

MINUTES OF THE METRO COUNCIL

June 23, 1994

Council Chamber

**APPROVED**  
Date 7/28/94

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

Councilors Absent: Jim Gardner, Mike Gates and Susan McLain

Also Present: Executive Officer Rena Cusma

Presiding Officer Wyers called the regular meeting to order at 4:01 p.m.

Presiding Officer Wyers announced that Resolution No. 94-1994, Agenda Item No. 4.2, had been listed on the agenda as "94-1974" and had been corrected.

Presiding Officer Wyers also announced that Agenda Item Nos. 6.4, 6.5 and 6.7 were all items for Contract Review Board consideration. Agenda Item No. 6.4 only had been listed as an item for Contract Review Board consideration on the Council agenda.

Presiding Officer Wyers also announced that Agenda Item Nos. 3.1, 5.8 and 8.1 were new items and had been added to the agenda.

1. INTRODUCTIONS

None.

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

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

3.1 Presentation of Certificates of Appreciation to David Douglas High School Ecology Club

Executive Officer Cusma noted Councilor Monroe served on the David Douglas High School Board and asked him to introduce students from David Douglas High School and distribute Metro's certificates of appreciation to them.

Councilor Monroe said the certificates of appreciation were being given to the David Douglas High School Ecology Club and their advisor Lynn Wilson for their work on Beggars-tick Wildlife Refuge, a 20-acre wetland park. He said the students cleaned the area regularly, replaced and maintained indigenous flora, monitored water quality and had helped to produce an informational brochure on the area. Councilor Monroe presented certificates to students Lisa Wong, Kristen Wong, Michelle Keller, Adrienne Basie, Richard Morrison, Jennifer Carroll, Janice Carroll, Amy Hobson, Alissa Noguchi, and student advisor Lynn Wilson and thanked them all for their efforts. He presented the Ecology Club with an evergreen tree for their replanting efforts in the area.

Presiding Officer Wyers thanked the Ecology Club on behalf of herself and the full Council

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Dan Kromer, Greenspaces and Regional Parks Department Operations and Maintenance Manager, said the Ecology Club had worked with Metro for three years and had been a tremendous help in the upkeep of the facility and maintenance of water quality monitoring.

**4. CONSENT AGENDA**

**4.1 Minutes of May 31, 1994**

REFERRED FROM THE GOVERNMENTAL AFFAIRS COMMITTEE

**4.2 Resolution No. 94-1994, For the Purpose of Accepting the May 17, 1994 Primary Election Abstract of Votes for Metro**

REFERRED FROM THE REGIONAL FACILITIES COMMITTEE

**4.3 Resolution No. 94-1957, For the Purpose of Authorizing the Executive Officer to Execute a One-Year Lease for the Warehouse at 2516 NW 29th, Portland, Oregon**

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

**Vote:** Councilors Buchanan, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Devlin, Gardner, Gates and McLain were absent. The vote was 9:0 in favor and the Consent Agenda was adopted.

**5. ORDINANCES, SECOND READINGS**

**5.1 Ordinance No. 94-522B, An Ordinance Amending the FY 1993-94 Budget and Appropriations Schedule For the Purpose of Funding Legislative Increases in Elected Officials Salaries and Other Personal Services Needs, and Declaring an Emergency (Public Hearing)**

The Clerk read Ordinance No. 94-522B for a second time by title only

Presiding Officer Wyers announced that Ordinance No. 94-522 was first read on February 10, 1994 and referred to the Finance Committee for consideration. The Finance Committee considered Ordinance No. 94-522A on February 23 and recommended Ordinance No. 94-522B to the full Council for adoption on June 8, 1994.

**Main Motion:** Councilor Monroe moved, seconded by Councilor Van Bergen, for adoption of Ordinance No. 94-522B.

Councilor Monroe gave the Finance Committee's report and recommendations. He said the 1992 Metro Charter established salaries for the Metro Council and tied salary amounts to district court judge salaries. He said the 1993 State Legislature raised district court judges salaries which led to automatic increases for the Executive Officer and the Council.

Presiding Officer Wyers opened the public hearing.

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

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**Motion to Amend:** Councilor Moore moved, seconded by Councilor Hansen, to amend Ordinance No. 94-522B, to reduce increased amount to the Council Personal Services request by \$1,518.

Councilor Moore explained the reduction was to allow her to waive the increased amount she would have received.

To Councilor Washington's question, Don Carlson, Council Administrator, explained the ordinance had to be amended to accommodate Councilor Moore's request for a waiver on her salary increase.

**Vote on Motion to Amend:** Councilors Buchanan, Hansen, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Kvistad, McFarland and Monroe voted nay. Councilors Devlin, Gardner, Gates and McLain were absent. The vote was 6/3 in favor and Ordinance No. 94-522B was amended.

**Vote on Main Motion as Amended:** Councilors Buchanan, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Devlin, Gardner, Gates and McLain were absent. The vote was 9/0 in favor and Ordinance No. 94-522B was adopted as amended.

**5.2 Ordinance No. 94-547, An Ordinance Amending Ordinance No. 93-487A Revising the FY 1993-94 Budget and Appropriations Schedule For the Purpose of Reflecting Expenditure Increases Due to Delivered Tonnage in Excess of Budget Expectations, Costs Associated with Household Hazardous Waste Events and Shifts Coverage; and Declaring an Emergency (Public Hearing)**

The Clerk read Ordinance No. 94-547 for a second time by title only.

Presiding Officer Wyers announced that Ordinance No. 94-547 was first read on May 12, 1994 and referred to the Solid Waste and Finance Committees for consideration. The Solid Waste Committee considered it on June 7. Presiding Officer Wyers said since the ordinance had not been officially considered by the Finance Committee and formally recommended to the full Council for consideration, a motion to suspend the Council's rules was required.

**Motion to Suspend** Councilor Monroe, seconded by Councilor Van Bergen, moved to suspend the Council's rules requiring referral by committee so that the Council as a whole could consider Ordinance No. 94-547.

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

**Main Motion:** Councilor Van Bergen moved, seconded by Councilor Hansen, for adoption of Ordinance No. 94-547.

Councilor Van Bergen gave the Finance Committee's report and recommendations.

Councilor McFarland noted that the Solid Waste Committee, at its June 7 meeting, asked for a corrected staff report because statistical errors were identified. She said staff submitted a corrected staff report with attachments at the June 21 Solid Waste Committee meeting. She said the Solid Waste Committee scheduled for

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June 21 was canceled due to an emergency closure of Metro Regional Center and said the next committee consideration was by the Finance Committee at its June 22 meeting.

Presiding Officer Wyers opened the public hearing.

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

There were no Councilor questions or discussion.

Vote on Main Motion: Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gardner, Gates and McLain were absent. The vote was 10/0 in favor and Ordinance No. 94-547 was adopted.

5.3 Ordinance No. 94-548, An Ordinance Amending the FY 1993-94 Budget and Appropriations Schedule For the Purpose of Funding Salary and Fringe for the Office of Government Relations, and Declaring an Emergency (Public Hearing)

The Clerk read Ordinance No. 94-548 for a second time by title only.

Presiding Officer Wyers announced that Ordinance No. 94-548 was first read on May 12, 1994 and referred to the Finance Committee for consideration. The Finance Committee considered the ordinance on June 8 and recommended it to the full Council for adoption.

Motion Councilor Monroe moved, seconded by Councilor Devlin, for adoption of Ordinance No. 94-548.

Councilor Monroe gave the Finance Committee's report and recommendations. He explained an additional appropriation of \$1,960 in the Personal Services category was required to pay for increased personal services costs resulting from hiring the current incumbent at a higher pay rate, and that an additional \$481 was needed to pay for unanticipated Public Employees Retirement System (PERS) costs. He said the personal services costs would be transferred from the General Fund Contingency line item.

Presiding Officer Wyers opened the public hearing.

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

There were no Councilor questions or discussion.

Vote: Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gardner, Gates and McLain were absent. The vote was 10/0 in favor and Ordinance No. 94-548 was adopted.

5.4 Ordinance No. 94-550, An Ordinance Amending the FY 1993-94 Budget and Appropriations Schedule to Revise the Regional Parks and Expo Fund Budget to Reflect the January 1, 1994, Transfer of Operations, and Declaring an Emergency (Public Hearing)

The Clerk read Ordinance No. 94-550 for a second time by title only.

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Presiding Officer Wyers announced Ordinance No. 94-550 was first read on May 12, 1994 and referred to the Regional Facilities and Finance Committees for consideration. The Regional Facilities Committee considered it on May 18 and the Finance Committee considered it on June 8 and both committees recommended Ordinance No. 94-550 to the full Council for adoption.

**Motion:** Councilor Devlin moved, seconded by Councilor Moore, for adoption of Ordinance No. 94-550.

Councilor Devlin gave the Finance Committee's report and recommendations. He explained the ordinance would reflect that the transfer of Multnomah County's parks and cemeteries took place January 1, 1994 rather than July 1, 1994. He said Committee discussion centered mostly on revenue sources and said that more revenue than had been originally anticipated had come from Multnomah County with the facilities. He said the Committee expressed concern that parks activities might be financed in part by Metro's excise tax, but said that Charlie Ciecko, Director of Regional Parks and Greenspaces, assured the committee no excise tax revenues were being used for operations and/or maintenance of those facilities. He said the only other item of note was an unanticipated \$300,000 in improvements to the Expo Center and said about \$67,000 in improvements had been completed prior to the transfer. He said Multnomah County transferred an additional \$243,000 to cover the remaining portion of the improvements.

Presiding Officer Wyers opened the public hearing.

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

There was no Councilor discussion or questions.

**Vote:** Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gardner, Gates and McLain were absent. The vote was 10/0 in favor and Ordinance 94-550 was adopted.

**5.5** Ordinance No. 94-552, Amending the FY 1993-94 Budget and Appropriations Schedule For the Purpose of Transferring \$31,000 from the Zoo Operating Fund, Facilities Management Division Capital Outlay to the Facilities Management Division Materials and Services to Fund the Purchase of Higher than Expected Utility Costs, and Declaring an Emergency (Public Hearing)

The Clerk read Ordinance No. 94-552 for a second time by title only.

Presiding Officer Wyers announced that Ordinance No. 94-552 was first read on May 12, 1994 and referred to the Regional Facilities and Finance Committees for consideration. The Regional Facilities Committee considered it on May 18 and the Finance Committee considered it on June 8 and both committees recommended Ordinance No. 94-552 to the full Council for adoption.

**Motion:** Councilor Kvistad moved, seconded by Councilor Devlin, for adoption of Ordinance No. 94-552.

Councilor Kvistad gave the Finance Committee's report and recommendations. He explained the ordinance would cover increased costs for sewer and water services at the Metro Washington Park Zoo.

Presiding Officer Wyers opened the public hearing.

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

Councilor Kvistad said he had recommended that Metro staff talk to City of Portland staff about possible mitigation of Zoo water costs.

Vote: Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gardner, Gates and McLain were absent. The vote was 10/0 in favor and Ordinance No. 94-552 was adopted.

5.6 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 (Public Hearing)

Presiding Officer Wyers announced the Finance Committee tabled Ordinance No. 94-553 at its June 22 meeting

Councilor Monroe read his memorandum to the Metro Council dated June 23, 1994, "Ordinance No. 94-553, Amending the FY 1993-94 Budget and Appropriations Schedule to Fund Outside Counsel Regarding Contract Authority" for the record: "This is to inform you that Ordinance No. 94-553 was tabled by the Finance Committee at its June 22, 1994 meeting. Based on a recommendation by Council staff and Finance Department staff the services for the Council's outside legal counsel will be paid directly out of the Solid Waste Revenue Fund, specifically, from the Materials and Services category for the Administration Division. Finance staff has indicated there is sufficient appropriation authority to absorb the approximately \$30,000 in costs to be incurred during the current fiscal year. Additionally, the Finance Committee approved an amendment to the FY 1994-95 Budget and Appropriations Schedule to include \$45,000 in the Solid Waste Administration Division Budget for the estimated costs to be incurred in next fiscal year for Council's outside legal counsel "

5.7 Ordinance No. 94-535A, 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. 94-535B for a second time by title only.

Presiding Officer Wyers announced that Ordinance No. 94-535 was first read on February 24, 1994 and referred to the Finance Committee for consideration. The Finance Committee, acting as the Budget Committee, began deliberations on March 1, 1994 and completed work on April 21, 1994. She said during that eight-week period, the Budget Committee held 14 meetings. On May 5, 1994 the Council adopted Resolution No. 94-1910, For the Purpose of Approving the FY 1994-95 Budget and Transmitting the Approved Budget to the Tax Supervising and Conservation Commission. She said the TSCC held its hearing on Metro's budget on June 21 and the Finance Committee reviewed Ordinance No. 94-535A for a final time and recommended Ordinance No. 94-535B to the full Council for adoption at its June 22 meeting.

Main Motion: Councilor Monroe moved, seconded by Councilor Devlin, for adoption of Ordinance No. 94-535B.

Councilor Monroe gave the Budget Committee's report and recommendations. He said the ordinance as an emergency ordinance required nine affirmative votes to be adopted. He noted the Council adopted a flat excise tax rate of 7.5 percent via Ordinance No. 94-549B, rather than the split excise tax rate. He said Ordinance No. 94-535B should be amended to reflect the action called for in Ordinance No. 94-549B. He discussed the TSCC's review of and recommendations for Metro's budget.

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Presiding Officer Wyers opened the public hearing.

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

First Motion to Amend: Councilor Monroe moved, seconded by Councilor Devlin, to amend Ordinance No. 94-535B to reflect a 7.5 percent excise tax rate per the Finance Committee report, Attachment 1, page 2.

The Council briefly discussed the motion to amend.

Vote on First Motion to Amend: Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gardner, Gates and McLain were absent. The vote was 10/0 in favor and Ordinance No. 94-535B was amended.

Councilor Van Bergen asked if a special Council meeting would be scheduled for June 29. Councilor Monroe said one would be scheduled if Ordinance No. 94-535B failed to pass at this meeting.

Presiding Officer Wyers said she had asked for Legal Counsel's opinion on the status of the ordinance if it received less than the nine necessary affirmative votes. She said per General Counsel Dan Cooper's memorandum, if the ordinance received more than six aye votes, it would be continued to a special Council meeting which she intended to convene on June 29 if necessary.

Mr. Cooper said his memorandum dated June 23, 1994 explained it would take six or more nay votes to defeat the ordinance, and said if it was voted on and received less than six nay votes, but failed to pass because it did not receive the six or nine votes necessary to adopt it pursuant to the Metro Charter, it would still be considered viable. He said it would not be considered to be defeated or adopted and said reconsideration of the ordinance would not be necessary. He said the ordinance would be continued on the Council agenda. He said if the Council had less than nine aye votes, but fewer than six votes, than it would be considered that final action had not been taken on the ordinance and it could be continued.

General Counsel Cooper and Councilor Van Bergen discussed parliamentary procedure with regard to the varying number of aye and or nay votes.

The Council discussed the proposed June 29 meeting.

Councilor Devlin said he would vote aye on the ordinance and that he had opposed certain items contained in the budget also. He said he opposed the expenditure of Solid Waste funds for the contract dispute between the Executive Officer and the Council because he thought there were other more effective ways to address that issue. He said there were other items he did not like, but said he participated on the Budget Committee and that overall, he recognized the need for Metro to function and that he was one of 13 members of Metro's legislative body. He said some Councilors had opposed \$300,000-400,000 in excise tax expenditure, and said that amount equated approximately 4.10-5.10 of a percentage point in excise tax funds. He said that made up 2/10 of 1 percent of Metro's entire budget. He said those numbers were not adequate justification to vote against the budget. He said if he and other Councilors did not adopt the budget because they did not agree with various line item allocations, Metro would never have an adopted budget.

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Councilor Hansen said she had not yet heard adequate discussion on why \$75,000 in Solid Waste funds would be used in the contract dispute between the Council and the Executive Officer and said she would like to hear the reasons for the same at this meeting.

Mr. Carlson said he asked Bill Gary, outside Legal Counsel to the Council, to explain their fees. He said Mr. Gary had explained in a letter that he could not segregate the costs, but felt all the work done was attributable to contract Amendment No. 4 with Oregon Waste Systems, Inc. (OWS). He said the Council adopted Resolution No. 94-1973 which authorized the filing of litigation based on the OWS amendment matter only and on that basis, recommended the legal costs be paid from Solid Waste funds. He said at the June 22 Finance Committee meeting, the Committee tabled an ordinance which would have used Support Service funds to pay Council's legal counsel for the case.

Craig Prosser, Financial Planning Manager, said Mr. Carlson had correctly explained the source of funding for proposed litigation

Councilor Hansen said the Solid Waste Department had adequate funds for this purpose, but asked what would have happened if there had been litigation to do with a contract related to the Regional Parks and Greenspaces Department. She said not all Metro departments had ample funds for these purposes. She said because the Council chose to file the lawsuit, the Council Department should pay for the costs of litigation.

Second Motion to Amend: Councilor Hansen moved, seconded by Councilor Moore, to have all the costs of Council's legal counsel, \$75,000, come out of the Council Department budget

Councilor Moore noted Mr. Carlson had also stated that the court would only answer whether or not Amendment No. 4 had been appropriately handled per the Metro Code language on franchised solid waste facilities. She said based on that explanation alone, it made sense to pay for the litigation from Solid Waste funds, but said if the Council was seeking to determine who had ultimate contracting authority from the decision, it did not make sense.

Mr. Carlson clarified his earlier statement to Councilor Moore had been that one possible result from the litigation was that it would be decided on the narrow definition of the Code, but the Council's outside legal counsel did not make that assumption and/or tell it to him.

Councilor Monroe clarified that the 1994-95 Budget allocated up to \$45,000 for expenditures for this purpose. He said Councilor Hansen should restate her amendment amount for \$45,000 rather than \$75,000.

Councilor Hansen noted the Council had approved a \$47,000 cost of living increase for Councilors earlier at this meeting and said if the Council waived that amount, it could be used to pay the Council's legal fees

Restatement of Second Motion: Councilor Hansen moved, seconded by Councilor Moore, to have the costs of Council's legal counsel come from the Council Department Budget up to \$45,000 as allocated in the 1994-95 Budget.

Councilor Moore noted Item 16 of Attachment 1 to the Finance Committee report listed \$75,000 for this purpose from Solid Waste revenue funds. Councilor Monroe said \$45,000 was appropriate for the current amendment because \$30,000 had come from the 1993-94 Budget.



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Mr. Prosser explained that the \$75,000 amount was listed because the payment of \$30,000 had reduced the Solid Waste Department's anticipated ending fund balance for FY 1993-94 and would therefore reduce their beginning fund balance for FY 1994-95 and said it also allocated \$45,000 for expenses expected for FY 1994-95.

Councilor Monroe asked what effect the amendment would have on the Council Department budget. Mr. Prosser explained the amendment would increase Council Department expenditures by \$45,000 which would reduce General Fund Contingency by \$45,000. Councilor Monroe noted those funds were 100 percent excise tax dollars and Solid Waste revenue funds were 85 percent excise tax dollars.

The Council discussed the motion to amend further. Councilor Devlin said he could not vote for the amendment because it would imply the action funded was necessary, but said he could vote for the budget as a whole.

Councilor McFarland said there had been considerable disagreement about who had the power to authorize contracts and at what level, and said the Council believed contracting issues should be resolved. She said the Council was told repeatedly if it had a specific issue to deal with, contracting issues could be more easily resolved. She said there were better ways to resolve the issues than through litigation and said there was no justification to take funds to pay for litigation out of Solid Waste revenues. She said the dispute in question had become a solid waste issue only and said that was not true.

Presiding Officer Wyers said it was appropriate to use Solid Waste funds for this purpose and asked the Council to vote no on the amendment.

Councilor Hansen said she believed the issues had arisen because of the vagueness of the Metro Charter with regard to contracting authority and believed Council Department funds were appropriate to use for this purpose. She said if the funds came out of the Council Department budget, it would serve as a record of why the issues arose to begin with.

Vote on Restated Second Motion to Amend

Councilors Hansen, McFarland and Moore voted aye. Councilors Buchanan, Devlin, Kvistad, Monroe, Van Bergen, Washington and Wyers voted nay. Councilors Gardner, Gates and McLain were absent. The vote was 7-3 against and the motion failed to pass.

The Council as a whole discussed Ordinance No. 94-535B further. Councilor Moore said the Budget Committee and Councilors had had the opportunity to give input and make statements about the budget and various items and that those statements were on the record. She said she would vote for the budget and urged the rest of the Council to do the same.

Councilor Kvistad said Metro was a government without a tax base, and said the Council as a government had failed to do its job by not cutting programs and making hard choices. He said the Council as a body had refused to consider the base budget and proceeded to spend more than Metro actually had. He said the Council threw the 6 percent excise tax out the window and noted Councilor Van Bergen's statement at an earlier meeting, "There's only one thing worse than a government that taxes and spends, and that's a government that spends, than taxes." He said the Council had discussed specific items, but said the Council should attempt to find a tax base to cover its basic budget because that was its job to do so. He said he would vote nay on the budget and wanted to start work on it from scratch, but knew at this juncture it was not possible to do so. He reiterated that he could not support the budget as it was or an excise tax higher than 6 percent.

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Councilor Monroe said all budgets represented compromise and said it was rare for all individuals on a Budget Committee to be completely happy. He said he had hoped for a split excise tax, but said that did not happen. He said he felt some portions of the budget were under-funded and other portions were over-funded, but said the budget document was well balanced overall. He said the Budget Committee reflected the membership of the Council as a whole and that the Committee had worked very hard. He said the budget was sound and would continue the programs mandated by the 1992 Metro Charter.

Vote on Main Motion as Amended: Councilors Devlin, Hansen, Monroe, Moore, Washington and Wyers voted aye. Councilors Buchanan, Kvistad, McFarland and Van Bergen voted nay. Councilors Gardner, Gates and McLain were absent. The vote was 6/4 in favor and Ordinance No. 94-535B was neither adopted or defeated.

Presiding Officer Wyers said the ordinance would be carried forward to a special Council meeting and said the Council would discuss the special meeting date under the "Councilor Communications and Committee Reports" agenda item.

**ADDITIONAL ITEM/EMERGENCY ORDINANCE**

5.8 Ordinance No. 94-558. An Ordinance Amending the FY 1993-94 Budget and Appropriations Schedule to Fund Increased Civic Stadium Personal Services and Material and Services Requirements for the Promise Keepers Event, and Declare an Emergency (Public Hearing)

The Clerk read Ordinance No. 94-558 for a first time by title only.

Presiding Officer Wyers announced that per Metro Code Section No. 2.01.070(1), an ordinance to meet an emergency could be introduced, read once and put on its final passage at a regular or special meeting, without being described in a published agenda, if the reasons requiring immediate action were described in the ordinance. She said the unanimous approval of all members of the Council at the meeting, a quorum being present, was necessary to adopt an emergency ordinance.

Motion to Suspend: Councilor Monroe moved, seconded by Councilor Moore, to suspend the Council's rules requiring that legislation be referred by committee so that the Council as a whole could consider Ordinance No. 94-558.

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

Main Motion: Councilor Monroe moved, seconded by Councilor Devlin, for adoption of Ordinance No. 94-558.

Councilor Monroe explained why the emergency ordinance was necessary. He said Metropolitan Exposition-Recreation Commission (MERC) staff asked for the ordinance because the Promise Keepers Event held June 18 had proved more successful than originally anticipated and adoption of the ordinance was necessary to reflect higher than expected expenditures and revenues.

Presiding Officer Wyers opened the public hearing.

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

There were no Councilor discussion or questions.

Vote on Main Motion: Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gardner, Gates and McLain were absent. The vote was 10/0 in favor and Ordinance No. 94-558 was adopted.

**6. RESOLUTIONS**

**6.1 Resolution No. 94-1964, For the Purpose of Adopting the FY 1995 to Post-1998 Transportation Improvement Program and the FY 1995 Through 1997 Three-Year Approved Program**

Motion: Councilor Monroe moved, seconded by Councilor Devlin, for adoption of Resolution No. 94-1964.

Councilor Monroe gave the Planning Committee's report and recommendations. He explained the resolution approved reductions totalling \$172 million in the Transportation Improvement Program (TIP).

Presiding Officer opened a public hearing.

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

Councilor Moore stated for the record that there had been amendments to the TIP since the Council approved the State TIP and said some of those amendments reduced the amount allocated for bus purchases. She did not approve of the reductions, but said those funds would be used to rebuild bridges in East Multnomah County. She said the Advanced Traffic Management Systems (ATMS) program had some problems, but said it was being observed by the Planning Committee and by the Joint Policy Advisory Committee on Transportation (JPACT). Councilor Moore also discussed, for the record, \$14 million slated for a demonstration project on a truck-climbing lane on the Sunset Highway. She said those funds were coming from funds originally slated for the Sylvan Project originally projected to cost \$50 million, but said after ODOT redesign would cost \$35 million. She said that left \$15 million for alternative transportation projects. She said she, in conjunction with staff, would prepare a footnote to the TIP to be considered along with two other amendments to clarify the Council's intent on the Sunset Highway.

Councilor Kvistad said in the first funding cycle, Multnomah County's projects were fully funded and in the last cycle Clackamas County's projects had been almost completely funded. He said Washington County had the most projects in the current cycle, but said they suffered drastic cuts. He stated for the record he did not think the Council or Washington County was very happy about the cuts and said he hoped the next transportation package would restore and/or fund those projects.

Vote: Councilors Devlin, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Buchanan, Gardner, Gates and McLain were absent. The vote was 9/0 in favor and Resolution No. 94-1964 was adopted.

**6.2 Resolution No. 94-1940A, For the Purpose of Supporting Programs to Improve the Collection and Recycling of Rigid Plastic Containers**

Motion Councilor Monroe moved, seconded by Councilor Kvistad, for adoption of Resolution No. 94-1940A.

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Councilor Monroe gave the Solid Waste Committee's report and recommendations. He said the resolution stated the Council supported establishment of a plastics recycling facility capable of processing plastics of all resin types collected in the Metro region; that the Council encouraged the plastics industry to exceed the recycling requirement established by state law; that the Council encouraged the plastics industry to provide collection and marketing opportunities for the recycling of all plastic resin types; and that the Council requested the plastics industry to report to the Metro Council in six months concerning the status of plastics recycling in the Metro region.

The Council briefly discussed the resolution. Councilor Hansen said she liked the resolution because it was proactive and because Metro had been able to work with a specific group on the issues in a positive manner.

**Vote:** Councilors Buchanan, Devlin Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gardner, Gates and McLain were absent. The vote was 10/0 in favor and Resolution No. 94-1940A was adopted.

**6.3 Resolution No. 94-1970, For the Purpose of Confirming Appointments to the Greenspaces Policy Advisory Committee**

**Motion:** Councilor Moore moved, seconded by Councilor Devlin, for adoption of Resolution No. 94-1970.

Councilor Moore gave the Regional Facilities Committee's report and recommendations. She said the appointees were Hillsboro Mayor Gordon Faber and North Plains Planning Commission chair Richard Stolte as alternate. She said both appointees were excellent candidates and urged Council adoption of the resolution.

There was no Councilor discussion or questions.

**Vote:** Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gardner, Gates and McLain were absent. The vote was 10/0 and Resolution No. 94-1970 was adopted.

Presiding Officer Wyers recessed the Metro Council and convened the Metro Contract Review Board to consider Agenda Item Nos. 6.4, 6.5 and 6.7

**6.4 Resolution No. 94-1963, For the Purpose of Waiving and Postponing a Competitive RFP Process and Extending Metro Contract No. 902675 with Howard Johnson & Company and Rainier Trust for Administrative Record Keeping and Trust Services for the Metro Employee Salary Savings Plan**

At Councilor Van Bergen's request, Presiding Officer Wyers referred Resolution No. 94-1963 back to the Governmental Affairs Committee for further review by the Committee because Personnel Department staff and Legal Counsel had provided additional information since the Committee considered the resolution on June 14, 1994.

**6.5 Resolution No. 94-1996, For the Purpose of Amending the Contract with Harrang, Long, Gary, Rudnick P.C. for Legal Services on Council Contracting Authority**

**Motion:** Councilor Van Bergen moved, seconded by Councilor Hansen, for adoption of Resolution No. 94-1996

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Councilor Van Bergen gave the Governmental Affairs Committee's report and recommendations. He said the Council's original contract was for \$10,000 and that Resolution No. 94-1996 would expand that contract amount. Councilor McFarland asked if the resolution called for the \$75,000 previously discussed at this meeting. Councilor Van Bergen said it did.

**Vote:** Councilors Buchanan, Kvistad, Monroe, Van Bergen, Washington and Wyers voted aye. Councilors Devlin, Hansen, McFarland and Moore voted nay. Councilors Gardner, Gates and McLain were absent. The vote was 6/4 in favor and Resolution No. 94-1996 was adopted.

Presiding Officer recessed the Metro Contract Review Board and reconvened the Metro Council.

**6.6 Resolution No. 94-1997, For the Purpose of Recommending A and B Contract Designations for the Personnel and Executive Management Departments**

**Motion:** Councilor Van Bergen moved, seconded by Councilor Washington, for adoption of Resolution No. 94-1997.

Councilor Van Bergen said he requested Resolution No. 94-1997 be drafted at the last Governmental Affairs Committee meeting June 13, but said he believed the resolution was no longer necessary.

Casey Short, Senior Council Analyst, said he prepared the resolution at Councilor Van Bergen's request to clarify FY 1994-95 contracts in view of pending litigation over OWS Contract Amendment No. 4. Mr. Short said outside Legal Counsel had advised staff that adoption of the contracts list via Ordinance No. 94-535B would not jeopardize the Council's position with regard to anticipated litigation on OWS Contract Amendment No. 4.

The Council briefly discussed the issues. Mr. Carlson explained contracts were included as an exhibit to the budget ordinance and said the Council now had additional time to review the contracts list. To Councilor Devlin's question, Mr. Short clarified the contracts being discussed at this time were those under the purview of the Governmental Affairs Committee and that the agency's contracts as a whole were listed in the contract exhibit document to Ordinance No. 94-535B.

**Withdrawal of Motion:** Councilor Van Bergen, with the concurrence of Councilor Washington, withdrew his motion to adopt Resolution No. 94-1997.

Presiding Officer recessed the Metro Council and reconvened the Metro Contract Review Board.

**6.7 Resolution No. 94-1959, For the Purpose of Amending Personal Services Agreement 902953 Between Metro and Public Financial Management, Inc., to Increase the Maximum Compensation and to Add Projects to the Scope of Work**

**Motion:** Councilor Van Bergen moved, seconded by Councilor Kvistad, for adoption of Resolution No. 94-1959.

Councilor Van Bergen gave the Finance Committee's report and recommendations.

There was no Councilor discussion or questions.

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Vote: Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, Monroe, Van Bergen, Washington and Wyers voted aye. Councilor Moore voted nay. Councilors Gardner, Gates and McLain were absent. The vote was 9-1 in favor and Resolution No. 94-1959 was adopted.

### 8. NON-REFERRED RESOLUTIONS

#### 8.1 Resolution No. 94-2000, For the Purpose of Making Appointments to Council Standing Committees

Motion to Suspend the Rules: Councilor Devlin moved, seconded by Councilor Van Bergen, to suspend the Council's rules requiring legislation be referred by committee so that the Council as a whole could consider Resolution No. 94-2000.

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

Presiding Officer Wyers explained the resolution would add Councilor McFarland to the Governmental Affairs Committee, add Councilor Washington to the Finance Committee and make four members the necessary quorum number for the Finance Committee to meet for the duration of calendar year 1994.

Main Motion: Councilor Van Bergen moved, seconded by Councilor Devlin, for adoption of Resolution No. 94-2000.

The Council briefly discussed Resolution No. 94-2000. Presiding Officer Wyers noted Lindsey Ray, Council Administrative Secretary, was in the process of updating the list of advisory committees and Councilors appointed to same.

Councilor Van Bergen questioned whether it was necessary to continue the Governmental Affairs Committee. Presiding Officer Wyers stated for the record that she had considered that and discussed the issues with the Committee chair, but said because of work on the Personnel Code and other items that did not truly fit within the scope of other Council Committees, she had decided to continue the committee. She said all of the committees would probably be reevaluated for calendar year 1995.

Councilor Moore asked if three members would constitute a majority for committee action if four members were present. Councilor Monroe said it would. Councilor Hansen noted committees with five members only needed three members present to forward an item to Council.

Vote on Main Motion: Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gardner, Gates and McLain were absent. The vote was 10/0 and Resolution No. 94-2000 was adopted.

### 7. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor Hansen briefed the Council on the trip she and Presiding Officer Wyers made to Washington, D.C. the previous week to receive an award from "Partners for Livable Communities" on Metro's behalf for Metro's promotion of regionalism. She said Partners was an offshoot of the National Endowment for the Arts (NEA) and said Partners gave such awards to various communities every 10 years. She noted also the reception held on June 22 for Dr. Kay Rich, retiring Assistant Zoo Director, and said he had been instrumental in helping to create Metro as a regional government.

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Councilor Buchanan briefed the Council on his trip to Jordan where he met with the Minister of Municipal Ecology and his staff regarding solid waste operations in Jordan. He said he also toured a solid waste facility in Aman.

Councilor Washington said he toured the St. Johns Landfill and contaminated brown fields with visiting mayors attending the National Mayor's conference held last week in Portland. He said the visiting mayors were very impressed with how the St. Johns Landfill closure was being handled.

Councilor Washington said he had also been working with soil conservation experts under the auspices of the Department of Agriculture to try to get a grant for soil restoration in the Columbia Slough. He said that grant had been awarded and would employ approximately 30 students to teach them how to restore streams and other natural aspects. He said the grant would total \$3 million over three years and would be handled in conjunction with other groups such as the Trust for Public Lands and that Metro would serve as the lead agency in handling the funds. He said Metro was the only western government to receive the Americorp grant.

Councilor Devlin said he received a memorandum dated this date from Executive Officer Cusma regarding her decision on routing waste from the Forest Grove Transfer Station. He asked Mr. Cooper and Bob Martin, Director of Solid Waste, to respond in writing about that issue and how it compared and/or affected OWS Contract Amendment No. 4.

With regard to Contract Amendment No. 4, Councilor Devlin noted several Councilors had approached OWS about the possibility of amending some of the OWS contract provisions with Metro. He said Presiding Officer Wyers had made it clear that was not an official delegation from the Council. He asked who or what would serve as the Council's official representative to deal with legal counsel and also how the Council would be briefed on the progress of the case. Presiding Officer said she, Councilor Gates, Monroe, Van Bergen and Washington had been briefed at different times. She said Mr. Carlson was kept apprised of the issues the Council wished to discuss. She said she met informally with Legal Counsel before this meeting. She said as long as Legal Counsel made recommendations, and the Councilors in attendance agreed, then action would be taken. She said that would be done unless the Council as a whole objected. Councilor Devlin said it was acceptable if the majority of the Council wished to give the Presiding Officer authority in the case, but asked that negotiations and/or procedures be more formal. He said otherwise there would be no clear record of who said what when. Presiding Officer Wyers said a variety of options could be utilized. Councilor Devlin said the ultimate decisions would be made by the Presiding Officer, but said the Governmental Affairs Committee traditionally dealt with contracting and internal affairs/issues. Presiding Officer Wyers concurred and noted the Council was following the advice of outside Legal Counsel.

The Council discussed the issues further. Councilor Van Bergen said the only real direction given to-date was to file a lawsuit. He said other communications with outside Legal Counsel had been informal briefings only. He said official action should be taken via Executive Session.

Councilor Hansen concurred that the Governmental Affairs Committee should be the official body to handle discussion of the case. She said that way all of the Council would be informed and could attend Governmental Affairs Committee meetings if they wanted.

Councilor Washington said he had attended one meeting simply to find out what was going on.

Councilor Moore agreed also that the Governmental Affairs Committee be the formal body to handle the case.

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Presiding Officer Wyers agreed, and said she wished to involve as many Councilors as possible. She said the discussions would probably be handled under Executive Session and asked Councilors to maintain confidentiality about them.

Councilor McFarland said she had represented the Council before two national groups who were in the process of reviewing the Metro Washington Park Zoo. She said the Zoo had received high accolades from those groups.

Councilor Kvistad asked how long the Executive Officer's latest amendment with the Forest Grove Transfer Station (FGTS) would last. Presiding Officer Wyers said at least through calendar year 1994.

Councilor Kvistad asked Mr. Cooper if the FGTS amendment would have any ramifications on OWS Contract Amendment No. 4 and on the Council's current pending litigation. Presiding Officer Wyers said information on the FGTS amendment had been faxed to outside Legal Counsel regarding those issues.

Councilor Kvistad noted the public response to the 2040 Tabloid had been very positive and commended Planning Department staff for their work on the issues. He also referred the Council to the recordings/transcripts of citizen calls to Metro on 2040. He briefly discussed the 2040 video and encouraged Councilors to view it and make comments on same.

Presiding Officer Wyers said Lisa Creel, Senior Public Affairs Specialist, could issue a press release on the favorable public response to the 2040 Tabloid. She said she had attended one of the 2040 open houses and said it was very interesting and encouraged public interaction.

In response to Presiding Officer Wyers' question, Ms. Creel said an abbreviated version of the video had been provided to the Blockbuster Video chain. Presiding Officer Wyers concurred with Councilor Kvistad's concern expressed that the Council and its involvement in the process was not mentioned in the video. Ms. Creel said staff was taking steps to remedy that omission.

Councilor Monroe said the first Finance Committee meeting date and the first Governmental Affairs Committee meeting date in July had been switched to allow him to attend an event on his personal schedule. He welcomed Councilor Washington to the Finance Committee and said the Committee would continue to review Ordinance No. 94-556 and hoped to take final action by the end of July.

Councilor Moore noted last Thursday and Friday, that she, Councilor Gates, Gerry Uba, Senior Management Analyst; Mike McGuire, Emergency Management Analyst, and Ms. Creel hosted the Earthquake Preparedness Conference. She said Councilor Washington gave the opening speech and said the event was well organized and received and well attended by FEMA and other national/federal representatives. She complimented Ms. Creel and other staff involved in working on the event for their efforts.

Councilor Moore asked Councilor Kvistad as Planning Committee chair to schedule for future Planning Committee meetings items related to the Burlington Northern Railroad's agreement with Tri-Met to abandon a route which made Metro's feasibility study on the rails to trails conversion possible. She said perhaps the State Parks Department could report to the Committee on the status of that project. Councilor Kvistad said he had already discussed that item with Mel Huie, Senior Regional Planner, and said that item would be scheduled on the Planning Committee agenda.

Councilor Moore discussed also the proposed North South connector in Washington County between Cornell Road and Barnes Road along 112th Avenue. She said Washington County had introduced its Ordinance 450



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which would change the alignment in the Washington County Transportation Plan and Metro's Regional Transportation Plan from 112th to 113th. She said she had received many calls and letters about the change and asked that an in-depth briefing be scheduled for the second meeting in July at the Planning Committee on that item. She said it appeared that citizens groups had not been thoroughly briefed about the change and had expressed concern.

Councilor Moore discussed the June 22 MPAC meeting and noted Presiding Officer Wyers would receive a letter from the Clark County Board of Commissioners regarding their possible membership in that group per the Metro Charter's provisions. She said MPAC would consider the issue on their next agenda. Presiding Officer Wyers said she had received the letter and had given it to Gail Ryder, Senior Council Analyst.

Councilor Kvistad said Clark County's voting rights was a potential issue and asked the rest of the Council for their input.

Councilor Devlin discussed communications between Councilors, Executive Officer Cusma and outside Legal Counsel. He asked for written guidance from Bill Gary, outside Legal Counsel, on how to handle the communications/contacts. Presiding Officer said communications guidelines would pertain to communications on pending litigation only.

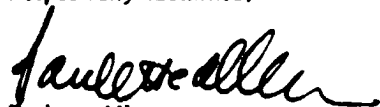
Councilor Washington discussed work done by Roosevelt High School students at the Columbia Slough and Smith & Bybee Lakes. He said their work was exemplary and that the students were working very hard to help preserve the environment.

Presiding Officer Wyers asked what date would be preferable for a special Council meeting to consider Ordinance No. 94-535B again. She noted Councilors Gardner and Washington were scheduled to be out of town the week of June 26-30, 1994. After full Council discussion, Wednesday, June 29 was selected at 4:00 p.m.

Councilor Devlin said Councilors Gardner and Washington should be flown in if necessary to obtain the nine necessary aye votes to adopt the budget.

All business having been attended to, Presiding Officer Wyers adjourned the regular meeting at 6:40 p.m.

Respectfully submitted,



Paulette Allen  
Clerk of the Council  
MCMIN94.174