

## MINUTES OF THE METRO COUNCIL

January 13, 1994

Council Chamber

Councilors Present: Presiding Officer Judy Wyers, Deputy Presiding Officer Ed Washington, Roger Buchanan, Richard Devlin, Jim Gardner, Mike Gates, Sandi Hansen, Jon Kvistad, Ruth McFarland, Susan McLain, Rod Monroe, Terry Moore and George Van Bergen

Councilors Absent: None

Presiding Officer Wyers called the regular meeting to order at 4:04 p.m.

### 1. INTRODUCTIONS

None.

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

None.

### 3. EXECUTIVE OFFICER COMMUNICATIONS

Deputy Executive Officer Dick Engstrom explained Executive Officer Rena Cusma was ill and unable to attend this meeting.

### 4. CONSENT AGENDA

#### 4.1 Minutes of December 17 and December 23, 1993

Motion: Councilor Kvistad moved, seconded by Councilor Washington, for adoption of the Consent Agenda.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was 13/0 and the Consent Agenda was adopted.

### 5. ORDINANCES, FIRST READINGS

#### 5.1 Ordinance No. 94-528, An Ordinance Amending Ordinance No. 93-487A Revising the FY 1993-94 Budget and Appropriations Schedule For the Purpose of Funding a Compost Bin Program and the Remainder of the Project to Replace the Roof and Ventilation System at Metro South Transfer Station; and Declaring an Emergency

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

Presiding Officer Wyers announced that Ordinance No. 94-528 had been referred to the Solid Waste and Finance Committees for consideration.

Presiding Officer Wyers announced the Council would consider Agenda Item No. 8.1 at this time.

#### 8.1 Presentation of Request of MCCI to Hold a Council Meeting in Another Part of the Metro Region

Councilor Devlin noted he had been appointed Council liaison to the Metro Committee for Citizen Involvement (MCCI). He said the MCCI had suggested the Council consider holding Council meetings in local jurisdictions and had specifically recommended the Council hold a meeting in Gresham in March. He said the Council should discuss

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MCCI's recommendations and he would discuss same with the MCCI. He said positive benefits could be accrued by going out to the community including improved public relations. He said meetings in the community would not benefit the different parties who attended Metro meetings for a variety of items. He said Public Cable Access and its ability to tape in different locations should be considered also. He said whatever item(s) happened to be on the agenda should be considered. He said the Council could consider having committee meetings held in areas with participatory program interests.

The Council discussed the issues. Councilor Gates said the Council could be held in the community on an alternate date from its regular meeting schedule or the Council committees could hold meetings in the community also. He said the Governmental Affairs Committee should at least consider the possibilities. Councilor Moore concurred and said that would be good for Councilors connected to particular geographical areas. She said neighborhood and business groups could be invited also to participate in discussions on issues affecting their area.

Presiding Officer Wyers asked Councilor Devlin to discuss the issues with the Council again at its first meeting in February.

**6. ORDINANCES SECOND READINGS**

**6.1 Ordinance No. 94-527, For the Purpose of Granting a Franchise Renewal to Ambrose Calcaeno, Jr., DBA A.C. Trucking For the Purpose of Operating a Solid Waste Transfer Station and Declaring an Emergency**

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

Presiding Officer Wyers announced that Ordinance No. 94-527 was read for a first time on January 4, 1994, and referred to the Solid Waste Committee for consideration. The Solid Waste Committee considered the ordinance on January 11 and recommended Ordinance No. 94-527A for adoption.

**Main Motion:** Councilor McLain moved, seconded by Councilor Hansen, for adoption of 93-527A.

Councilor McLain gave the Solid Waste Committee's report and recommendations. She noted an amendment attached to the committee report and said amendment was newly proposed since the Solid Waste Committee amended the ordinance at its special January 11, 1994, meeting. She said A.C. Trucking asked to amend language further in Section 5.3 related to the cap on tonnage. She said the City of Forest Grove was concerned about unlimited tonnage being processed by the Forest Grove Transfer Station (FGTS). She said the amendment matched the current cap of 120,000 tons per year. She noted differences between the previous five-year contract and the proposed five-year contract. She said one change dealt with where the waste would be disposed of. She said the franchisee determined where the waste went and said it was currently disposed of at Riverbend Landfill. She said per the new agreement, Metro would determine how, and where, waste from FGTS would be transported for final disposal. She said that gave Metro options to reverse that decision any time. She noted the company would be given notice on any proposed change. She noted FGTS was an important component of Metro's solid waste system and said the franchisee had worked well with Metro and been responsive to Metro's and the City's concerns.

**Motion to Amend:** Councilor McLain moved, seconded by Councilor Moore, to amend Section 5.3 per the Solid Waste Committee report (page 4).

Councilor Devlin noted that the City of Forest Grove might contact Metro and ask for additional time to review the amendment. Presiding Officer Wyers asked if Forest Grove would contact Metro on this issues. Councilor McLain noted Forest Grove representatives were present to testify on the issues.

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Vote on Motion to Amend: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Washington and Wyers voted aye. Councilor Van Bergen voted nay. The vote was 12/1 and the motion to amend passed.

Presiding Officer Wyers opened the public hearing.

Dan Mueller, president, Forest Grove Chamber of Commerce, 2417 Pacific Ave., Forest Grove, said the Chamber continued to support the franchise. He said the facility had a greater capacity to process more solid waste than it had been processing. He said the operator had been cooperative with the City, and the City received enhancement fees for improvement projects in the community.

Bob Alexander, Forest Grove/Cornelius Economic Development Council, 2417 Pacific Ave., Forest Grove, said that group also supported the franchise. He said FGTS employed citizens and the enhancement funds benefitted the community. He said they had no problem with increasing the cap to 120,000 based on the operator's current handling of the franchise. He said with regard to the ultimate destination of solid waste, the franchisee would be willing to incur additional expense to ensure proper disposal via compacting or other methods.

Richard Helzer, attorney for A.C. Trucking, 4500 SW Hall, Beaverton, made himself available for questions.

Charles Marshall, attorney, A.C. Trucking, 4500 SW Hall, Beaverton, made himself available for questions also

Councilor McLain asked Mr. Marshall what the franchisee thought about whether the waste went to the Riverbend or the Columbia Ridge Landfill. Mr. Marshall said the franchisee supported either disposal option.

Councilor Devlin asked if the franchisee would still be satisfied with the franchise if they had to install a compactor. Mr. Marshall said the franchisee would still be satisfied with the contract. Councilor Kvistad asked if it would be possible to transport solid waste by rail. Mr. Marshall said that was possible, but a short haul by truck would be involved.

Councilor Van Bergen said such a franchise agreement involved the ability and financial capacity of the franchisee to do the work. He said it was unclear who owned the property the transfer station sat on. He said mortgage and taxation questions were unanswered. He asked if all financial data given was true. He said the bond provided was meant to rehabilitate the land if the station closed down, but did not appear to protect Metro. He asked who the franchise partners would be and whether or not they had full or limited liability. He said these were important questions to ask and receive answers on, especially with regard to the State of Oregon's recent experience with the Pamcorp Company.

Councilor Kvistad said the company appeared to have undergone extensive financial review and said A.C. Calcagno had been a good regional partner. He said a full review of all Metro's franchises was a good idea for the future. Councilor Gates said the five years of previous experience with the franchisee should provide sufficient knowledge and experience for Metro to renew the contract. Councilor Devlin said he preferred that the Council delay adoption of the ordinance for two weeks, but said he would not oppose adoption at this time. He said he believed the franchise should be reviewed within the context of the entire solid waste system. He said the contract with FGTS did not mean that Metro did not need Metro West Station as currently proposed. He said if the franchisee had to install a compactor, their rate of return would be significantly reduced. He said the Council should defer consideration of Agenda Item No. 6.1 to give further parties the opportunity to give further testimony.

Councilor Moore noted she made the original motion to reconsider Resolution No. 94-1848, but did not believe consideration of that item should impede action on Ordinance No. 94-527A.

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Councilor McLain said the council was voting on the FGTS franchise only and whether or not it would process 70,000-120,000 tons per year in the future. She said Metro would make the decision on where the solid waste was ultimately disposed of.

Vote on Main Motion as Amended: Councilors Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Washington and Wyers voted aye. Councilor Van Bergen voted nay. Councilor Buchanan was absent. The vote was 11/1 and Ordinance No. 94-527A was adopted as amended.

**6.2 Ordinance No. 94-521A, An Ordinance Amending Ordinance No. 93-487A Revising the FY 1993-94 Budget and Appropriations Schedule For the Purpose of Funding an Intergovernmental Agreement with the City of Portland for a Predicate Study; and Declaring an Emergency**

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

Presiding Officer Wyers announced that Ordinance No. 93-521 was read for a first time on November 10, 1993, and referred to the Finance and the Governmental Affairs Committee for adoption. The Governmental Affairs Committee considered the ordinance on November 18 and held a joint meeting with the Finance Committee on December 16, at which time both committees recommended Ordinance No. 93-521 $\Delta$  to the full Council for adoption. She said the ordinance was placed on the December 23 Council agenda for final consideration, but was removed at Councilor Moore's request.

Motion: Councilor Hansen moved, seconded by Councilor Moore, for adoption of Ordinance No. 94-521 $\Delta$ .

Councilor Hansen gave the Governmental Affairs Committee's report and recommendations. She said the City of Portland had asked Metro to participate in the study to give them and Multnomah County a broader data base. She said Tri-Met and the Port of Portland did not plan to participate because they were conducting their own studies and programs to develop their own programs. She said Metro received testimony from various parties. She said that testimony told Metro it did not have as good a record as could be achieved, although it had conducted a good faith effort. She referred to a chart printed in the agenda packet demonstrating Metro's good faith efforts and said Metro had achieved 12 percent minority contractor involvement and 5 percent women-owned business involvement. She said the study would be conducted over three years and that Metro would pay up to \$50,000 over the next two fiscal years.

Councilor Moore reported on the letter she sent to all local jurisdictions asking if they wished to participate in the study. She discussed responses to the letter which indicated that those jurisdictions/entities did not have enough funds to participate in the study and/or did not wish to participate at all. She said other jurisdictions might discuss the study at future meetings, but would likely not wish to participate in a regional study.

Presiding Officer Wyers opened the public hearing. No persons present appeared to testify and the public hearing was closed.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was 13/0 and Ordinance No. 94 521A was adopted.

7. RESOLUTIONS

7.1 Resolution No. 94-1860A, For the Purpose of Authorizing the Executive Officer to Execute an Intergovernmental Agreement with the City of Portland for a Predicate Study

Motion: Councilor Hansen moved, seconded by Councilor Gates, for adoption of Resolution No. 94-1860A.

Councilor Hansen gave the Governmental Affairs Committee's report and recommendations and noted this resolution was companion legislation to Ordinance No. 94-521A.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was 13/0 and Resolution No. 94-1860A was adopted.

7.2 Resolution No. 94-1868, For the Purpose of Adopting an Intergovernmental Agreement for Management of the Willamette Shore Line Right-of-Way

Motion: Councilor Devlin moved, seconded by Councilor Kvistad, for adoption of Resolution No. 94-1868.

Councilor Devlin gave the Planning Committee's report and recommendations. He explained the resolution would establish an IGA for management of the Willamette Shore Line right of way (ROW). He said Metro's agreement to the IGA was necessary for preservation of the line, especially with regard to the South/North study, or possibly a future Macadam Avenue light rail transit line (LRT). He said concerns expressed at committee related to the number of options for the ROW. He said a citizen expressed concern about confusion over the options and asked that they be clarified to the public as soon as possible. He said the third possibility was that the current vintage trolley could continue on the line also.

Presiding Officer Wyers opened a public hearing.

Mike Cook, Willamette Shores Association chair, 5620 SW Riverside Lane, #17, Portland, introduced Martin Taylor, 5630 SW Riverside Lane, #23, Portland, and a member of the same organization. Mr. Cook distributed a map to the Council and discussed the same. He said he understood the participating jurisdictions had committed to the "dotted" alignment. He did not understand why the additional ROW had to be maintained. He asked what kind of line was anticipated for the ROW. He said lines as proposed would jeopardize the vintage trolley and adversely affect residential housing. He said the Council should not support a high capacity LRT line for the area.

Mr. Taylor said using the existing line for LRT would adversely impact residential areas and asked the Council to place restrictions on the line's future use. He said such conditions would assure home owners.

The Council discussed the issues with Mr. Cook and Mr. Taylor. In response to Councilor Gardner's question, Mr. Cook said the City of Portland Master Plan for the area said "one or the other" alignment would be used. Councilor Van Bergen said the resolution did not authorize the Council to make decisions on the alignment itself. Mr. Cook said Metro's resolution would preserve a portion of the ROW in which commitments had been made not to relocate the line to Macadam. He said he spoke now to protect the interests of property owners. Councilor Van Bergen asked if the resolution had any budget impact. Councilor Devlin said costs were being borne by the jurisdictions making the land use decisions. He said Metro's cost was mainly in staff time. To Councilor Moore's question, Mr. Cook said he did not object to LRT, but said LRT was not sensible for this particular alignment. Councilor Moore encouraged Mr. Cook to come back and testify at the appropriate time. The Council and testifiers discussed the issues further.

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Presiding Officer Wyers said she would vote nay because any use other than a trolley line through the residential area in question was inappropriate. She said proposing LRT use for that ROW was inappropriate. Councilor Van Bergen said he would support the resolution in the hope that the LRT would eventually go to Milwaukie. Councilor Gardner said adoption of this resolution did not preclude selection of the east or the west side for LRT. He hoped that eventually LRT would be sited on the west side. He said preserving this corridor left options for the future. He said LRT could easily be placed on Macadam, but said it was prudent to preserve this ROW at this time. Councilor Devlin said it was necessary to preserve old corridors for LRT and natural areas. He said Metro was ensuring that the ROW would be preserved for the future. He said corridors had been lost in the past due to lack of foresight.

Vote: Councilors Buchanan, Devlin, Gardner, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen and Washington voted aye. Councilor Wyers voted nay. The vote was 12/1 and Resolution No. 94-1868 was adopted.

Presiding Officer Wyers recessed the Metro Council and convened the Contract Review Board to consider Agenda Item Nos. 7.3 and 7.4.

7.3 Resolution No. 94-1891, For the Purpose of Adopting an Extension to Metro Contract No. 903389 and to Exempt This Work from Competitive Bidding, Pursuant to Metro Code Section 2.04.054(a)(2)

Motion: Councilor Gardner moved, seconded by Councilor Gates, for adoption of Resolution No. 94-1891.

Councilor Gardner gave the Planning Committee's report and recommendations. He said the resolution would add onto an existing contract with ECO Northwest for descriptive indicators analysis of the different growth concepts for the 2040 Program and discussed the work required further.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was 13/0 and Resolution No. 94-1891 was adopted.

7.4 Resolution No. 94-1897, For the Purpose of Rejecting an Appeal by James Luzier of the Award of a Contract to Portland State University for Groundwater Modeling at the St. Johns Landfill and Authorizing the Executive Officer to Execute the Agreement

Motion: Councilor Washington moved, seconded by Councilor Hansen, for adoption of Resolution No. 94-1897.

Councilor Washington gave the Solid Waste Committee's report and recommendations. Councilor Washington explained Mr. Luzier appealed Metro's decision to award the contract to Portland State University. He said Mr. Luzier appealed the decision and stated Portland State University was willing to include him in the contract. He said there was no evidence that PSU would do so.

Councilor Van Bergen asked if the grounds for denying the appeal were appropriate. General Counsel Dan Counsel said they were and that there were no grounds to reject award of the contract to PSU. Councilor Washington concurred.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was 13/0 and Resolution No. 94-1897 was adopted.

7.5 Resolution No. 94-1892, For the Purpose of Revising Chapter 5 of the Regional Solid Waste Management Plan and Adjusting Tonnages at Metro Facilities

Presiding Officer Wyers noted this item had not yet been forwarded by the Solid Waste committee to the full Council for consideration and removed it from the agenda.

7.6 Resolution No. 94-1848, For the Purpose of Authorizing the Executive Officer to Enter Into a Franchise Agreement with Willamette Resources, Inc., for Construction and Operation of the Metro West Station

Councilor Moore discussed the history of this resolution to-date and the Council's vote to reconsider it on September 23. She said that action had been for the purpose of gathering all possible information on the resolution. She asked the Council to agree to defer action on the resolution for two more weeks. She said all of staff's work and all information from Willamette Resources, Inc., (WRI) was not available for review until recently.

Motion No. 1: Councilor Moore moved, seconded by Councilor McLain, for adoption of Resolution No. 94-1848 and to defer the Council's vote on same to the Council meeting January 27.

Councilor Moore said the motion would allow the Council to take testimony at this meeting and at the January 27 Council if necessary.

General Counsel Cooper said the resolution had been moved, defeated, and reconsidered for consideration by the Council on or before January 15. He said the Council in effect had a main motion before them already. He said debate should center solely on whether to defer Council adoption of this item or not.

The Council and Mr. Cooper discussed the motion and parliamentary procedure related to same.

Withdrawal of Motion No. 1: Councilor Moore withdrew Motion No. 1.

Presiding Officer Wyers opened a public hearing. She said interested parties could testify now or at the January 27 meeting.

Robert Peterson, citizen, 8655 SW Parkview Loop, Beaverton, asked, if the resolution was delayed, whether the Council would open another public hearing.

Presiding Officer Wyers said the Council would hold another public hearing.

Mr. Peterson said additional delay would not change anything. He did not believe there would be any new information of note.

Councilor Kvistad said he would vote against delaying the resolution. He said the Council should vote for a final time on the resolution at this meeting.

Councilor Devlin said, if the Council was going to discuss whether to delay or not, that such a motion should be before the Council.

Merle Irving, vice-president, WRI, said he could make comments at this time if appropriate, but urged the Council to allow Washington County time to submit further information.

Presiding Officer Wyers asked if any other persons present wished to testify. No other persons present appeared to testify and the public hearing was closed.

Motion No. 2: Councilor Moore moved, seconded by Councilor McLain to continue Resolution No. 94-1848 to the January 27 Council meeting.

Councilor McLain said the delay was suggested for a two-week period only. She said both Clackamas and Washington Counties had asked Metro to wait for two more weeks. Councilor Gardner concurred with Councilor McLain, especially with regard to the Metropolitan Policy Advisory Committee's (MPAC) discussion of the issues at its meeting on January 12. He said various jurisdictions expressed surprise that the Council would consider the resolution at this meeting. Councilor McFarland noted various solid waste policy advisory groups had stated delay at this time would be convenient for their purposes. She said she was prepared to vote in two weeks time and said the rest of the Council should do the same.

Councilor Devlin concurred with Councilor McFarland. He said a delay would allow all parties to come back in two weeks with prepared comments.

Councilor Gates said he would be out-of-state during the week of January 27. He said he had made his plans believing the Council would take action on Resolution No. 94-1848 at this meeting.

Presiding Officer Wyers asked Mr. Cooper if it was possible to reconsider an item more than once. Mr. Cooper said it was not possible.

Councilor Monroe said all interested parties had ample opportunity to testify and said the Solid Waste Committee had held a special meeting last week to discuss the issues.

Councilor Gates said he would be back on January 28, but asked if it was possible to vote long-distance via the phone.

Mr. Cooper said the Council's rules precluded phone votes. Councilor Gates asked if it would be possible to suspend the Council's rules to allow phone votes. Mr. Cooper said he would have to research that option.

Presiding Officer Wyers called a recess at 6:06 p.m. The Council reconvened at 6:34 p.m.

Mr. Cooper said the Metro Code required Councilors to be physically present and that the Code could not be overruled via voice vote.

Councilor Gates offered a friendly amendment to Motion No. 2.

Motion No. 3: Councilor Gates moved, seconded by Councilor Moore, to defer consideration of Resolution No. 94-1848 to a special Council meeting on Thursday, January 20, at 4:00 to be held before the Planning Committee met.

The Council as a whole discussed the motion.

Vote on Motion No. 3: Councilors Devlin, Gates, Hansen, McFarland, McLain, Monroe, Moore, Washington and Wyers voted aye. Councilors Gardner, Kvistad and Van Bergen voted nay. Councilor Buchanan was absent. The vote was 9/3 and the motion passed.

Presiding Officer Wyers said the Council would now vote simply on whether to defer consideration or not, since it had determined to defer one week rather than two weeks. She said the motion before the Council was whether or not to defer.



Vote on Motion No. 2: Councilors Devlin, Gardner, Gates, Hansen, McLain, Monroe, Moore, Washington and Wyers voted aye. Councilors Kvistad, McFarland and Van Bergen voted nay. Councilor Buchanan was absent. The vote was 9/3 and the motion passed.

Presiding Officer Wyers announced the Council would consider Resolution No. 94-1848 at a special meeting on Thursday, January 20, 4:00 p.m., time certain.

7.7 Resolution No. 94-1870. For the Purpose of Approving a Lease/Purchase Agreement Whereby United States National Bank of Oregon Leases and Sells Certain Equipment to Metro; and Authorizing the Execution and Delivery of the Lease/Purchase Agreement and Other Matters Pertaining Thereto

Motion: Councilor Kvistad moved, seconded by Councilor Gardner, for adoption of Resolution No. 94-1870.

Councilor Kvistad gave the Finance Committee's report and recommendations. He explained the resolution would procure equipment for both the Finance & Administration Department and the Planning Department's Regional Land Information System (RLIS). He said the lease would cost \$225,000 for computer upgrades and equipment and \$14,500 for upgrading postage meter equipment. He said the RLIS upgrade was necessary to facilitate other users and incorporate Greenspaces Program data.

There was no Councilor discussion or questions.

Vote: Councilors Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilor Buchanan was absent. The vote was 12/0 and Resolution No. 94-1870 was adopted.

8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

8.1 Presentation of Request of MCCI to Hold a Council Meeting in Another Part of the Metro Region

Considered earlier at this meeting; see page 1.

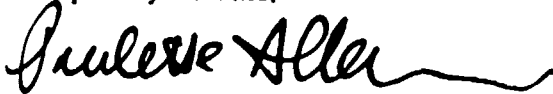
Councilor Gates discussed having a video center housed in Metro Regional Center to be mostly paid for Public Cable Access and other cable entities. He said if the Council Chamber was properly cabled, Council meetings could be broadcast live and other entities could use Metro facilities as well. Councilor Moore asked if that meant other jurisdictions would be able to watch MPAC and other meetings live from their localities. Councilor Devlin said Metro would have to check with local jurisdictions and see what their franchises were and if they had reserved any local channels for local cable access. Councilor Gates said that research was being done now.

Presiding Officer Wyers said the Council workshop scheduled for February 26 was originally scheduled to be held from 10-4 p.m. She noted that the Regional Rail Summit would be held that date also and asked if Councilors wished to change their workshop time to accommodate attendance the Summit. The Council discussed possible times and decided to change their workshop schedule to 12-6 p.m. to accommodate morning attendance at the Summit for Councilors who wished to attend.

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All business having been attended to, Presiding Officer Wyers adjourned the regular meeting at 6:24 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Paulette Allen" with a long, sweeping horizontal flourish extending to the right.

**Paulette Allen**  
**Clerk of the council**  
**MCMIN94.013**