

**APPROVED**  
Date 8/11/94

MINUTES OF THE METRO COUNCIL

June 29, 1994  
(Special Meeting)

Council Chamber

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

Councilors Absent: Deputy Presiding Officer Ed Washington, Roger Buchanan and Jim Gardner

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

1. ORDINANCES, FIRST READINGS

1.1 Ordinance No. 94-559, An Ordinance Relating to Public Meetings Allowing Council Members to be Present at Meetings Through the Use of Electronic Means and Declaring an Emergency (Public Hearing)

Councilor McLain introduced and explained the purpose of the ordinance.

Motion to Suspend the Rules: Councilor Moore moved, seconded by Councilor Devlin, to suspend the Council's rules requiring legislation be referred by committee so that the Council as a whole could consider Ordinance No. 94-559.

The Council as a whole discussed the motion to suspend the rules. The Council as a whole discussed how many Councilors were required to adopt Ordinance No. 94-535B. Presiding Officer Wyers said nine affirmative votes were required to adopt the ordinance.

Vote on Motion to Suspend: Councilors Devlin, Gates, Hansen, McLain, Monroe, Moore and Wyers voted aye. Councilors Kvistad, McFarland and Van Bergen voted nay. Councilors Buchanan, Gardner and Washington were absent. The vote was 7:3 in favor and the motion failed to carry.

Councilor McLain briefly explained that she believed Ordinance No. 94-559 was necessary to conduct Metro's business at this time and in the future.

Presiding Officer Wyers called a recess at 4:19 p.m.

The Council reconvened at 4:27 p.m.

2. ORDINANCES, SECOND READINGS

2.1 Ordinance No. 94-535B, 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)

Presiding Officer noted Ordinance No. 94-535B had been read for a second time and continued from the Council's regular June 23 meeting.

Presiding Officer Wyers said the motion to adopt the ordinance at the June 23 meeting was still in effect.

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**Main Motion:** Councilor Monroe moved, seconded by Councilor Devlin, for adoption of Ordinance No. 94-535B. (This motion continued from June 23 regular Council meeting which failed to pass, but was not considered defeated due to a 6:4 vote in favor; 9 aye votes being required to adopt an ordinance with an emergency clause.)

General Counsel Dan Cooper answered logistical questions related to the adoption or non-adoption of Ordinance No. 94-535B.

Mr. Cooper said if the budget was not adopted by 12:00 a.m., June 30, the legal authority for the Executive Officer to operate the agency would not exist. He said the Executive Officer would not be able to expend funds for Metro's operations without incurring personal liability. He said Metro's ability to levy and collect real property taxes for the Metro Washington Park Zoo's and the Oregon Convention Center bonds would be jeopardized. He did not know for certain that Metro would be able to collect those funds if the Council adopted the budget after June 30. He said legal questions could be raised if Metro did not have a legal instrument in place with which to collect those revenues.

Mr. Cooper said whether or not the agency would be shut down would be the Executive Officer's decision to make if she wished to incur liability. He said a legal receivership could be considered, but said that possibility had to be researched further.

Councilor Monroe urged the Councilors present to adopt the ordinance. Councilor Monroe said he had wanted to start the budget process earlier this year and hoped to do so next year.

To Presiding Officer Wyers' query, Mr. Cooper explained the Council's rules provided that an ordinance that failed to pass, but received less than six nay votes, was not considered defeated and could be continued to the next possible meeting date.

To Councilor Van Bergen's query, Mr. Cooper noted that notice to county assessors was not due until July 15. He said that notice did require notice that Metro had adopted its budget and complied with Oregon budget law in a timely manner.

Councilor Van Bergen and Craig Prosser, Financial Planning Manager, discussed Metro's sources of revenue from property taxes and other items, Metro's 91 percent collection rate, and how much Metro had in carry-over funds. Mr. Prosser said he would research those issues.

Councilor McLain said the Councilors who planned to vote against the budget should make their reasons known at this meeting for doing so. She said this year's Budget Committee process was improved from last year's. She said next year the Budget Committee should act as a committee of the whole.

Councilor McFarland said the Solid Waste Department paid 85 percent of the excise tax. She said that meant solid waste rate payers would pay for Metro services not related to solid waste disposal. She said solid waste rate payers, haulers and landfill operators had not been rewarded for fine tuning their operations and making them more economical. She said the 1992 Metro Charter made planning a mandate, but said Metro should find another, true revenue source with which to fund planning rather than tapping excise taxes received from solid waste revenues. She said a 7.5 percent excise tax on that revenue source was exorbitant and said she had been clear on those issues throughout the process. She said she did vote against a split excise tax because she did not feel it was fair to charge some parties more than others. She said a 7 percent excise tax was still too high, but said she was willing to vote for it as a compromise measure.

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Councilor McLain asked if Councilor McFarland preferred to lower the excise tax rate or the tipping fee rate. Councilor McFarland said the 7.5 percent excise tax was too high and she could not vote for it.

Councilor Monroe said the Council had already voted to increase the excise tax via Ordinance No. 94-549B. Councilor McFarland referred to the transcript of the May 26, 1994, Council meeting at which Ordinance No. 94-549B was adopted and said the transcript quoted Councilor Monroe when he said the rate might not be as high as 7.5 percent, but would serve as the cap. She said she voted for the 7.5 percent cap as the better alternative to a split excise tax rate.

Mr. Cooper said Ordinance No. 94-549B as adopted set the 7.5 percent rate as both the cap and the fall back automatic rate unless the Council, via the budget, set a lower rate. He said the Council was currently debating the excise tax itself and could lower it or leave it at 7.5 percent.

The Council as a whole discussed Council intent at the May 26, 1994 meeting and the budget process as a whole. Councilor Gates said the Metro Council was not the State Legislature and said from the outset, the budget process had been treated as if it were at the State Legislature. He said the eight members of the Budget Committee did not represent the political/partisan views of the Council as a whole because the Council was a non-partisan body. He noted further the Budget Committee had rarely had unanimous votes on the amendments it considered. He said he would vote for the budget because he was concerned about the agency as a whole. He said if the agency had worked on finding a permanent, stable funding source for planning functions from the beginning, the Council would not be having these difficulties now.

Councilor Devlin said the Council got the authority to impose the excise tax in 1989. He said in November 1990, the voters passed Ballot Measure No. 5 which limited Metro's ability to impose additional property taxes. He said sales or income taxes were not viable, and said a utility tax was a possibility, but that the Council had not seen anything related to the latter. He said Metro needed a source of revenue in addition to the excise tax, but said discussion of the excise tax rate had dominated all Budget Committee discussions. He said the Council was in agreement on 99 percent of what the budget contained, but said the Council could not agree on the excise tax which actually comprised a very small percentage of the budget as a whole.

Councilor Monroe said, in response to Councilor Gates' earlier statement, that the Finance Committee was not necessarily representative of the Council as a whole, but was representative of its spectrum of political thought. He said with regard to the search for permanent funding, there had been a Tax Study Committee which had held a total of 30 public hearings. He said there was no support for most of the funding alternatives put forth which left the Council with its normal resources such as governmental dues and the excise tax. He said, hopefully, that this was the last fiscal year in which governmental dues would be utilized.

Councilor Monroe said he had introduced Ordinance No. 94-556 for Council consideration and said that ordinance was currently in the Finance Committee. He said to use solid waste funds for planning functions was not appropriate. He said no one had offered a solution to replace the \$310,000 that would be lost if the excise tax was dropped to 7 percent. He said he was not thrilled with the budget, and that other Councilors were not thrilled with it either, but said it was a workable document as a whole.

The Council as a whole discussed the issues further. Councilor Hansen said there were three Councilors who said they would vote against Ordinance No. 94-535B, but noted those three had voted against the electronic voting ordinance also. She said the Councilors in opposition had not presented viable options for changing the budget for the Council's consideration. Councilor McLain said if other Councilors were going to provide amendments, they should provide them as soon as possible on June 30. She said the Council had not really had a full discussion of other funding sources except at the May 26 Council work session.

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Motion to Amend: Councilor Kvistad moved, seconded by Councilor Van Bergen, to lower the excise tax rate to 7 percent.

The Council discussed the motion to amend. Councilor Van Bergen said the Charter stated planning was Metro's primary mandate. He said Metro had already made planning its primary function and that the Planning Department employed over 60 FTEs. He said a proposed \$1 reduction in the solid waste tipping fee was miserly. Councilor Van Bergen discussed the Council's actions at the May 26 meeting and financing considerations further. Councilor Devlin said there was confusion about what had transpired at the May 26 Council with regard to Ordinance Nos. 94-549A and 94-549B. He said he proposed Ordinance No. 94-549B as an alternative to the split excise tax rate. He said if the motion to lower the excise tax rate to 7 percent passed, Metro's budget would not be balanced. He said the Council would have to make cuts to make up for the missing \$310,000. He said Councilor Kvistad had proposed amendments in mind, but said those amendments had failed in the Budget Committee three separate times. He said Metro had never done a good job of funding planning. He said of the 60 FTEs mentioned, approximately 45 were devoted to specific projects and not items such as the Regional Framework Plan.

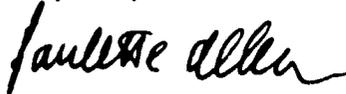
Presiding Officer Wyers said the Council could consider cuts after voting on the 7 percent excise tax rate. Councilor McLain said it was not appropriate to consider cuts without having the appropriate staff present. Councilor Gates asked what the TSCC recommendation on the excise tax rate had been. Mr. Prosser said the TSCC had made no specific recommendations on the excise tax rate.

The Council as a whole discussed the motion to amend further.

Vote on Motion to Amend: Councilors Kvistad, McFarland, Van Bergen and Wyers voted aye. Councilors Devlin, Gates, Hansen, McLain, Monroe and Moore voted nay. Councilors Buchanan, Gardner and Washington were absent. The vote was 6/4 opposed and the motion to amend failed to pass.

Presiding Officer Wyers recessed the special meeting and continued it to June 30, 1994, at 6:00 p.m. to consider Ordinance No. 94-535B again.

Respectfully submitted,



Paulette Allen  
Clerk of the Council  
MCMIN94.180