

MINUTES OF THE METRO COUNCIL

CORRECTED

February 24, 1994

Council Chamber

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

Councilors Absent: Roger Buchanan

Also Present: Executive Officer Rena Cusma

Presiding Officer Wyers called the regular meeting to order at 4:00 p.m.

1. INTRODUCTIONS

None.

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

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Executive Officer Cusma presented the proposed FY 1994-94 Budget and Appropriations Schedule (copy of her speech filed with the record of this meeting)

Executive Officer Cusma noted a letter she received from David Green, citizen, 545 SW Maplecrest Drive, Portland, and read it for the record (filed with the record of this meeting). She said Mr. Green had responded to the February 19 Oregonian story in the "Metro" section on Metro as a whole and said he applauded Metro's efforts to increase citizen communications via computer networks.

Executive Officer Cusma and the Council briefly discussed budget particulars further based on whether a 6 or 7 percent excise tax would be imposed. Executive Officer Cusma distributed her February 24, 1994, memorandum to the Metro Council, "FY 1994-95 Decision (Add) Packages." She said the memorandum had "add" packages not included in the Proposed FY 1994-95 Budget, but that should be considered for inclusion in the final budget if funding for same was achieved.

4. CONSENT AGENDA

4.1 Minutes of January 27 and February 10, 1994

Motion: Councilor Hansen moved, seconded by Councilor Gates, for adoption of the Consent Agenda.

Vote: Councilors Gardner, Gates, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Devlin and McLain were absent. The vote was 10/0 and the Consent Agenda was adopted.

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 94-535, For the Purpose of Adopting the Annual Budget for Fiscal Year 1994-95, Making Appropriations and Levying Ad Valorem Taxes, and Declaring an Emergency (Public Hearing)

The Clerk read Ordinance No. 94-535 for a first time by title only.

Presiding Officer Wyers announced that per Oregon Budget Law, ORS 294.401, any citizens wishing to do so could testify on Metro's proposed FY 1994-95 budget at this time.

Presiding Officer Wyers opened the public hearing.

No persons present appeared to testify and the public hearing was closed.

Presiding Officer Wyers announced the Council would hold an informational workshop on the proposed budget on Saturday, February 26, at Metro Regional Center, Room 370, and said members of the public were welcome to attend.

5.2 Ordinance No. 94-531, For the Purpose of Amending Metro Code Chapter 5.02 to Adjust Disposal Fees Charged at Metro Solid Waste Facilities, Provide for Special Exemptions from Fees and Establish Covered Load Rebates

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

Presiding Officer Wyers announced Ordinance No. 94-531 had been referred to the Solid Waste Committee for consideration.

6. NON-REFERRED RESOLUTIONS

Motion to Suspend the Rules: Councilor Gates moved, seconded by Councilor Van Bergen, to suspend the Council's rules requiring resolutions be referred by committee so that the Council as a whole could consider Resolution Nos. 94-1899 and 94-1907.

Vote on Motion to Suspend: Councilors Gardner, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Devlin and Kvistad were absent. The vote was 10/0 and the motion to suspend the rules passed.

6.1 Resolution No. 94-1899, For the Purpose of Accepting a Sixth Group of Nominees to the Metro Committee for Citizen Involvement (Metro CCI)

Motion: Councilor Van Bergen moved, seconded by Councilor Gardner, for adoption of Resolution No. 94-1899.

Councilor Van Bergen explained the resolution would fill three vacancies on the Metro Committee for Citizen Involvement (MCCI); or, one regular member and alternate from District 5, and one alternate from District 10.

There was no Councilor discussion or questions.

Vote: Councilors Gardner, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Devlin and Kvistad voted aye. The vote was 10/0 and Resolution No. 94-1899 was adopted.

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- 6.2 Resolution No. 94-1907, For the Purpose of Establishing a "Metro Regional Hazard Mitigation Awards Program" to: (1) Recognize Excellence in the Design and Construction of Buildings to Reduce the Risk to Public Health and Safety from Seismic Hazards; (2) Recognize Special Effort by Private or Public Agencies to Reduce Risks to the Public or to the Work Force Through Non-Structural Mitigation Measures; and (3) Honor Individuals Who Have Demonstrated Deep and Consistent Commitment to Improving the Community's Emergency Preparedness Capability

Motion: Councilor Van Bergen moved, seconded by Councilor Gates, for adoption of Resolution No. 94-1907.

Councilor Van Bergen explained the resolution would establish an awards program under Metro's auspices to recognize those who had worked to reduce potential damage in emergencies and that it was geared primarily towards earthquake preparedness.

The Council briefly discussed the issues. They discussed what structural damage was, what committee should oversee the awards program, and why. Councilor Gates said the Governmental Affairs Committee was responsible for intergovernmental relations and therefore should oversee the program, and Councilor Moore believed the work called for should be covered by the Planning Committee.

Vote: Councilors Gardner, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Devlin and Kvistad were absent. The vote was 10/0 and Resolution No. 94-1907 was adopted.

- 7.1 Resolution No. 94-1905, For the Purpose of Amending the FY 1994 Transportation Improvement Program to Allocate Funds to Support the Oregon Transportation Finance Committee Public Outreach Program

Motion Councilor Monroe moved, seconded by Councilor Hansen, for adoption of Resolution No. 94-1905.

Councilor Monroe gave the Planning Committee's report and recommendations. He explained the resolution would allocate \$8,700 in regional STP funds to assist lobbying efforts for the next multi-modal transportation funding package before the 1995 State Legislature. He said STP funds had been used for this purpose in the past.

Vote: Councilors Gardner, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Devlin and Kvistad were absent. The vote was 10/0 and Resolution No. 94-1905 was adopted.

- 7.2 Resolution No. 94-1900, For the Purpose of Endorsing the NW 112th Linear Park for Funding as Part of ODOT Region I Priorities for Transportation Enhancement Funding in the 1995-1998 Transportation Improvement Program

Motion Councilor McLain moved, seconded by Councilor Van Bergen, for adoption of Resolution No. 94-1900.

Councilor McLain gave the Planning Committee's report and recommendations and noted supporting documents printed in the agenda packet. She said it was still felt that the Joint Policy Advisory Committee on Transportation (JPACT) and the Council were not communicating clearly enough on pivotal issues. She said Resolution No. 94-1900 focussed only on the Linear Park project, which was part of a larger package, but said the project had been controversial to-date.

Councilor Moore said the project in question was not a park, but was a pathway through a park. Councilor McLain said the project's title had also been a source of debate, but that it was the project's official title at this time.

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Presiding Officer Wyers opened a public hearing.

Patricia Miller, MCCI member, 11165 NW Cornell Road, Portland, said she wanted to state that the Council was responsible for clarifying the criteria on this project only. She said the only public process activity on the project to-date had been a Washington County open house which displayed a model of the project which she said was misleading to citizens. She said the open house and model did not answer questions on use, safety, access or connection to light rail. Ms. Miller distributed copies of her February 17 memorandum to the Planning Committee, "Resolution 94-1900 Linear Park," and discussed the same. She said the public information process had not been adequate and said the MCCI would work on that issue. She discussed the proposed physical parameters of the path, and said as written, they were unsafe. She said it was unclear if the path would be deeded to the Tualatin Valley Recreation Association or not.

Mike Borreson, Washington County Department of Land Use & Transportation, reviewed deed details and said the facility in question could later be deeded to the Tualatin Hills Park & Recreation District if the District chose to accept it.

Councilor Gardner and Mr. Borreson discussed where the pathway would connect with light rail. Councilor Monroe asked if the parkway area would be used to widen the highway and delete the parkway and bikeway. Mr. Borreson said the County did not plan to widen the highway and was why they wanted to deed it over and make the project a park. Councilor Moore discussed the physical specifications of one corner in detail and said it contained no provisions for a sidewalk. Councilor Moore said the project in question was a pathway and referred to the minority report she filed at the October 28 Council meeting for Resolution No. 94-1858B which listed four reasons to send the resolution/issues back to JPACT and TPAC for further consideration. She said the main issue related to the ranking of the project compared to other regional projects. She said she did not hear during testimony that adequate technical analysis had been done. She said neither TPAC or JPACT performed necessary analysis of technical ranking. She said the public process had been examined, but the reasons for returning the project were not. She said she would have been supportive of the project if her questions had been properly answered.

Councilor Gardner said a primary issue was whether or not the project would be built within the 1995-98 TIP project list. He said the project would provide amenities for the neighborhood but did not serve true transportation purposes. He expressed concern also about the public process procedures used to-date. He said JPACT had promised to hold a public hearing, but canceled one scheduled for December 1993. He said the public process had been violated and that he would vote nay on the resolution also.

Councilor Kvistad said the resolution only involved one project which Planning, JPACT, and TPAC had all reviewed and approved numerous times. He said it had been referred back to JPACT for further work, but said the Council was not responsible for what JPACT did or did not do. He said Metro staff had done an excellent job and that citizens had been given the opportunity to give input.

Councilor McLain said the Council should approve the resolution based on whether or not the Council believed the criteria would enhance intermodal transportation in the region. She said Metro was developing citizen involvement standards and that Washington County would have to meet them in the future. She said she asked JPACT about the public hearing they canceled. She said it was unfortunate that JPACT had canceled the December public hearing, but said that JPACT had taken testimony on the issues on two other occasions.

Vote: Councilors Devlin, Gates, Kvistad, McFarland, McLain, Monroe, Van Bergen, Washington and Wyers voted aye. Councilors Gardner, Hansen and Moore voted nay. Councilor Buchanan was absent. The vote was 9/3 in favor and Resolution No. 94-1900.

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

Councilor Monroe gave the Solid Waste Committee's report and recommendations. He explained the resolution was meant to provide for a comprehensive revision of the Regional Solid Waste Management Plan (RSWMP) as it related to the development and regulation of solid waste disposal and recycling facilities in the region; provide Council support for the implementation of a plan to divert a minimum of 60,000 tons per year from Metro South Station (MSS) to Metro Central Station (MCS); and establish a five-year moratorium on new large-scale transfer stations. He said RSWMP revisions would be completed by the end of 1994 and implementation of the tonnage diversion would be completed by July 1, 1994.

Councilor McLain said the resolution would limit the RSWMP and offered no flexibility and said she could not support it. Councilor Devlin said he could support the resolution except for the language contained in Be It Resolved Section No. 4. Councilor Moore concurred and said it was important to address the different types of waste processed at transfer stations also. Councilor Monroe said language in Be It Resolved Section No. 4 had been misinterpreted and said it referred larger facilities with tonnage over a certain amount. Councilor McLain said review of Chapter 5 was necessary at this time. She concurred with Councilor Gardner's statement that it was as easy to impose a moratorium as it was to take it off. She said Metro was currently renegotiating its contract with Oregon Waste Systems (OWS) and other contract negotiations were coming up. She said it was premature to adopt the resolution at this time. Councilor Kvistad concurred with Councilor McLain.

Motion to Amend: Councilor Devlin moved, seconded by Councilor Hansen, to amend Resolution No. 94-1892 by deleting Be It Resolved Section No. 4 language as follows: ~~[That it is the Metro Council's intent that no new transfer stations, as defined in Metro Code Section 5.01.010(c), with a capacity of over 75,000 tons per year shall be franchised for a period of five years from the date of approval of this resolution.]~~

Councilor Monroe opposed the motion to amend and concurred with Councilor Gardner's comments. Councilor Gates said the idea was to move more tonnage from MSS to MCS. He said MSS was in his district and he would vote for the amendment. Councilor Devlin said the resolution presupposed there would be no other major solid waste facilities built.

Vote on Motion to Amend: Councilors Devlin, Gates, Hansen, Kvistad, McLain and Moore voted aye. Councilors Gardner, McFarland, Monroe, Van Bergen, Washington and Wyers voted aye. Councilor Buchanan was absent. The vote was 6/6 and the motion to amend failed to pass.

Vote on Main Motion: Councilors Gardner, Gates, McFarland, Monroe, Washington and Wyers voted aye. Councilors Devlin, Hansen, Kvistad, McLain, Moore and Van Bergen voted nay. The vote was 6/6 and Resolution No. 94-1892 was not adopted.

Councilor McFarland said the Solid Waste Committee would review the issues again and try to propose a workable solution.

Presiding Officer Wyers recessed the Metro Council and convened the Contract Review Board to consider Agenda Item Nos. 7.4, 7.5 and 7.6.

7.4 Resolution No. 94-1894, For the Purpose of Authorizing an Exemption to the Competitive Procurement Procedures of Metro Code Chapter 2.04.053 and Authorizing a Change Order to Design Services Agreement with Parametrix, Inc.

Motion: Councilor Hansen moved, seconded by Councilor McFarland, for adoption of Resolution No. 94-1894.

Councilor Hansen gave the Regional Committee's report and recommendations. She said the resolution would authorize work to close St. Johns Landfill (SJL) subareas 4 and 5 with the final subarea to go through bid next year.

There were no Council 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. 94-1894 was adopted.

7.5 Resolution No. 94-1920, For the Purpose of Rejecting an Appeal by Rollins & Greene Builders, Incorporated, of the Award of a \$361,150 Contract to Remodel the Research Building at the Metro Washington Park Zoo and Authorizing the Executive Officer to Execute the Agreement with Lonigan Construction Company

Motion: Councilor McFarland moved, seconded by Councilor Hansen, for adoption of Resolution No. 94-1920.

Councilor McFarland gave the Solid Waste Committee's report and recommendations. She explained that two companies had presented bids, the low bidder had been accepted, but it was decided that both bidders were marginally unresponsive and had some errors in their bid documents. She said they resubmitted their bids within two days and the losing bidder appealed per Metro Code language that stated minor irregularities could be waived. She said the Committee decided Lonigan was the more responsive bidder and awarded the contract to that company.

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. 94-1920 was adopted.

Councilor Van Bergen asked if the plaintiff could sue Metro. General Counsel Dan Couper said the plaintiff had 60 days to ask the Circuit Court for review. He said the issue at hand was a discretionary one for the Council to decide.

7.6 Resolution No. 94-1909, For the Purpose of Waiving Competitive Bidding and Authorizing a Design-Build Contract with Ray Mendez for a Naked Mole Rat Exhibit

Motion: Councilor Washington moved, seconded by Councilor Devlin, for adoption of Resolution No. 94-1909.

Councilor Washington gave the Regional Facilities Committee's report and recommendations.

Councilor McFarland said the contract was sole-source because there was only one contractor nationally who was able to fulfill specifications for naked mole rat quarters.

The Council as a whole discussed naked mole rats further.

Councilor Hansen noted the contractor had developed a concrete the naked mole rat could not chew through and also could breed in successfully. She said also that naked mole rats were indigenous to Africa, were burrowing animals, and

needed a hot, humid habitat. She said they had a similar social structure to that of a bee colony and had a naked mole rat queen.

Councilor Van Bergen asked what the source of funding for the project was and asked what other Zoo project had been cut back to do so.

Casey Short, Senior Council Analyst, explained that building the naked mole rat exhibit had not caused other projects to be cut back or delayed. He said completion of work at the Elephant Interpretive Center had been cut back to wait for some survey results and that two other projects at the Zoo had been cut back separately and independently from the Naked Mole Rat Exhibit. He said Zoo staff had not answered whether or not there would be other costs related to the Naked Mole Rat Exhibit. Councilor Van Bergen asked if the exhibit was being funded out of contingency. Mr. Short said it would be funded from the Design & Services Zoo line item. He said the contract was before the Council for consideration because it was sole source, but said the project had already been approved in the budget.

Vote: 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 in favor and Resolution No. 94-1909 was adopted.

## 8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor McLain thanked Metro staff for their presentations at the Council work session on the 2040 Program. She said the work session had been excellent and was glad to see citizens in attendance.

Councilor Hansen discussed alternative efforts to fund maintenance of pioneer cemeteries, noted a task force would meet soon to discuss the issues, and asked Councilors to provide any suggestions on same.

Councilor McFarland said she attended a meeting on February 23 on the MERC business plan. She said it was not finished, but said it appeared to be a worthy document.

Councilor Kvistad asked when Councilors could tour newly added Metro facilities. Councilor Hansen said the Regional Facilities Committee had visited the Expo Center, but said a tour of other facilities would not be scheduled until the weather improved.

Councilor Van Bergen said he did not object to Resolution No. 94-1909 because it was sole source, but because it should have been covered as an item under the budget and not as a resolution.

Councilor Van Bergen said he did not like the comments made earlier at this meeting about JPACT's conduct in 1993 when considering the 112th Linear Park project. He said he had acted as chair of JPACT in good faith. Councilor Moore said she had not referred to JPACT's conduct in 1993, but to JPACT's most recently held meeting and its lack of response to the concerns she had expressed on the project.

Councilor Gardner said he could not attend the Council Budget Workshop scheduled for February 26 until 12:00 and asked why its starting time had been changed from the previously-agreed upon time 12:00 p.m. to 10:00 a.m. The Council discussed the changed start date.

Don Carlson, Council Administrator, reviewed the auditor's work on public affairs activities to-date.

All business having been attended to, Presiding Officer Wyers adjourned the regular meeting at 6:08 p.m.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paulette Allen", with a long, sweeping flourish at the end.

Paulette Allen  
Clerk of the Council  
MCMIN94.055