

**APPROVED**  
Date 6/9/94

MINUTES OF THE METRO COUNCIL

CORRECTED

May 26, 1994

Council Chamber

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

Councilors Absent: Roger Buchanan, Jim Gardner and Jon Kvistad

Also Present: Executive Officer Rena Cusma

Presiding Officer Wyers called the regular meeting to order at 4:05 p.m.

3.1 Briefing by the Portland Metropolitan Sports Authority on Their Activities To-Date

Will Glasgow, president, Portland Metropolitan Sports Authority (PMSA) and Craig Honeyman, executive director, PMSA, briefed the Council on PMSA's activities to-date and distributed the PMSA's annual report for 1993 to the Council.

The Council and Mr. Glasgow and Mr. Honeyman briefly discussed their report further.

3.2 Briefing on FOCUS Discussion on Regional Financing Strategies

Jennifer Sims, Director of Finance and Management Information, briefed the Council on the Forum on Cooperative Urban Services discussion to-date on regional financing strategies.

The Council and Ms. Sims briefly discussed the issues further.

4. CONSENT AGENDA

4.1 Minutes of May 12, 1994

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

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

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 94-553, An Ordinance Amending the FY 1993-94 Budget and Appropriations Schedule For the Purpose of Funding Outside Counsel Opinion Regarding Contract Authority, and Declaring an Emergency

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

Presiding Officer Wyers announced that Ordinance No. 94-553 had been referred to the Finance Committee for consideration.

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**5.2 Ordinance No. 94-554, Relating to Contract Procedures Amending Metro Code Chapter 2.04 to Increase to \$25,000 the Maximum Amount of Contracts That May Be Let Without Using a Formal Bid or Request for Proposals Process**

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

Presiding Officer Wyers announced that Ordinance No. 94-554 had been referred to the Finance Committee for consideration.

**6. ORDINANCES, SECOND READINGS**

**6.1 Ordinance No. 94-551A, An Ordinance Amending the FY 1993-94 Budget and Appropriations Schedule to Revise the Building Management Fund to Reflect the Change in Operational Requirements and the Agreement with AMCO Portland for the Early Termination of the Lease of Metro Center, and Declaring an Emergency (Public Hearing)**

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

Presiding Officer Wyers announced that Ordinance No. 94-551 was first read on May 12, 1994 and referred to the Finance Committee for consideration, but explained the Finance Committee meeting scheduled for May 25 had been canceled and that the ordinance had been scheduled for this agenda for second reading and consideration.

**Main Motion:** Councilor Monroe moved, seconded by Councilor Hansen, for adoption of Ordinance No. 94-551.

**Motion to Amend:** Councilor Monroe moved, seconded by Councilor Gates, to amend Ordinance No. 94-551 with Exhibits A and B corrected for typographical errors by Finance and Management Information staff.

Councilor Monroe explained the ordinance would fund Metro's agreement with AMCO Portland to terminate the lease of Metro Center. He said \$394,000 would be transferred from the General Fund to the Building Management Fund.

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

**Vote on Motion to Amend:** Councilors Devlin, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Gardner and Wyers were absent. The vote was 10/0 in favor and Ordinance No. 94-551 was amended.

**Vote on Main Motion as Amended:** Councilors Devlin, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Gardner and Kvistad were absent. The vote was 10/0 in favor and Ordinance No. 94-551A was adopted.

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Councilor McLain thanked Executive Officer Cusma and Doug Butler, Director of General Services, for their work to resolve the issue. Councilors Hansen and McFarland concurred with Councilor McLain and thanked them for their work on the issues also.

6.2 Ordinance No. 94-549A, An Ordinance Relating to the Metro Excise Tax Amending the Code and Increasing the Tax Rate on Users of the Solid Waste System (Public Hearing)

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

Presiding Officer Wyers announced that Ordinance No. 94-549 was first read on May 5, 1994, and referred to the Finance Committee for consideration. The Finance Committee considered it on May 11 and forwarded Ordinance No. 94-549A to the Council with no recommendation.

Main Motion: Councilor Monroe moved, seconded by Councilor McLain, for adoption of Ordinance No. 94-549A.

Councilor Monroe gave the Finance Committee's report. He said the ordinance was necessary to fund Metro operations and discussed amendments made to the ordinance at committee. He said Section Nos. 2 and 3 provided for a split rate excise tax effective September 1, 1994 and that Section Nos. 4 and 5 provided for a uniform excise tax of 7.5 percent effective September 1, 1995. He said he planned to introduce an ordinance to provide for broad-based funding of Metro's planning operations at a later date.

Motion to Substitute: Councilor Devlin moved, seconded by Councilor McLain, to substitute Ordinance No. 94-549B for Ordinance No. 94-549A.

Councilor Devlin explained Ordinance No. 94-549B would impose a uniform excise tax rate effective September 1, 1994, of 7.5 percent on Metro goods and services. He said he anticipated that, when the Council adopted the FY 1994-95 Budget in June, the excise tax rate necessary to fund Metro operations would be 7.4 percent, but said the ordinance would limit the excise tax rate to 7.5 percent.

Presiding Officer Wyers opened the public hearing

Susan Ziolko, Clackamas County waste reduction manager, 902 Abernethy Road, Oregon Road, said the Clackamas County Board of Commissioners did not support a higher, split excise tax rate imposed on solid waste services to fund other, Metro non-solid waste functions. She said Clackamas County could support the ordinance proposed by Councilor Devlin.

Councilor Chris Boitano, City of Gresham, 1333 NW Eastman Parkway, Gresham, said he understood Metro's need to find funding for planning functions, but said Metro had not fully explored all other options. He said it was not fair to utilize solid waste funds simply because they were easy to access. He said the Cities of East Multnomah County were strongly opposed to that. He said East Multnomah County had worked very hard to implement Metro's solid waste planning and functions.

Councilor Boitano and the Council discussed the issues further. To Councilor Moore's question, Councilor Boitano said his constituents felt the split rate excise tax would set precedent. Councilor Gates asked Councilor Boitano if his constituents had identified alternative financing sources for Metro. Councilor Boitano said they had not. Councilor Gates said that his support for a split rate excise tax rate stemmed from his knowledge that other Metro departments and facilities had severe financial needs.

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Estle Harlan, Tri-County Council, 2202 Lake Road, Milwaukie, distributed her written testimony and said the Tri-County Council supported the uniform excise tax rate because it was the lesser of two evils. She said the Tri-County Council felt a split rate excise tax with a higher excise tax imposed on solid waste was inequitable and would set a precedent even if it was only for a short term. She said per Section 13 of the 1992 Metro Charter, the Council had to seek the advice of a Tax Study Committee before imposing a new tax. She said Metro had a Tax Study Committee in place, but said it did not review a split rate excise tax option. She said the small amount gained would not compensate for the unfairness of such a tax. She said Section 15 of the Charter stated: "Charges for the provision of goods or services by Metro may not exceed the costs of providing the goods or services." She said if the solid waste excise tax was raised, and the cost per ton dropped to \$74 or \$73 per ton, the necessary funds for planning could only be achieved from the solid waste reserves and said that was also troublesome to haulers. She said the Solid Waste Policy Advisory Committee (SWPAC) unanimously voted against the split rate tax. She said if the Solid Waste Department had achieved savings, those savings should not be used to pay for non-solid waste uses/users. She said she understood the need to balance the budget, but said Metro had to do further work to do so.

Councilor Monroe said, with regard to Ms. Harlan's testimony on the Metro Charter, that the excise tax was not a new tax, but an existing one that the Council was trying to raise. He said, with regard to fees exceeding the cost of goods and services, that Metro had the authority to do so from the original legislation which granted Metro the power to enact an excise tax.

Councilor Devlin asked Ms. Harlan if she was aware of an ordinance currently in the Finance Committee which dealt with adjustment of the solid waste rates. Ms. Harlan said she was aware of that ordinance.

Lynne Storz, acting program manager, Washington County Solid Waste and Recycling, 155 N. First Avenue, Hillsboro, concurred with those who had already testified. She said the proposed split rate excise tax created an unfair burden for the rate payer. She said it would be more equitable to charge all users the same excise tax rate.

Mike Hutchens, chair, Bureau Advisory Committee, City of Portland Environmental Services, 501 N. Dixon, Portland, said the City's solid waste rate payers already paid for general service funds. He said that cost was understandable, but said rate payers should not subsidize the cost of planning functions also.

Also, Howard Werth, president, Oregon Metals Industry Council, submitted written testimony (filed with the record of this meeting). The letter stated that Ordinance No. 94-549A would set a precedent by taxing solid waste services at a higher rate than other Metro taxed services. The letter stated solid waste services were a necessity and that taxing necessities at a higher rate than leisure services was not a defensible means of funding government.

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

The Council discussed the two ordinances before them for consideration.

Councilor McFarland spoke in favor of Ordinance No. 94-549B. She expressed concern about the precedent Ordinance No. 94-549A would set and said she had been pleased to hear Councilor Monroe state that there were potential savings in solid waste and said those savings realized should be used to reduce the tipping fee. She said additional funds should not be used for non-solid waste functions. She concurred with the testimony given by Ms. Harlan and Councilor Boitano. She said the entire solid waste industry had worked very hard to coordinate and to save funds. She said if the Solid Waste Department had achieved savings, it had not

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happened by accident. She said many different parties and entities had adhered to Metro's solid waste plan. She said the savings should be used to reduce the tipping fee.

Councilor McLain said she favored Ordinance No. 94-549B also. She said the term "excessive revenues" was inappropriate. She said additional revenues were used for bond debt and stabilization and future recycling activities. She said solid waste funds should be used for those and other efforts including updated modelling. She said household hazardous waste (HHW) needs should be addressed in east Multnomah County and other parts of the region.

Councilor Hansen said revenues were placed in solid waste funds for known future needs as noted by Councilor McLain. She said Metro still had to close the St. Johns Landfill and said there were other goals to be achieved in solid waste. She said what Metro should do was to continue to allow the Solid Waste Department to work well fiscally and to solve the problems of other departments separately. She said if solid waste funds were used for planning functions, it would set a bad precedent for the agency.

Councilor Monroe said the solid waste reserves of over \$9 million were in excess of \$1.5 million in a rate stabilization fund and \$3 million in additional reserves deemed necessary by Metro's auditors. He said a reduction in the tipping fee was in order, and that one would be proposed within several months, but did not know if it would be a reduction by \$1.00 or \$2.00. He said that would be determined after public testimony, and committee and Council consideration. He said the additional funds via Ordinance No. 94-549A would come from solid waste reserves already in hand and not from the rate payer. He said there would be no split rate excise tax after September 1, 1995. He said such a split rate would cost less than a penny a month per can customer. He said the Zoo's revenues were down before construction of light rail and the new entry way and said an excise tax rate of 6 percent would make it easier for the Zoo.

Councilor Gates asked Councilor Devlin to clarify what Ordinance No. 94-549B would do.

Councilor Devlin said no other action was anticipated other than a flat rate for all Metro goods and services which would be limited in the Metro Code to 7.5 percent.

General Counsel Dan Cooper explained that the current 7 percent excise tax rate would expire September 1, 1994, and then revert to 6 percent. He said the ordinance before the Council showed current Metro Code language, not language as it would read September 1, 1994.

The Council as a whole discussed the two ordinances further.

Executive Officer Cusma urged the Council to adopt Ordinance No. 94-549B. She said Metro's finances were complicated and it was important to find long-term permanent funding to implement the Charter's mandate.

Vote on Motion to Substitute: Councilors Devlin, Hansen, McFarland, McLain, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gates and Monroe voted nay. Councilors Buchanan, Gardner and Kvistad were absent. The vote was 8/2 in favor and the motion to substitute Ordinance No. 94-549B for Ordinance No. 94-549A passed.

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Vote on Main Motion as Amended: Councilors Devlin, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen and Washington voted aye. Councilor Wyers voted nay. Councilors Buchanan, Gardner and Kvistad were absent. The vote was 9/1 in favor and Ordinance No. 94-549B was adopted.

**7. RESOLUTIONS**

**7.1 Resolution No. 94-1960, For the Purpose of Authorizing the Executive Officer to Execute Fourteen (14) Multi-Year Intergovernmental Agreements for South/North AA/DEIS Projects**

Motion: Councilor Monroe moved, seconded by Councilor Washington, for adoption of Resolution No. 94-1960.

Councilor Monroe gave the Planning Committee's report and recommendations. He explained the resolution would authorize 14 multi-year intergovernmental agreements between Metro and several local jurisdictions for the South/North AA/DEIS Projects. He explained Metro would act as the lead agency for the South/North Transit Corridor Study and as project manager.

Vote: Councilors Devlin, Gates, Hansen, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Gardner, Kvistad and McFarland were absent. The vote was 9/0 in favor and Resolution No. 94-1960 was adopted.

**7.2 Resolution No. 94-1962A, For the Purpose of Coordinating Technical Assistance Between Metro and the Regional Water Supply Planning Study**

Motion: Councilor McLain moved, seconded by Councilor Hansen, for adoption of Resolution No. 94-1962A.

Councilor McLain gave the Planning Committee's report and recommendations. She explained the resolution would coordinate technical assistance between Metro and the Regional Water Supply Planning Study and ensure that the water supply element of Metro's Regional Framework Plan was consistent with the work contained in the Regional Water Supply Study.

Councilor Washington thanked Andy Cotugno, Director of Planning, and Rosemary Furfey, Senior Regional Planner, for their work on the issues.

Vote: Councilors Devlin, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Gardner and Devlin were absent. The vote was 10/0 in favor and Resolution No. 94-1962A was adopted.

Presiding Officer Wyers recessed the Metro Council and convened the Metro Contract Review Board to consider Agenda Item No. 7.3.

**7.3 Resolution No. 94-1936, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.04(c) Competitive Bidding Procedures and Authorizing a Sole Source Contract with the 40-Mile Loop Land Trust**

Motion: Councilor Gates moved, seconded by Councilor Hansen, for adoption of Resolution No. 94-1936.

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Councilor Gates gave the Regional Facilities Committee's report and recommendations. He explained the resolution would authorize a feasibility study with the 40-Mile Loop Land Trust to plan the proposed Peninsula Crossing Trail in North Portland and said Metro's financial commitment would not exceed \$5,000.

Councilor Hansen said the project was one of high merit.

Councilor Van Bergen asked if a hazardous waste study would be done on the proposed trail. Mr. Cooper said that a hazardous waste study would be done if Metro acquired title to any of the property in question.

Vote: Councilors Devlin, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Gardner and Kvistad were absent. The vote was 10/0 in favor and Resolution No. 94-1936 was adopted.

Presiding Officer Wyers adjourned the Contract Review Board and reconvened the Metro Council.

7.4 Resolution No. 94-1961A, For the Purpose of Preparing a Measure to Refer a General Obligation Bond to the Voters No Later than the First Available Election Date in 1995 For the Amount of Approximately \$140 Million to Finance Acquisition and Development of Greenspaces and Trails

Main Motion: Councilor Moore moved, seconded by Councilor Hansen, for adoption of Resolution No. 94-1961A.

Councilor Hansen gave the Regional Facilities Committee's report and recommendations. She distributed her memorandum dated May 26, 1994, with amendments for Resolution No. 94-1961A and explained same.

Motion to Amend: Councilor Hansen moved, seconded by Councilor Moore, to amend Resolution No. 94-1961A as follows: 1) In the title language to delete and add language "For the Purpose of Preparing a Measure to Refer a General Obligation Bond to the Voters No Later Than ~~(the First Available Election Date in)~~ Spring, 1995 For the Amount of Approximately \$140 Million to Finance Acquisition and Development of Greenspaces and Trails; to add a new eighth Whereas Section; 2) "On May 18, 1994 the Metropolitan Greenspaces Policy Advisory Committee reconsidered its earlier recommendation of a September 1994 date and recommended a Spring 1995 election; and 3) To delete and add language in Be It Resolved Section No. 1 as follows: "That the Metro Council hereby determines that a General Obligation bond of approximately \$140 million shall be referred to the voters no later than ~~(the first available election date in)~~ Spring, 1995."

Councilor Hansen also distributed and discussed a letter from Presiding Officer Wyers on behalf of the Metro Council to Fred Miller, vice president of public affairs for Portland General Electric, thanking him and the Blue Ribbon Committee for their work and counsel on the Greenspaces bond measure.

Councilor Moore reviewed the chronology of events to-date and the requirements of the Greenspaces Master Plan.

The Council discussed the resolution. Councilor Monroe preferred to ask for a more modest amount and see it pass rather than ask for a higher amount and see the ballot measure fail. He said he preferred to ask for \$90 million. Councilor Hansen said the Blue Ribbon Committee discussed that issue, but said the group became convinced that the higher amount was best. Councilor Van Bergen asked where funds for operations would

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come from if the ballot measure passed. Councilor Gates said he liked the new election date better, but expressed concern also about the higher amount asked for. He said those who had the opportunity to review materials in depth were quickly convinced, but said it would be difficult to convince voters of need.

Councilor McLain said the issues raised at this meeting were important ones, but said they and other issues had been fully explored by the Blue Ribbon Committee and the Greenspaces Policy Advisory Committee.

Councilor Devlin said the advisory groups were disappointed that the ballot measure date had been delayed again. He said preparation for this ballot measure had been much more successful because it had broadened the base of support from the business community and civic leaders. He said this resolution would create more items for Council consideration. He said if "Son of Measure No. 5" passed, the State Legislature would have to reconfigure election dates, but said that should not be problematic. He said the Council should fully support the bond when it was proposed by the Council in Summer 1994 for the ballot.

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

Vote on Main Motion: Councilors Devlin, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Gardner and Kvistad were absent. The vote was 10/0 in favor and Resolution No. 94-1961B was adopted.

**8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS**

**8.1 Nominations for 1994 Metro Regional Hazard Mitigation Awards**

Motion to Suspend the Rules: Councilor Gates moved, seconded by Councilor Moore, to suspend the Council's rules so that the Council as a whole could consider Agenda Item No. 8.1.

Vote on Motion to Suspend: Councilors Devlin, 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 in favor and the rules were suspended.

Motion to Approve: Councilor Gates moved, seconded by Councilor Devlin to approve recipients for the first "Metro Regional Hazard Mitigation Awards Program."

Councilor Gates explained the Governmental Affairs Committee would have approved the list of nominees at its May 24 meeting, but said that meeting was canceled and asked the Council as a whole to do so instead.

Vote on Motion to Approve: Councilors Devlin, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Gardner and Kvistad were absent. The vote was 10/0 in favor and the Metro Regional Hazard Mitigation Awards Recipients were approved.



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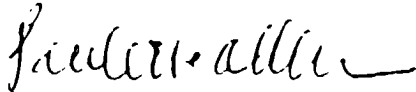
Councilor Devlin said the Council would review a nomination for the Greenspaces Policy Advisory Committee soon.

Councilor Van Bergen said one more or additional Councilors should volunteer for service on the Council Governmental Affairs Committee. Councilor Gates, chair of that committee, agreed. Presiding Officer Wyers said she would issue a memorandum asking for volunteers.

Presiding Officer Wyers announced a special Council meeting would be held Tuesday, May 31, 1994, at 5:30 p.m. so that the Council could hold an executive session.

All business having been attended to, Presiding Officer Wyers adjourned the regular meeting at 6:29 p.m.

Respectfully submitted,



**Paulette Allen**  
Clerk of the Council  
MCMIN94.146