

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF RATIFYING) RESOLUTION NO. 87-751
RECRUITMENT WAIVERS AND)
CONFIRMING APPOINTMENTS) Introduced by the
) Executive Officer

WHEREAS, The voters of the District elected a new Executive Officer on November 4, 1986, initiating the first transition period between administrations in the history of the government; and

WHEREAS, The new Executive Officer has proposed a more distinct separation of the legislative and executive functions of the District;

WHEREAS, With this new separation, the Council of the Metropolitan Service District finds that additional staff is needed to carry out its policy making functions in an effective manner; and

WHEREAS, At its March 12, 1987, meeting the Council adopted motions requesting the Executive Officer submit for confirmation the Acting Deputy Executive Officer, the Acting Solid Waste Director and the Acting IRC Administrator; and

WHEREAS, The Executive Officer's management team has served the government since January, and enjoys the confidence of the new Executive Officer; now, therefore,

BE IT RESOLVED,

1. That pursuant to Metro Code Section 2.02.025, the Council hereby ratifies the waiver of recruitment procedures for Richard Engstrom, appointed to the position of Deputy Executive Officer, and for Ray Phelps, appointed to the position of Director of Finance and Administration.

2. That pursuant to Metro Code Section 2.02.040, the Council confirms the appointment of the following individuals to the positions shown below:

- a. Richard Engstrom, Deputy Executive Officer;
- b. Ray Phelps, Director of Finance and Administration;
- c. Tor Lyshaug, Provisional Director of Solid Waste;
- d. Marc Madden, Provisional IRC Administrator.

ADOPTED by the Council of the Metropolitan Service District
this 26th day of March, 1986.



Jim Gardner,
Deputy Presiding Officer

RC/amn
7277C/496-1
03/31/87

STAFF REPORT

Agenda Item No. 11.6

Meeting Date March 26, 1987

CONSIDERATION OF RESOLUTION NO. 87-~~751~~ FOR THE PURPOSE OF AMENDING RESOLUTION NO. 86-659 TO REVISE THE FY 1986-87 BUDGET AND APPROPRIATIONS SCHEDULE, AMENDING THE CLASSIFICATION AND PAY PLANS, RATIFYING RECRUITMENT WAIVERS, AND CONFIRMING APPOINTMENTS

March 26, 1987

Presented by: Rena Cusma

FACTUAL BACKGROUND AND ANALYSIS

Over the last 90 days, since the beginning of my term as new Executive Officer, we have had many conversations concerning the changes the voters mandated to make this district a more effective agency in years to come.

I believe clarification of the executive and legislative roles within the agency will make both more productive.

The opportunity is at hand to strengthen the Council's capacities to develop effective policy and enable the executive to assemble a permanent management team to execute the agency's programs.

I submit this resolution for the Council's action as a substitute for Resolutions No. 87-748, 87-749, and 87-750. Since all elements of the attached resolution are interrelated, they are designed in concert to finally establish the new management team and to enhance the Council's capacity to carry out its responsibilities and unify the agency for the compelling tasks ahead.

I commend the following package of proposals, which, if adopted, would signal the end of the transition at Metro and set the stage for a new phase of cooperation and effectiveness.

1. Council Administrator. I concur with the Council's desire to enhance its staff to a level commensurate with its responsibility for policy development. Specifically, I support the transfer of sufficient funds from other General Fund departments to the Council to fund a Council Administrator at Level 15 and to transfer Don Carlson from the Department of Finance and Administration to fill this new position. The Council Assistant, Ray Barker, and the Council Secretary will remain in the Council budget.

2. Council Clerk. I concur that the Council Clerk position, which historically has performed substantial

service for the Council, be transferred from the Executive Management Department to the Council Department.

3. General Counsel and Government Relations Positions.

Good management practices and the patterns established by state and other local governments suggest that funding of and reporting responsibility for the agency's General Counsel and Government Relations Manager positions should remain with the Executive Officer. Obviously both positions must and will respond to both the Council and the Executive Officer as they pursue the agency's agendas. To bifurcate funding for these positions, and exacerbate the ambiguity that already distinguishes these positions from others, would leave neither the Executive nor the Council with clear personnel responsibilities regarding these positions. Such an extreme measure has not been required by other governments with similar structures and would not seem advisable here. I am opposed to any action concerning these positions.

4. New Management Team. On March 12, 1987, the Council adopted the recommendations of its management committee to request me to forward my new management team for confirmation.

Since January 5, I have assembled a team of capable, experienced and qualified public servants. I assumed office committed to basic change of direction for Metro's administration and assembled my team as quickly as prudence would permit. But for these unique circumstances, I would have engaged in a more formal and extensive recruiting process. Fortunately, the impressive credentials of these individuals indicate the agency will be well served from their selection.

The personnel ordinance provides for such extraordinary circumstances. Section 2.02.025 permits variances from the strict provisions of the code when following these provisions explicitly would "would result in protracted difficulties." While waiver of provisions in the personnel rules for an open recruiting process is required under the present circumstances, I remain committed to open and competitive hiring practices and to our affirmative action goals.

However, the pressing responsibilities of the agency do not permit further delay in finally assembling the management team. Therefore, I hereby initiate a waiver from the recruitment requirements of the code and request the Council to ratify this action.

5. Confirmation Requested. I am pleased to submit for your confirmation the appointment of the following individuals to the positions named.

Richard Engstrom

Deputy Executive Officer

Mr. Engstrom was appointed as Acting Deputy Executive Officer on January 5, 1987, under the temporary provisions of the Personnel Ordinance. This position had been vacated due to the transfer of Don Carlson to the position of Director of the Department of Finance and Administration.

Mr. Engstrom holds a bachelor of science degree from Portland State University and a master degree in social work from Boston College. He was the Director of Community Services for the Multnomah County Department of Environmental Services as well as the Assistant to the Director. In addition, he held positions as staff to the Multnomah County Board of Commissioners and as Federal and State Grants Coordinator for Multnomah County. He has had, in addition, an extensive record of teaching at the university level including an appointment as Assistant Professor at Portland State University.

Marc Madden

IRC Administrator

The position of administrator position was vacated on February 10, 1987. I determined that this department required immediate direction on program priorities and on construction of the FY 1987-88 budget to implement these programs. The mandatory sequence of actions -- local jurisdiction dues assessment, programming and personnel actions, budget development and adoption -- required the appointment of an individual with strong programmatic credentials, direct experience with metropolitan jurisdictions, and a reputation for excellent administration and solid judgment in the public sector.

I appointed Dr. Marc Madden as the Acting Administrator of this department on February 11, 1987. Dr. Madden holds masters and doctoral degrees in urban studies and public affairs. He previously served as program coordinator for the governors of Oregon, Idaho and Washington; administrator in the state of Oregon's Executive Department and Department of Environmental Quality. Dr. Madden has also served as staff to the Multnomah County Director of Administrative Services and to the City-County Charter Commission.

Dr. Madden is a former member of the Oregon Board of Higher Education and the Commission on Public Broadcasting.

Tor Lyshaug

Acting Solid Waste Director

The position of director was vacated on January 23, 1987. On March 4, 1987, I started a national search to recruit a qualified person to fill the position. Based on information from the Personnel Officer, I anticipate

presenting the permanent Director of the Solid Waste Department to the Council for confirmation by June 1, 1987.

I determined that the administration of this department would suffer if it operated without a director for the 18-week period needed for recruitment of a new Director. The short-term program decisions facing this department (saturation of the St. Johns Landfill within the next 30 months, flow control policy, evaluation of alternative technology proposals, and others) cannot be delayed. In addition, the budget process having a person in place to establish the budgetary priorities for the department.

I filled the position on January 28, 1987, by appointing Tor Lyshaug as Acting Director of the Solid Waste Department. This should be considered a temporary appointment, and Mr. Lyshaug has no intention of applying for the permanent director position.

Ray Phelps

Director of Finance and
Administration

The position of Director of Finance and Administration was vacated on March 17, 1987. I consider it of critical importance to immediately fill this position with a full-time replacement. On December 18, 1986, (Resolution No. 87-722) the Council correctly assessed that the "current and planned finance matters of Metro require the full-time involvement of the Finance and Administration Director." Resolution No. 896-722, presented by former Executive Officer Rick Gustafson, was adopted on a 10-0 vote of the Council, with councilors Cooper and Kelley absent.

In addition to the Council's assessment, it is my judgment that a full-time Director of Finance and Administration is essential if I am to administer Metro efficiently. For example, this agency needs a program to accomplish contract compliance; a thorough and ongoing program for DBE/WBE participation in public contracting with Metro; substantial upgrading in the internal controls for all expenditures made through petty cash, general purchases, and employee reimbursement; and the installation of a new central computer system.

Furthermore, the budgetary process is at a stage that dictates having a director in place as soon as possible. This person will need to become familiar with all the details of the budget proposed for FY 1987-88.

I wish to appoint Ray Phelps as Director of Finance and Administration. Mr. Phelps holds a bachelor of science degree from St. Louis University and has completed 21 hours of graduate studies toward a masters degree in business administration. Ray Phelps has successfully administered for

ten years a multi-task program for the Secretary of State, and has strong programmatic credentials in the areas of budgeting, personnel, data processing, and business procedures, as well as having proven ability to work with elected officials, the general public and media.

In keeping with the Presiding Officer's request, on March 17, 1987, Mr. Carlson was reassigned to the Council's legislative staff pending Council action to formalize his hire as Council Administrator. I have identified unexpended funds for the new position of Council Administrator, allowing the Finance and Administration Director position to be retained. A budget modification accomplishing this is attached.

I request you to confirm this team of highly qualified individuals so the energy of this agency can be focused on the exciting array of challenges before us.

EXECUTIVE OFFICER'S RECOMMENDATION

As Executive Officer, I recommended adoption of Resolution No. 87-751.

EXHIBIT A

Council

	<u>Current</u> <u>Budget</u>	<u>FTE</u>	<u>Revision</u>	<u>Proposed</u> <u>Budget</u>	<u>FTE</u>
Personal Services					
Council Administrator	\$ 0	0	\$13,533	\$ 13,533	.25
Council Clerk	0	0	5,974	5,974	.25
Fringe	17,770	0	6,047	23,817	
All Other Accounts	57,876	2.09	0	57,876	2.09
TOTAL	<u>\$75,646</u>	<u>2.09</u>	<u>\$25,554</u>	<u>\$101,200</u>	<u>2.59</u>

No Other Changes To This Department

Executive Management

Personal Services					
Council Clerk	\$ 23,557	1.0	(5,974)	\$ 17,583	.75
Secretary	8,057	.5	(4,028)	4,029	.25
Government Relations Manager	33,424	1.0	4,028	37,452	1.0
Fringe	85,763		(1,852)	83,911	
All Other Accounts	231,456	7.19	0	231,456	7.19
TOTAL	<u>\$382,257</u>	<u>9.69</u>	<u>(7,826)</u>	<u>\$374,431</u>	<u>9.19</u>

No Other Changes To This Department

FINANCE & ADMINISTRATION

Data Processing

Materials & Services					
Lease Payments - Equip	\$ 52,700		(17,728)	\$ 34,972	
All Other Accounts	72,620			72,620	
TOTAL	<u>\$125,320</u>		<u>(17,728)</u>	<u>\$107,592</u>	

No Other Changes in This Division

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EXHIBIT B
 APPROPRIATIONS SCHEDULE

General Fund	Current Appropriation	Revision	Proposed Appropriation
Council			
Personal Services	\$ 75,646	\$25,554	\$101,200
Materials & Services	59,020	0	59,020
Capital Outlay	0	0	0
Subtotal	<u>\$134,666</u>	<u>\$25,554</u>	<u>\$160,220</u>
Executive Management			
Personal Services	\$382,257	(7,826)	\$374,431
Materials & Services	58,033	0	58,033
Capital Outlay	2,442	0	2,442
Subtotal	<u>\$442,732</u>	<u>(7,826)</u>	<u>\$434,906</u>
Finance & Administration			
Personal Services	\$ 683,589	0	\$ 683,589
Materials & Services	412,649	(17,728)	394,921
Capital Outlay	9,200	0	9,200
TOTAL	<u>\$1,105,438</u>	<u>(17,728)</u>	<u>\$1,087,710</u>

No Other Changes To The General Fund.
 No Other Changes To Other Funds.

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

The motion carried.

Resolution No. 87-751, Ratifying Recruitment Waivers and Confirming Appointments. Executive Officer Cusma introduced the Resolution and explained it was being submitted for Council consideration at their request. Deputy Presiding Officer Gardner noted that since the Council needed to make a decision on Agenda Item 11.5 before it considered Resolution No. 87-751, the Resolution should be deferred until the end of the meeting.

At the request of the Council, the Deputy Presiding Officer called at 10-minute recess at 6:25 p.m. to give Councilors an opportunity to review Resolution No. 87-751, introduced by the Executive Officer, and Resolution No. 87-748A, introduced by the Deputy Presiding Officer. The Council reconvened at 6:45 p.m.

Legislative Status Report. Kim Duncan, Metro's legislative representative, reviewed the written "Legislative Status Report" dated the week of March 23, 1987.

Council position on HB 2929 (general functional planning authority for Metro). Councilor Gardner, Chair of the Council Solid Waste Committee, reported the Committee could not reach a consensus to endorse HB 2929. Executive Officer Cusma urged the Council to support the proposed legislation. She explained her Land Use Transition Committee also endorsed the bill.

Motion: Councilor Bonner moved to instruct staff to withdraw all effort to lobby for passage of HB 2929 and that the proposed legislation not be considered a priority at this time. Councilor Kelley seconded the motion.

Discussion followed on the merits of the proposed legislation. Eleanore Baxendale, Legal Counsel, explained Metro currently had functional planning authority but the bill would impose certain time frames on the process. Councilors Ragsdale, Van Bergen, Gardner and Hansen said they would not support the motion because they thought a strong functional planning program would ease the way for siting future solid waste facilities. Councilor Kelley supported the motion and favored the supersiting process with ample citizen participation.

Vote: A vote on the motion resulted in:

Ayes: Councilors Bonner and Kelley

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 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