

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING) RESOLUTION NO 97-2502
THE SELECTION OF HEARINGS)
OFFICERS FOR CONTESTED CASE) Introduced by Councilor
HEARINGS) Susan McLain

WHEREAS, Section 2.05.025(a) of the Metro Code requires that contested case hearings and amendments to the Regional Urban Growth Boundary (“UGB”) shall be held before a Hearings Officer; and

WHEREAS, Metro also utilizes the services of Hearings Officers in other cases when contested case hearings must be held pursuant to the Metro Code; and

WHEREAS, The Council may from time to time approve and provide to the Executive Officer a list of prospective Hearings Officers from which Hearings Officers may be appointed by the Executive Officer; and

WHEREAS The Council last authorized the issuance of a Request for Proposals for Hearings Officer services in 1993; and

WHEREAS, Three qualified responses were received, but only one designated Hearings Officer has been available for UGB hearings; and

WHEREAS, The only available Hearings Officer has an employment relationship with the applicant for a locational adjustment ready to be scheduled for hearing; and

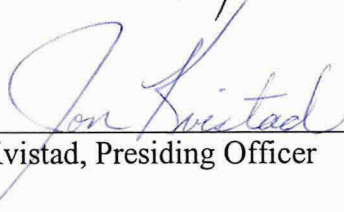
WHEREAS, The Council seeks the availability of alternative Hearings Officers for easier scheduling and avoiding any appearance of a conflict of interest; now, therefore,

BE IT RESOLVED THAT:

A. Pursuant to Metro Code Section 2.05.025(a), Richard Forester and Michael Holstun are designated as approved Hearings Officers.

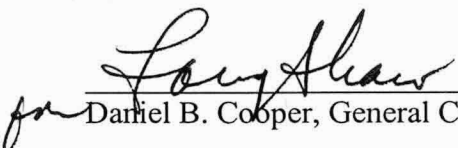
B. The Executive Officer is authorized to enter into contracts with Richard Forester and Michael Holstun at the same rates and in a form substantially similar to the existing contract with Larry Epstein.

ADOPTED by the Metro Council this 8th day of May 1997.



Jon Kvistad, Presiding Officer

APPROVED AS TO FORM:



Daniel B. Cooper, General Counsel

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STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 97-2502, FOR THE PURPOSE OF APPROVING THE SELECTION OF HEARINGS OFFICERS FOR CONTESTED CASE HEARINGS

Date, April 30, 1997

BACKGROUND

As the resolution states, Metro has sought hearings officers with land use experience for its Urban Growth Boundary amendments. Metro's current situation results from by a Request For Proposals process that yielded three qualified applicants who signed "as needed" contracts. Two of the three took positions that put them in conflict with Metro hearings officer work. Metro therefore proceeded for several years with just one hearings officer.

One pending UGB application, the West Linn locational adjustment, cannot be done by the one contracted hearings officer. Office of General Counsel contacted three experienced land use hearings officers about work on Metro UGB hearings in general, and on this case in particular. Two of these attorneys have verbally agreed to sign "as needed" contracts with Metro at the current hearings officers "government" rate of \$90 per hour.

Each of these attorneys is experienced in land use and in acting as a hearing officer in land use cases. The Office of General Counsel recommends entering into "as needed" agreements now to increase scheduling alternatives and avoid emergency conflict situations for UGB hearings. A Request For Proposals to further expand and update a list of qualified land use hearings officers will be undertaken by the Office of General Counsel during the next fiscal year.

RECOMMENDATION

Counselor McLain recommends council approval of this resolution.