resolution No. 87-748A would provide that the position continue to exist.

Ms. Amos then requested the Council postpone deliberation on these matters until the outcome of SB 629 (regarding general separation of powers for the Metro organization) was known. The Deputy Presiding Officer explained adopting Resolution Nos. 87-748A, 87-749, 87-750 and 87-751 would not pre-empt subsequent structure changes.

In response to Councilor Knowles question, Executive Officer Cusma said she supported the motion to adopt Resolution No. 87-748A and the resulting transfer of budget funds. She was positive she and Mr. Carlson would work well together and that transition problems could be resolved for the benefit of everyone involved.

Deputy Presiding Officer Gardner noted his memo to Councilors had stated a verbal agreement had been reached with the Executive Officer that: 1) the Council would participate with the Executive in the selection and termination process for the General Counsel and Governmental Affairs Manager positions; 2) that the Council would have confirmation authority for the two positions; 3) that the Council would have direct access to the services of the General Counsel; and 4) that the Governmental Relations Manager would communicate to others only adopted District policies, programs and procedures, and would not advocate the position of any individual elected official. The memo further stated: "I have prepared a

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proposed agreement for the signature of the Executive Officer and the Deputy Presiding Officer which specify those [the above] points." He then explained no written agreement had been signed.

Councilor Knowles thought the Council would be best served by addressing the issue of a signed agreement at another time.

Councilor Hansen acknowledged that upon adoption of the legislation now before the Council, relationships between the Council and Executive Officer would change. He advised the Council, Executive and staff to conduct a workshop as soon as possible to work out the new relationship.

Councilor Ragsdale noted that Presiding Officer Waker was not able to attend this meeting. He said he appreciated the Presiding Officer's key leadership role in working to resolve the relationships between the Council, Executive Officer and staff.

Councilor Van Bergen asked how the proposed changes in staff structure would effect the FY 1987-88 budget. Deputy Presiding Officer Gardner explained the resolutions only addressed changes to the FY 1986-87 budget. Changes to the FY 1987-88 budget would have to be worked out later, he said. Councilor Kirkpatrick, Chair of the Council Budget Advisory Committee, said she was committed to not raising transfer to the General Fund as a result of staff changes proposed by the Resolutions.

Vote: A vote on the motion to adopt Resolution No. 87-748A resulted in all ten Councilors present voting aye. Councilors DeJardin and Waker were absent.

The motion carried unanimously and Resolution No. 87-748A was adopted.

Motion: Councilor Kirkpatrick moved to adopt Resolution No. 87-749 and to delete the third "be it resolved" paragraph which referred to eliminating the Finance and Administrator position and reassigning those duties to the Deputy Executive Officer. Councilor Ragsdale seconded the motion.

Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors DeJardin and Waker were absent.

The motion carried unanimously and Resolution No. 87-749 was adopted.

Motion: Councilor Knowles moved to adopt Resolution No. 87-751 and Councilor Kelley seconded the motion.

Withdrawal of Motion: After discussion, Councilors Knowles and Kelley withdrew their motion so that confirmation and recruitment waiver issues could be voted on separately for each individual named in Resolution No. 87-751.

Motion: Councilor Knowles moved the Council consider confirmation and recruitment waivers by separate motion for each individual named in Resolution No. 87-751.

Vote: A vote on the motion resulted in:

Ayes: Councilors Gardner, Hansen, Kirkpatrick, Knowles, Ragsdale and Van Bergen

Nays: Councilors Bonner, Collier, Cooper and Kelley

Absent: Councilors DeJardin and Waker

The motion for separate consideration of each individual carried.

Councilor Ragsdale noted it was his policy to always cast an affirmative vote on any motion to separate an issue.

Motion: Councilor Knowles moved, seconded by Councilor Ragsdale, to confirm Richard Engstrom as Deputy Executive Officer and that recruitment procedures be waived for his appointment.

Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors DeJardin and Waker were absent.

The motion carried unanimously.

Motion: Councilor Knowles moved, seconded by Councilor Hansen, to confirm Tor Lyshaug as provisional Solid Waste Director and that recruitment procedures not be waived for his appointment since recruitment was currently in progress for a permanent Director.

Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors DeJardin and Waker were absent.

The motion carried unanimously.

Motion: Councilor Knowles moved, seconded by Councilor Cooper, to confirm Marc Madden as provisional IRC Administrator and that recruitment procedures not be waived for his appointment.

Vote: A vote on the motion resulted in:

Ayes: Bonner, Collier, Cooper, Gardner, Hansen, Kelley, Knowles, Ragsdale and Van Bergen

Nay: Councilor Kirkpatrick

Absent: Councilors DeJardin and Waker

The motion carried.

Motion: Councilor Knowles moved, seconded by Councilor Ragsdale, to confirm Ray Phelps as Director of Finance & Administration and that recruitment procedures be waived for his appointment.

Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors DeJardin and Waker were absent.

The motion carried unanimously.

Eleanore Baxendale explained that by adopting the four motions to confirm the above individuals and to grant recruitment waivers for two of the appointments, the Council had amended and adopted Resolution No. 87-751.

OTHER BUSINESS

Connie Hawes, citizen, asked that copies of all documents considered by the Council be supplied to the public so they could follow along with discussions and offer comments as appropriate.

There being no further business, Deputy Presiding Officer Gardner adjourned the meeting at 10:45 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council