

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

June 25, 1992

Council Chamber

Councilors Present: Presiding Officer Jim Gardner, Roger Buchanan, Tanya Collier, Richard Devlin, Ed Gronke, Sandi Hansen, Ruth McFarland, Susan McLain, George Van Bergen and Ed Washington

Councilors Excused: Deputy Presiding Officer Judy Wyers

Councilors Absent: Larry Bauer

Also Present: Executive Officer Rena Cusma

Presiding Officer Gardner called the regular meeting to order at 5:31 p.m.

Presiding Officer Gardner announced that the Council meeting regularly scheduled for July 9 had been canceled and next regular Council meeting would be held July 23.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS

Mary Tobias, Tualatin Valley Economic Development Corporation president, said she strongly supported regional and local government because it was essential for a strong economic and political system. She expressed concern about the status of current state and regional government because she said a political revolution was taking place people were not aware of and said the Charter Committee was part of such a revolution. She said citizens wanted government to be clearly defined and minimal at best. She said it was easy for citizens to see Metro as an additional layer of government. She said if the charter process became fractional, or more than one charter was developed, Metro would be the loser. She said she had spoken with citizens who thought the only valuable service Metro performed was running the Metro Washington Park Zoo.

Ms. Tobias said the charter process had been extremely flawed from the beginning and apologized to the Council for the lack of intellectual honesty. She said the Council should compile a document that the Charter Committee, local governments and Metro could work on collectively. She urged the Council to work in a non-passive role to find solutions to the problems facing Metro as the Charter Committee process drew to a close.

Executive Officer Cusma thanked Ms. Tobias for her efforts on Metro's behalf.

3. EXECUTIVE OFFICER COMMUNICATIONS

3.1 Briefing on Greenspaces Master Plan and Bond Measure

Pat Lee, Regional Planning Supervisor, briefed the Council on the Greenspaces Master Plan and related bond measure.

4. CONSENT AGENDA

4.1 Minutes of May 14, 1992

REFERRED FROM THE GOVERNMENTAL AFFAIRS COMMITTEE

4.2 Resolution No. 92-1631, For the Purpose of Approving an Intergovernmental Agreement with the Special Districts Association of Oregon (SDAO) to Provide Legislative Service to the Metropolitan Service District

4.3 Resolution No. 92-1635, For the Purpose of Accepting the May 19, 1992, Primary Election Abstract of Votes of the Metropolitan Service District

4.4 Resolution No. 92-1643, For the Purpose of Revising Guidelines for Council Per Diem, Councilor Expense and General Council Materials & Services Accounts

REFERRED FROM THE FINANCE COMMITTEE

4.5 Resolution No. 92-1634, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.041(c), Competitive Procedures, and Authorizing a Sole Source Contract with Eastman Kodak Company to Provide Maintenance and Repair Service on the Kodak 300 Duplicator

Motion: Councilor McFarland moved, seconded by Councilor Devlin, for adoption of the Consent Agenda.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer and Wyers were absent. The vote was unanimous and the Consent Agenda was adopted.

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 92-466, For the Purpose of Repealing Metro Code Sections 2.04.100-.180 and For the Purpose of Enacting New Code Provisions Establishing and Governing Metro's Contracting Procedures for Minority, Women, and Disadvantaged Business Enterprises

The Clerk read the ordinance for a first time by title only.

Presiding Officer Gardner announced Ordinance No. 92-466 had been referred to the Governmental Affairs Committee for consideration.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 92-449B, For the Purpose of Adopting the Annual Budget for Fiscal Year 1992-93, Making Appropriations and Levying Ad Valorem Taxes (Public Hearing)

The Clerk read the ordinance for a second time by title only.

Presiding Officer Gardner announced that Ordinance No. 92-44 was first read on March 12, 1992, and referred to the Finance Committee for consideration. The Finance Committee, acting as the Budget Committee, held 12 public hearings on the ordinance between March 16 and April 20 and recommended the full Council adopt the ordinance as amended. On May 7, 1992, the Council adopted Resolution No. 92-1586, For the Purpose of Approving the FY 1992-93 Budget and Transmitting the Approved Budget to the Tax Supervising and Conservation Commission. On June 18, 1992, the Finance Committee recommended Ordinance No. 92-449B for adoption.

Motion: Councilor Van Bergen moved, seconded by Councilor Hansen, for adoption of Ordinance No. 92-449B.

Councilor Van Bergen gave the Finance Committee's report and recommendations. He discussed the Budget process as a whole.

First Motion to Amend: Councilor McLain moved, seconded by Councilor Van Bergen, to add the Regional Facilities Contracts list as new Exhibit D.

Councilor Hansen briefed the Council on the Tax Supervising and Conservation Commission's (TSCC) review of Metro's FY 1992-93 budget. She said the TSCC asked questions about the budget process, citizen involvement and the new Metro Headquarters building. She said the TSCC also asked about possible expansion of the Oregon Convention Center, the closure process at the St. Johns Landfill and Metro's contract with Jack Gray Transport,

Inc. (JGT). She said Jennifer Sims, Director of Finance & Management Information, and Chris Scherer, Financial Planning Manager, were also present to answer technical questions.

Councilor Devlin noted current assessed property values in the region totalled approximately \$45 billion and said Metro was \$200 million short of having more than that in assessed value in Clackamas and Washington counties. He said over the next year, more of that assessed value could be outside Multnomah County boundaries than was contained inside. He asked for a clarification of land values from Legal Counsel. Dan Cooper, General Counsel, said he would provide that information. He said state law had varying interpretations of governmental property values depending on office locations, population and other factors.

Councilor Van Bergen noted the Budget Committee approved a budget note per Councilor Wyers' request: "The Solid Waste Department shall develop a strategy (work plan) for evaluating the effectiveness of local recycling and waste reduction programs, particularly those partially or totally funded by Metro. This strategy shall be presented to the Solid Waste Committee by October 1, 1992."

Second Motion to Amend: Councilor Van Bergen moved, seconded by Councilor Devlin, to incorporate Councilor Wyers' Budget Note in the FY 1992-93 Budget ordinance.

Presiding Officer Gardner opened the public hearing. No persons appeared to testify on the ordinance and the public hearing was closed.

Presiding Officer Gardner asked for a collective vote on both motions to amend.

Vote on First and Second Motions to Amend: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer and Wyers were absent. The vote was unanimous and the motions to amend Ordinance No. 92-449B passed.

Vote on Main Motion as Amended: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan and Collier were absent. The vote was unanimous and Ordinance No. 92-449B was adopted as amended.

6.2 Ordinance No. 92-456, For the Purpose of Amending the Regional Solid Waste Management Plan to Incorporate the Household Hazardous Waste Management Plan and to Update Plan Policy 2.2 (Public Hearing)

The Clerk read the ordinance for a second time by title only.

Presiding Officer Gardner announced that Ordinance No. 92-456 was first read on May 28, 1992, and referred to the Solid Waste Committee for consideration. The Solid Waste Committee considered the ordinance on June 16 and recommended it to the full Council for adoption.

Motion: Councilor McFarland moved, seconded by Councilor Devlin, for adoption of Ordinance No. 92-456.

Councilor McFarland gave the Solid Waste Committee's report and recommendations. She explained the ordinance would adopt a Household Hazardous Waste (HHW) regional management plan. She said the plan would help to fulfill Department of Environmental Quality's (DEQ) requirements, as well as state legislative requirements on HHW. She said the work done on HHW issues raised issues on other types of waste also and that Metro staff would deal with those materials in the future. Councilor McFarland discussed the HHW facilities to be installed at various solid waste facilities as well as the proposed mobile unit. She said the plan covered expansion of the existing system; development of HHW promotion, education and waste reduction programs; exploring alternative funding sources for HHW management and collection; examining the need to develop a legislative agenda related to HHW; and monitoring of the management program.

Councilor McFarland noted at Committee, Councilor Hansen asked how many citizens used the HHW facility at Metro South Station (MSS) and was told the weekly average was constant, averaging 20-25 users. She said Councilor Van Bergen asked if there would be a permanent facility in Washington County and about funding from DEQ that would obligate Metro to take HHW from other parts of the state via the mobile facility(s). She said staff stated those options did not seem likely at this time. She said Committee discussion also focussed on the legislative agenda and medical waste which was not yet addressed in the Regional Solid Waste Management Plan (RSWMP). Councilor McFarland recommended adoption of Ordinance No. 92-456 because it would put Metro in compliance with state law and allow for financial assistance from DEQ.

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Presiding Officer Gardner opened the public hearing. No persons appeared to testify on the ordinance and the public hearing was closed.

Councilor McLain noted the plan was labelled as a draft document. Mark Buscher, Senior Solid Waste Planner, explained it was labelled a draft document while under review by the Solid Waste Committee and the Council, but that adoption of the ordinance meant the plan would become the final document. Councilor McLain asked what portions of the region would receive mobile service. Mr. Buscher said for practical purposes, the region had been divided into five geographical parts, but that two geographical areas would be served by permanent depots. He said that assisted staff to determine that mobile units would primarily serve Areas 2, 4 and 5, or Washington and Multnomah counties.

Councilor McFarland expressed the Council's appreciation to the Household Hazardous Waste Subcommittee, subcommittee to the Solid Waste Policy Advisory Committee, for its work on the Plan Chapter.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer and Wyers were absent. The vote was unanimous and Ordinance No. 92-456 was adopted.

6.3 Ordinance No. 92-464, For the Purpose of Amending Metro Code Chapter 7.01 to Modify the Reporting of Excise Tax and the Application of the Receipts (Public Hearing)

The Clerk read the ordinance for a second time by title only.

Presiding Officer Gardner announced Ordinance No. 92-464 was first read on June 11, 1992, and referred to the Finance Committee for consideration. The Finance Committee considered the ordinance on June 18 and recommended it to the full Council for adoption.

Motion: Councilor Hansen moved, seconded by Councilor Devlin, for adoption of Ordinance No. 92-464.

Councilor Hansen gave the Finance Committee's report and recommendations. She explained the ordinance would improve current collection of excise taxes assessed on solid waste and require solid waste tonnage reports also list excise taxes collected. She said previously haulers made payments on their excise taxes and it had been difficult to tell how much excise tax Metro actually accrued. She said the Metro Code's definition

of "accrual basis accounting" was changed to mean that revenues would be recorded for the accounting period in which they were earned and become measurable whether received or not. She said Metro Code language was also changed to read, "If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment" which would be much simpler for budget purposes and accounting reconciliation. She said the ordinance also established new rules on excise tax collection. She said new procedures did not mean additional excise taxes would be collected, but said they would be accounted for in a more efficient manner.

Presiding Officer Gardner opened the public hearing. No persons appeared to testify on the ordinance and the public hearing was closed.

Vote: Councilors Collier, Devlin, Gronke, Hansen, McParland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan and Wyers were absent. The vote was unanimous and Ordinance No. 92-464 was adopted.

6.4 Ordinance No. 92-463A, An Ordinance Amending Ordinance No. 91-390A Revising the FY 91-92 Budget and Appropriations Schedule for the Purpose of Transferring Appropriation Within the Council Department (Public Hearing)

The Clerk read the ordinance for a second time by title only.

Presiding Officer Gardner announced Ordinance No. 92-463 was first read on May 28, 1992, and referred to the Finance Committee for consideration. The Finance Committee considered the ordinance on June 4 and recommended it to the full Council for adoption. Ordinance No. 92-463 was placed on the June 11 Council agenda, but was referred back to the Finance Committee for further review because of additional unanticipated elections costs. The Finance Committee considered the ordinance again on June 18 and recommended Ordinance No. 92-463A to the full Council for adoption.

Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Ordinance No. 92-463A.

Councilor Devlin gave the Finance Committee's report and recommendations. He said the ordinance originally was meant to provide \$640.00 to cover additional expenses related to the STRAP network. He said the ordinance was sent back to committee to cover additional unanticipated election costs. He said the

Council Department Budget originally had allocated \$100,000 for election costs for 1992, but said the three county election divisions had reported to Metro a total cost of \$206,000 in election costs. He said the Finance Committee expressed concern about escalating election costs and questioned Metro's future ability to refer issues to constituents. He said the Finance Committee asked staff to investigate why costs had risen so dramatically and if there was anything Metro could do during the next legislative session about election costs.

Councilor Devlin said Multnomah County costs totalled \$158,000; Washington County costs totalled \$32,500; and Clackamas County totalled \$16,000. He said election costs varied greatly from county to county and said they had escalated to such an extent that election costs could become a major budget consideration in the future. Don Carlson, Council Administrator, noted costs given were estimated costs and said staff did not have final numbers to date.

Presiding Officer Gardner opened the public hearing. No persons appeared to testify on the ordinance and the public hearing was closed.

Presiding Officer said Councilor Devlin raised important questions about the issues, including why costs per registered voters were higher in one county than in others. He said there were variables to be considered such as different ballot measures and seats on county ballots, but said the issues should be researched further.

Vote: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan and Collier were absent. The vote was unanimous and Ordinance No. 92-463A was adopted.

7. NON-REFERRED RESOLUTIONS

7.1 Resolution No. 92-1630, For the Purpose of Expressing Council Intent to Amend Metro's Urban Growth Boundary for Contested Case No. 91-4 (Public Hearing)

Presiding Officer Gardner announced the Council would consider Resolution No. 92-1630 in its capacity as a quasi-judicial decision-maker.

Motion: Councilor Gronke moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1630.

Councilor Van Bergen expressed concern about the Urban Growth Boundary (UGB) case presentation process. He did not believe Metro staff should present reports on UGB cases. He said when the Council considered a case in its quasi-judicial capacity, the Council should hear the details of the case from the Hearings Officer and from the parties to the case only.

Dan Cooper, General Counsel, said UGB presentations had been done in various ways in the past. He said he had briefed the Council in the past, before the Hearings Officer presented his/her report to describe the process and why the Council was considering a particular case. He said recently Planning Department staff had begun giving the Council such briefings. He said Councilor Van Bergen was correct when he stated it was inappropriate for staff to give a presentation at this time because it would be a repeat of staff's presentation to the Hearings Officer. He said the Hearings Officer would report to the Council his/her recommendation and said it was that report and recommendation the Council should consider, rather than briefings from himself or from Planning Department staff.

Councilor McFarland concurred with Councilor Van Bergen's concerns as stated. Councilor Van Bergen said his concerns were on procedural issues only. Mr. Cooper reminded the Council that it was considering the resolution in its quasi-judicial capacity as a decision-maker and the case involved a major amendment to the UGB of 50 acres. He said the Council was required to make findings that the amendment would comply with all state land use planning law requirements. He said the applicant in this case was Portland Community College to amend the area in the vicinity of Rock Creek College (RCC). He said no exceptions had been received to this case.

Presiding Officer Gardner said UGB hearing procedures should be clarified for future cases. He said staff's reports should not cover the substance of a case.

Hearings Officer Harry Epstein said he conducted two hearings on Case No. 91-4 and prepared written findings and a recommendation that the Council approve Portland Community College's (PCC) application to amend the UGB to include a portion of its RCC campus. He said PCC owned 250 acres of contiguous property at the site and proposed including 160 of those acres within the UGB. He said the remaining acreage would stay outside of the UGB and continue to be zoned for Exclusive Farm Use (EFU). He said the acreage PCC wanted to include within the UGB was recognized by Washington County as an exception area. He said Washington County gave an exception to the agricultural goal for the area PCC proposed to annex to the UGB. Mr. Epstein said that action had a significant effect on his own recommendation and reduced

the burden of proof for the applicant with regard to certain statewide planning goals and factors contained in Goal 14. He concluded it was not necessary for PCC to demonstrate there was no other place within the UGB PCC could locate what it planned to locate at RCC. Mr. Epstein said he also found that even if PCC made that showing, their proposal to expand the campus could not be done more efficiently or effectively elsewhere. He said his report demonstrated RCC was an important public facility and that the service it provided was unique in Washington County. He concluded there was public interest in allowing RCC to be able to expand at that location, but said under existing Washington County law, PCC could not expand a significant amount because the college was classified as a nonconforming use, or a use not permitted in the zone in which it was situated. He said the only way RCC could expand was to apply for annexation to Metro, to apply to Washington County for an urban plan designation and institutional zone, and undergo Washington County's review process for such expansion.

Mr. Epstein said he had not planned to give a long presentation because no exceptions had been filed. He said standards used for approval of a major UGB amendment were statewide planning goals which he had used to evaluate this application. He said he considered all relevant goals and made appropriate findings with regard to each, including Goal 1 and its requirements on public involvement and review, and Goal 2 and its UGB amendment requirements. He said with regard to Goal 2 requirements, the property was fully developed and therefore it was not necessary to conduct the alternative sites inventory that might have otherwise been necessary. Mr. Epstein said this case was very likely the last instance where an institution located on the edge of the UGB needed to be included within the UGB. He said similar to the Dammasch case, Case No. 91-4 was fairly unique.

Councilor McLain expressed concern because the amendment involved property on the edge of the UGB and said the amendment could affect neighboring properties and/or isolated property located nearby. She noted staff's report discussed neighboring property owners' concern, and noted also the neighboring property owners could use this amendment as precedent to attempt to rezone their property as well. She asked if Case No. 91-4 would set a precedent in those cases.

Mr. Epstein discussed the property surrounding the proposed amendment site. He said some property was within the UGB and property to the north and west was zoned EFU. He said some property had been designated for large lot, rural residential development and associated farming and forestry activities. He said there was nothing on the surrounding land that suggested

urbanization of that land was warranted or necessary. He said if the campus was not already there and developed to the extent it was, he would not have recommended approval. He said approval of this application did not facilitate the provision of most urban services to the urban area, but did facilitate the continued provision of the educational services.

Mr. Epstein said other affected property was the northeast quadrant of 185th and Springville Road. He said three sides of that area would be surrounded by the UGB. He said they were nonconforming lots because of their small size and were almost all developed for single-family dwellings. He said it was possible the Council could get a locational adjustment request for that area to be included within the UGB, and such an application would be a difficult case to decide. He said for such a change to take place, it had to be proved that amendment would facilitate services to areas already within the boundary. He said an amendment application for that area might not comply with that standard. He said including RCC within the UGB could impact those residents and said that impact would have to be addressed via the Washington County review process.

Councilor McLain expressed concern about the creation of an easement. Mr. Epstein said affected residents expressed concern about the issue also. He said it was important to hear testimony, evaluate its relationship to the law and whether anything could be done about the issues raised. He said at this level of consideration, there was little the Council could do except to vote "aye" or "nay" and said the Council had to put its trust in the public process that would follow. He said Washington County would have tough decisions to make, especially with regard to a new road PCC wanted to build to 185th Avenue. He said that was the most important issue raised by citizens about the impact of the amendment. He said they raised concerns about traffic and mass transit availability along the proposed new road. He said he tried to reflect their concerns in his decision and listed the arguments made by opponents in his findings to show responsiveness.

Councilor McLain said the amendment as a whole appeared reasonable, but reiterated again it did not deal with just one institution, but an entire neighborhood. Mr. Epstein agreed, but said he could only consider the applicants petition and the property in question. He said he did not have the authority to consider the northeast quadrant area and that he was obligated to limit his decision to the impact of the proposal itself. Councilor McLain agreed with Mr. Epstein.

Councilor Devlin said he concurred with Mr. Epstein's recommendation. He noted PCC owned area in excess of the area to be added into the UGB and noted Mr. Epstein had stated the exception area was limited to the area that PCC had applied for expansion into. Mr. Epstein said the amendment would apply to all of the area not zoned EFU.

Councilor Devlin asked if Mr. Epstein would make the same conclusions on a second request for amendment, if this one was approved, for the additional area. Mr. Epstein said he would have to make his decision based on the facts presented at that time, but said if he had to make that decision based on the facts he had at this time, he could not recommend an amendment. He said the topographic features of the north edge were very important as a breakpoint between the urban area and non-urban area and said it made sense to use it for that purpose.

Councilor Devlin noted Mr. Epstein referred to the Dammasch application and similarities to this case. He said there were other similar areas in the region that could or might apply for a UGB amendment.

Councilor Washington referred to letters dated March 30, 1992, from citizens expressing concern about additional traffic. He asked, if PCC acquired additional property in the area, if it would have to return for another UGB amendment. Mr. Epstein said PCC would have to do so and said such an amendment would be termed a locational adjustment because it was likely to be less than 50 acres.

Presiding Officer Gardner noted under new UGB rules, a locational adjustment had to be less than 20 acres. Mr. Epstein said applicants had to show compliance with standards, and said if those standards were similar to those used in the past, it had to be demonstrated that including the land within the UGB facilitated development of land already within the UGB.

Councilor Van Bergen said the Council's UGB decisions should be based on established rules as much as possible. He asked Mr. Epstein if Case No. 91-4 would set a precedent. Mr. Epstein said the case had been hard to prove, but said Washington County's recognition of the exception was important. He said the circumstances of the case were unique with regard to classification of the land, the land use status of the campus and its limited ability to expand, the fact that full urban services were provided and could accommodate the expansion, that road improvements were scheduled, some of which were already funded by Washington County.

In response to Councilor Van Bergen's question on the uniqueness of Case No. 91-4, Mr. Epstein said all of the factors he had just listed, when combined together, created a unique set of circumstances. He said he had made over 3,000 land use decisions and that all of them had been unique. He did not mean to infer that Case No. 91-4 was unique, but said all land use cases in themselves were unique. He said he had studied earlier UGB decisions and said those were not all consistent. He said if he had served as Hearings Officer for some early UGB decisions, he would not have recommended approval in some cases.

Councilor Hansen agreed with issues raised by Councilor Van Bergen. She said the PCC application was well thought out, but expressed concern over precedent being set, especially with regard to school districts. She said school districts could not buy large parcels within the UGB and said the Council likely would see more of these cases. She asked what types of standards would be set for those institutions and for corridors to and from those institutions. She said this case was relatively easy to decide because it was on the line.

Mr. Epstein said if the land were vacant, he would not have recommended approval, regardless of the application. He said since the property was developed to the extent it was before the UGB line was drawn, the application was justified.

Councilor Hansen said suburban communities would attempt to prove need for their already-purchased school sites. Mr. Epstein agreed, but said if potential applicants read his decision, or consulted Oregon land use laws, or reviewed other applications, they would realize UGB amendments were difficult to achieve. He said with the other cases on record, a prudent school district or civic group would not frivolously proceed to anticipate changes in the UGB by buying property first.

Councilor Van Bergen recalled a UGB decision made approximately five years ago involving a church. Mr. Epstein said that case also involved existing development.

Councilor McLain said this case would impact not just the left south side, but also the future owners of that property as well as well as the citizens beyond the buffer zone. She said every UGB case had implications and spin-offs. She noted the Hearings Officer did not consider items such as roads, services or particular county land use planning procedure. She said the Council had to hope Washington County would uphold Metro's standards for the area in question. Mr. Epstein said he did have to consider Washington County roads and their procedures, but did not have any control over them. He said based on his previous

experience with Washington County, he did not believe they would act rashly.

Presiding Officer Gardner opened the public hearing. No proponents or opponents, or citizens, appeared to testify on Resolution No. 92-1630 and Presiding Officer Gardner closed the public hearing.

Councilor Gronke disqualified himself from the vote.

Presiding Officer Gardner said in addition to other Councilors, he also had concerns about setting precedent for similar applications in the future. He said discussion at this meeting clarified that the circumstances of this case were different, and the decision would not be made in the applicants' favor because the property in question was a school or public property.

Vote: Councilors Collier, Devlin, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilor Gronke abstained from the vote. Councilors Bauer, Buchanan and Wyers were absent. The vote was unanimous and Resolution No. 92-1630 was adopted.

Presiding Officer Gardner announced the Council would take final action on Case 91-4 via ordinance after Metro received notice from the Portland Metropolitan Area Local Government Boundary Commission the annexation had been approved.

7.2 Resolution No. 92-1642. For the Purpose of Making Council Committee Appointments for the Remainder of 1992

Motion to Suspend the Rules: Councilor Devlin moved, seconded by Councilor Hansen, to suspend the Council's rules requiring resolutions be referred by Committee so that the Council as a whole could consider Resolution No. 92-1642.

Vote on Motion to Suspend the Rules: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan and Wyers were absent. The vote was unanimous and the motion passed.

Main Motion: Councilor Collier moved, seconded by Councilor Devlin, for adoption of Resolution No. 92-1642.

Presiding Officer explained he asked Council staff to draft Resolution No. 92-1642 to clarify new committee assignments since

Councilors Gronke and Washington were appointed and had assumed the committee assignments of their predecessors.

Motion to Amend: Councilor Devlin moved, seconded by Councilor Van Bergen, to amend Exhibit 5, page 5, to delete reference to the Transportation Policy Alternatives Committee as well as reference to himself as vice chair of that committee.

Councilor Devlin clarified that members of the Council did not serve on the Transportation Policy Alternatives Committee and the reference to that committee was a typographical error.

Vote on Motion to Amend: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan and Wyers were absent. The vote was unanimous and the motion passed.

Main Motion as Amended: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan and Wyers were absent. The vote was unanimous and Resolution No. 92-1642 was adopted as amended.

8. RESOLUTIONS

Presiding Officer Gardner recessed the Council of the Metropolitan Service District and convened the Contract Review Board of the Metropolitan Service District to consider Agenda Item No. 8.1.

8.1 Resolution No. 92-1632, For the Purpose of Authorizing the Executive Officer to Enter Into a Contract with Jensen Drilling Co. for Work Associated with the Groundwater Monitoring Well Improvements and Piezometer Installation at St. Johns Landfill

Motion: Councilor McFarland moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1632.

Councilor McFarland gave the Solid Waste Committee's report and recommendations. She explained the resolution would award the contract for groundwater monitoring well improvements and the installation of piezometers at the St. Johns Landfill (SJL) to Jensen Drilling, Co. who had submitted the only bid in the amount of \$347,625 and that staff had estimated the cost of the work would total \$363,000.

Councilor McFarland said it was necessary to monitor groundwater per DEQ mandate because the Columbia Slough bordered one side and the Smith & Bybee Lakes complex bordered the other. She said SJL was virtually surrounded by water. Councilor McFarland discussed the bid process. She said the Committee vote was 3 to 1 with Councilor Van Bergen voting nay.

Councilor Van Bergen said he voted nay at committee because of DEQ procedures involved, and not because of the bidder, work or contract itself. He believed DEQ was making regulations specifically to apply to SJL only and no other landfills. He said per the Oregon Administrative Procedures Act, all agencies should abide by the same rules. He said DEQ had not required groundwater monitoring for three other landfills that had recently closed in the region. He said he would vote aye on the resolution at this time, but said he had asked Council staff to research the issues further.

Vote: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington, Wyers and Gardner voted aye. Councilors Bauer, Buchanan and Wyers were absent. The vote was unanimous and Resolution No. 92-1632 was adopted.

8.2 Resolution No. 92-1633, For the Purpose of Authorizing an Exemption to the Competitive Procurement Procedures of Metro Code 2.04.053 and Authorizing a Change Order to the Design Services Agreement with Parametrix, Inc.

Motion: Councilor Hansen moved, seconded by Councilor McFarland, for adoption of Resolution No. 92-1633.

Councilor Hansen gave the Solid Waste Committee's report and recommendations. She explained Resolution No. 92-1633 was a companion resolution to Resolution No. 92-1642. She said the resolution would authorize a change order to the design services agreement with Parametrix, Inc. and said Parametrix designed the well structures which would be drilled by Jensen. She said Parametrix was instructed by DEQ to abandon certain wells, extend some wells and add some wells, work which Parametrix had now done. She said that work cost \$23,000 in additional funding for the contract to date. She said staff stated since that work could not have reasonably been anticipated by Metro or Parametrix that Parametrix should be reimbursed.

Vote: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan and Wyers were absent. The vote was unanimous and Resolution No. 92-1633 was adopted.

Presiding Officer Gardner adjourned the Contract Review Board and reconvened the Council of the Metropolitan Service District.

8.3 Resolution No. 92-1625A, For the Purpose of Endorsing City of Portland and Tri-Met Applications for FHWA/FTA Urban Mobility Funds

Motion: Councilor Washington moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1625A.

Councilor Washington gave the Transportation & Planning Committee's report and recommendations. He explained the resolution would endorse City of Portland and Tri-Met applications for Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) funds. He said the three-step solicitation process would include solicitation and final proposal submission, screening and grant application submission, and final selection. Councilor Washington said three proposals were originally submitted: 1) A neighborhood rideshare coop based on neighborhood of rider rather than employer destination; 2) Establishment of travel allowance to mitigate employer parking fees; and 3) A transit freeway operations program using radio frequency identification tags. He explained the Joint Policy and Advisory Committee on Transportation (JPACT) amended the resolution June 11 by removing the second of the three proposed programs. Councilor Washington said the resolution would not fiscally impact Metro.

Vote: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan and Wyers were absent. The vote was unanimous and Resolution No. 92-1625A was adopted.

8.4 Resolution No. 92-1626, For the Purpose of Establishing the Region's Priority Transportation Enhancement Program Projects for Inclusion in ODOT's Six-Year Program

Motion: Councilor McLain moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1626.

Councilor McLain gave the Transportation & Planning Committee's report and recommendations. She explained in March the Council

adopted and submitted to the Oregon Department of Transportation (ODOT) comments on the six-year plan for transportation in the region considering flexibility and to consider: 1) That if ODOT planned to spend transportation enhancement funds, that Metro be permitted to submit proposals; 2) That if ODOT planned to spend air quality funds, that Metro be allowed to submit proposals; and 3) That if ODOT programmed the major categories of funds for major new highway projects, that Metro be allowed to flag some of those projects for possible substitution. She noted Exhibit A which listed projects for consideration. She said TPAC helped with the list which was also reviewed by JPACT. She said Metro's list would either forward a priority list for two years or a full list of projects depending on funding. She said staff believed ODOT would choose the two-year list and allocate funds for those projects by July. She said if projects covered two or more criteria points for bike and pedestrian transportation or other considerations, they were more likely to be funded first.

Councilor Devlin said some of the projects listed in Exhibit A matched with, or could fund, certain proposed Greenspaces Master Plan projects.

Vote: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan and Myers were absent. The vote was unanimous and Resolution No. 92-1626 was adopted.

B.5 Resolution No. 92-1618A, For the Purpose of Amending the Total Amount of the Region 2040 Consulting Contract

Main Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1618A.

Councilor Devlin gave the Transportation & Planning Committee's report and recommendations. He explained the resolution would amend the Region 2040 contract amount from \$280,000 to \$300,000. He said Metro had received \$60,000 from Portland General Electric (PGE) to support Region 2040 activities. He said \$40,000 was made as in-kind contributions and \$20,000 was donated and said that \$20,000 was the amount used to amend the contract.

He said Committee discussion focussed on resolution language to allow future amendments, because staff anticipated donations would be made in the future, be made at Committee level only without Council review. He said the Committee discussed whether that procedure would be permissible and requested Legal Counsel's opinion. Dan Cooper, General Counsel, submitted his opinion

dated June 24, 1992. Mr. Cooper's opinion stated such a procedure was not permissible.

Motion to Amend: Councilor Devlin moved, seconded by Councilor Hansen to amend Resolution No. 92-1618A by deletion of Be it Resolved Section 2 which read as follows: "2. That the Metro Council hereby authorizes the Transportation and Planning Committee to amend the total amount for this contract to incorporate additional revenue sources as long as the department has sufficient expenditure authority, or to refer such amendments to the full Council for its consideration should the Committee fail to reach agreement."

Vote on Motion to Amend: Councilors Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan, Collier and Wyers were absent. The vote was unanimous and the motion to amend passed.

Vote on Main Motion as Amended: Councilors Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan, Collier and Wyers were absent. The vote was unanimous and Resolution No. 92-1681B was adopted.

8.6 Resolution No. 92-1641. For the Purpose of Approving a Contract between Metro and Tri-Met for Metro's Participation on the Westside Corridor High Capacity Transit Project

Motion: Councilor Devlin moved, seconded by Councilor Washington, for adoption of Resolution No. 92-1641.

Councilor Washington gave the Transportation & Planning Committees's report and recommendations. Councilor Washington explained the resolution would approve a contract between Metro and Tri-Met for Metro's participation on the Westside Corridor High Capacity Transit Project. He said the contract amount was for \$200,000 to allow Metro to provide technical expertise until the project was completed and until the Urban Mass Transit Administration's (UMTA) full-funding agreement was signed.

Councilor Hansen asked what the completion date was. Richard Brandman, Planning Department Planning Manager, said the completion date was projected for 1997.

Vote: Councilors Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. The vote was unanimous and Resolution No. 92-1641 was adopted.

8.7 Resolution No. 92-1636A, For the Purpose of Adopting the FY 1992-93 Pay Plan for District Employees and Awarding a Cost of Living Adjustment for Designated Non-Represented Employees

Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1636A.

Councilor Devlin gave the Finance Committee's report and recommendations. He explained the resolution would recognize non-represented employees's Cost of Living Adjustment (COLA); amend the Pay Plan to reflect the COLA increase; and adopt Pay Schedules as part of the adopted Pay Plan.

Vote: Councilors Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Buchanan, Collier and Wyers were absent. The vote was unanimous and Resolution No. 92-1636A was adopted.

9. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor Van Bergen distributed draft Resolution No. 92-1648, For the Purpose of Directing the Metropolitan Exposition-Recreation Commission (MERC) to Prepare a Plan for the Financial Management of the Spectator Facilities Fund, and said the Finance and Regional Facilities Committees would hold a joint meeting to consider the resolution. The Council briefly discussed MERC issues.

The Council discussed potential weekend retreat dates for September.

Presiding Officer Gardner reminded those present that the July 9 Council meeting had been canceled to facilitate Councilor attendance at the Council of Governments conference and that the July 2 Finance Committee was canceled also.

All business having been attended to, Presiding Officer Gardner adjourned the meeting at 8:15 p.m.

Respectfully submitted,



Paulette Allen
Clerk of the Council