

MINUTES OF THE METRO COUNCIL

September 8, 1994

Council Chamber

**APPROVED**  
**Date** 10/13/94

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

Councilors Absent: Presiding Officer Judy Wyers and Rod Monroe

Also Present: Executive Officer Rena Cusma

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

Deputy Presiding Officer Washington announced Agenda Item No. 10 had been added to the agenda and would be heard at 5:30 p.m., time certain.

Deputy Presiding Officer Washington announced the Council would hear Agenda Item No. 4.1 at 4:30 p.m., time certain, and Agenda Item No. 3.1 at 5:00 p.m., time certain.

1. INTRODUCTIONS

None

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

None

3. EXECUTIVE OFFICER COMMUNICATIONS

Deputy Presiding Officer Washington asked if there were any other Executive Officer communications besides those already listed on the agenda. There were no other Executive Officer communications

5. CONSENT AGENDA

5.1 Minutes of August 11, 1994

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

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

6. ORDINANCES, FIRST READINGS

6.1 Ordinance No. 94-567, For the Purpose of Granting a Franchise to Willamette Resources Inc. For the Purpose of Operating a Solid Waste Processing Facility

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

METRO COUNCIL

September 8, 1994

Page 2

Deputy Presiding Officer Washington referred Ordinance No. 94-567 to the Solid Waste Committee for consideration

6.2 Ordinance No. 94-568, For the Purpose of Approving the Revision of Metro Code Section 4.01.050 Revising Admission Fees and Policies at Metro Washington Park Zoo

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

Deputy Presiding Officer Washington referred Ordinance No. 94-568 to the Regional Facilities Committee for consideration.

6.3 Ordinance No. 94-569, An Ordinance Amending the FY 1994-95 Budget and Appropriations Schedule by Transferring \$5,000 from the General Fund Contingency to the Office of the Auditor Materials & Services Misc. Professional Services For the Purpose of Transition Services for the New Office of the Auditor, and Declaring an Emergency

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

Deputy Presiding Officer Washington referred Ordinance No. 94-569 to the Finance Committee for consideration.

6.4 Ordinance No. 94-570, An Ordinance Amending the FY 1994-95 Budget and Appropriations Schedule to Implement the Construction Excise Tax, Adding 1.0 FTE in the Financial Planning Division and Funding Local Government One-Time Start Up Costs, and Declaring an Emergency

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

Deputy Presiding Officer Washington referred Ordinance No. 94-570 to the Finance Committee for consideration.

7 ORDINANCES, SECOND READINGS

7.1 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

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

Deputy Presiding Officer Washington announced that Ordinance No. 94-559 was first read on June 29 at a special Council meeting and a vote to suspend the rules and consider the ordinance at that meeting failed to receive the necessary nine aye votes and Presiding Officer Wyers referred the ordinance to the Governmental Affairs Committee for consideration. The Governmental Affairs Committee considered the ordinance on July 13. The Committee was going to consider the ordinance at an additional meeting, but the next regularly-scheduled committee meeting was canceled. The Council, at its August 25 meeting, voted to remove the ordinance from the Governmental Affairs Committee and place it on this Council agenda to facilitate full Council consideration of the item

Motion Councilor McLain moved, seconded by Councilor Moore, for adoption of Ordinance No. 94-559A

Councilor McLain explained what Ordinance No. 94-559A would do. She referred the Council to the ordinance printed in the Council agenda packet for amendments added to the ordinance per Governmental Affairs Committee discussion on July 13. She said the Committee was supportive of the ordinance as a whole, but felt that language should be additionally clarified to demonstrate when, how and for what purpose electronic voting would be used. She said Legal Counsel and Council staff reviewed the ordinance and made the suggested changes.

Councilor McLain said on very rare occasions, a Councilor or Councilors had to be physically absent, either due to surgery or deaths in the family and/or other reasons. She said the ordinance would require the Councilor(s) to make the request in writing to the Presiding Officer stating the reason(s) why they could not be physically present at the meeting. She said the Presiding Officer would then file a written report with the Clerk of the Council explaining the circumstances and her determination of those circumstances. She said a majority of the Council still had to be physically present at the meeting. She said an emergency meeting could be held via electronic means consistent with the State of Oregon's public meetings laws.

Deputy Presiding Officer Washington opened the public hearing.

Councilor Gates asked if a fax communication to the Presiding Officer would suffice as a written communication. General Counsel Dan Cooper said a fax would be considered sufficient as a written communication/notice.

Councilor Kvistad asked if electronic voting would cover votes on taxes or fee increases. Councilor McLain said the ordinance was meant to cover all votes. Councilor Moore asked Councilor Kvistad what distinction there was between votes on taxes/fee increases and other items of business. Councilor Kvistad said there were votes that were general in nature on policies, programs and procedures and day-to-day management of Metro. He said, however, he did not agree with Councilor(s) being able to vote electronically on taxes and/or fee increases and said they should be present to hear testimony given. Councilor Moore asked if the communication involved would enable the absent Councilor to hear all testimony. Councilor McLain said the electronic communication would facilitate both sides to hear each other.

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

Councilor Moore asked what criteria and methods other jurisdictions used for electronic voting. Councilor McLain again referred to Oregon's public meetings law and guidelines for same. Mr. Cooper said numerous governments in the state had approved electronic voting procedures. Deputy Presiding Officer Washington said the Metropolitan Exposition-Recreation Commission (MERC) and the Portland School Board used electronic voting when necessary.

Councilor Kvistad said Councilors were paid to be present to make decisions. He said he had difficulty with Councilors voting via electronic methods for tax/fee increases.

Councilor Van Bergen reiterated his objections to the ordinance and concurred with Councilor Kvistad's comments. He said Councilors should be physically present to vote.

Councilor Gates said he did not believe electronic voting would be used inappropriately or abused and said the Council should adopt the ordinance.

Councilor Gardner said it was time for Metro to utilize current technology and/or new electronic methods or devices.

Councilor Buchanan said Councilors should be physically present to vote and said the 1995 Council should make the decision on whether they wanted electronic voting in any case.

Motion to Amend: Councilor Gates moved, seconded by Councilor Moore, to amend Ordinance No. 94-559 $\Delta$  by deleting Section No. 2: ~~[This Ordinance being necessary for the health, safety or welfare of the Metro area, for the reason that it is necessary to allow for the conduct of Council meetings by voice or other electronic communications in order to avoid unnecessary public expense in the conduct of meetings, an emergency is declared to exist and the Ordinance takes effect upon passage.]~~

Vote on Motion to Amend: Councilors Buchanan, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Moore, Van Bergen and Washington voted aye. Councilors Devlin, Monroe and Wyers were absent. The vote was 10/0 in favor and Ordinance No. 94-559 $\Delta$  was amended.

The Council discussed the ordinance as amended further.

Vote on Main Motion: Councilors Gardner, Gates, Hansen, McFarland, McLain, Moore and Washington voted aye. Councilors Buchanan, Kvistad and Van Bergen voted nay. Councilors Devlin, Monroe and Wyers were absent. The vote was 7/3 in favor and Ordinance No. 94-559A was adopted as amended.

#### 4. OTHER BUSINESS

##### 4.1 Metro Committee for Citizen Involvement (MCCI) Update Presentation to Metro Council

Gail Cerveny, chair, Metro Committee for Citizen Involvement (MCCI) gave an overview of the MCCI presentation.

J.B. Langston discussed the citizen involvement process; Alice Blatt discussed the citizen involvement committees information network; Geoff Hyde discussed the advisory groups; Ric Buhler discussed the Metro electronic bulletin board project; Angel Olsen discussed the Regional Institute for citizen participation; and Bob Bothman discussed the MCCI bylaws.

Deputy Presiding Officer Washington thanked the MCCI for their presentation.

#### 3. EXECUTIVE OFFICER COMMUNICATIONS (Continued)

##### 3.1 Update on Oregon Territory Project at the Metro Washington Park Zoo

Sherry Sheng, Director of the Metro Washington Park Zoo, explained the proposed Oregon Territory Project at the Metro Washington Park Zoo. She said Executive Officer Cusma would forward a specific proposal for the project in the near future and distributed a proposed time line for the project.

Ms. Sheng introduced Tom Moisan, Ankrum Moisan Associated Architects, and Chuck Mays, Portico Group. Mr. Moisan and Mr. Mays gave a slide show presentation on the project.

The Council and Ms. Sheng discussed projected costs.

**METRO COUNCIL**

September 8, 1994

Page 5

Councilor Devlin said costs were projected at approximately \$37 million, and asked how much of that amount would come from a general obligation bond and when staff proposed to put such a bond on the ballot. He also asked for the anticipated date of completion on the various phases as given by staff.

Ms. Sheng said she and Executive Officer Cusma were planning to put a general obligation bond on the ballot in May 1994. She said if the project was going to cost approximately \$35 million, the bond amount asked for would range from \$20-25 million. She said dependent upon financing mechanisms, the project would be completed two years after bond sales.

Councilor Van Bergen asked what staff estimated the operational budget would be. Ms. Sheng said staff planned to make the new entrance as cost-neutral as possible and that the Zoo had worked on cutting costs overall for several years.

Deputy Presiding Officer Washington recessed the Council at 5:40 p.m.

The Council reconvened at 5:49 p.m.

**10. EXECUTIVE SESSION - Held pursuant to ORS 192.660(1)(h) to consult with outside Legal Counsel regarding litigation related to Council authority under 1992 Metro Charter**

Deputy Presiding Officer Washington announced the Council would hold an Executive Session pursuant to ORS 192.660(1)(h) to consult with outside Legal Counsel regarding litigation related to the Council's authority under the 1992 Metro Charter

The Executive Session began at 5:49 p.m.

Councilors present: Van Bergen, Buchanan, Hansen, Gardner, Devlin, Washington, McFarland, McLain, Kvistad, Gates and Moore.

Metro staff present: Casey Short and Lisa Creel

Others present: Bill Gary, Legal Counsel.

The Executive Session ended at 6:26 p.m.

**NEW/ADDITIONAL ITEM**

**NON-REFERRED RESOLUTIONS**

**Resolution No. 94-2032, For the Purpose of Authorizing Special Counsel to File an Appeal**

**Motion to Suspend the Rules:** Councilor Gates moved, seconded by Councilor Hansen, to suspend the Council's rules requiring that legislation be referred by committee so that the Council as a whole could consider Resolution No. 94-2032.

**Vote on Motion to Suspend:** Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Moore, Van Bergen and Washington voted aye. Councilors Monroe and Wyers were absent. The vote was 11/0 in favor and the motion passed.

**Main Motion:** Councilor Van Bergen moved, seconded by Councilor Buchanan, for adoption of Resolution No. 94-2032

The Council discussed the resolution.

**Vote on Main Motion:** Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Moore, Van Bergen and Washington voted aye. Councilors Monroe and Wyers were absent. The vote was 11/0 in favor and Resolution No. 94-2032 was adopted.

**8. RESOLUTIONS**

**8.2 Resolution No. 94-2016, Waiving the Filing Deadline for a Proposed Urban Growth Boundary Locational Adjustment**

**Motion:** Councilor Devlin moved, seconded by Councilor Moore, for adoption of Resolution No. 94-2016.

Councilor Devlin gave the Planning Committee's report and recommendations. He explained the resolution itself would not amend the Urban Growth Boundary (UGB), but authorized a filing deadline waiver only.

**Vote:** Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, McLain, Moore, Van Bergen and Washington voted aye. Councilors Gardner, Gates, Monroe and Wyers were absent. The vote was 9/0 in favor and Resolution No. 94-2016 was adopted.

Deputy Presiding Officer Washington recessed the Council at 6:50 p.m.

The Council reconvened at 7:01 p.m.

**8.3 Resolution No. 94-2028, Authorizing a Temporary Lease of Property for a Cellular Telephone Antenna Site**

**Motion:** Councilor Moore moved, seconded by Councilor Hansen, for adoption of Resolution No. 94-2028.

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

Councilor Van Bergen asked if the site would have adequate lightning rods, if scenic views would be obstructed for nearby residents, and if the tower would have structural problems because of wind or other causes.

**Pat Evans,** GTE Mobilnet, said the site would have adequate lightning rods, scenic views would not be obstructed and there would be no structural problems related to wind.

**Vote:** Councilors Buchanan, Devlin, Hansen, Kvistad, McFarland, McLain, Moore, Van Bergen and Washington voted aye. Councilors Gardner, Gates, Monroe and Wyers were absent. The vote was 9/0 in favor and Resolution No. 94-2028 was adopted.

7. ORDINANCES, SECOND READINGS (Continued)

7.3 Ordinance No. 94-564. An Ordinance Amending the FY 1994-95 Budget by Transferring \$10,500 from the Support Services Fund Contingency to Materials & Services, Temporary Help Services, in the General Services Department for the Purpose of Providing Clerical Relief for the General Metro Switchboard Receptionist, and Declaring an Emergency

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

Deputy Presiding Officer Washington announced that Ordinance No. 94-564 was first read on August 11 and referred to the Finance Committee for consideration. The Finance Committee considered the ordinance on August 24 and recommended it to the full Council for adoption.

Motion: Councilor Kvistad moved, seconded by Councilor Devlin, for adoption of Ordinance No. 94-564.

Councilor Kvistad gave the Finance Committee's report and recommendations.

Mr. Cooper notified the Council that only eight Councilors were present and that Ordinance No. 94-564 had an emergency clause which required nine aye votes for adoption.

Councilors Kvistad and Devlin withdrew their motion to adopt.

Deputy Presiding Officer Washington asked Pam Juett, Office Services Manager, Finance and Management Information, if delaying action on the ordinance for two weeks would cause the department any hardship. Ms. Juett said delaying action on the ordinance for two weeks would not create undue hardship for the department. Deputy Presiding Officer Washington said Ordinance No. 94-564 would be scheduled on the September 22 Council agenda.

7.2 Ordinance No. 94-562A. For the Purpose of Amending the Metro Code Section 2.04.045 Relating to Approval of Contract Amendments

Deputy Presiding Officer Washington said Ordinance No. 94-562A would be considered at the September 22 Council meeting also.

7.4 Ordinance No. 94-565A. An Ordinance Amending the FY 1994-95 Budget and Appropriations Schedule by Transferring \$68,262 from the Solid Waste Revenue Fund Contingency to the Administration Division Materials & Services, Legal Fees Line Item For the Purpose of Providing Legal Services Regarding Metro Executive Officer Contracting Authority, and Declaring an Emergency

Deputy Presiding Officer Washington said Ordinance No. 94-565A would be considered at the September 22 Council meeting also.

**8. RESOLUTIONS**

**8.1 Resolution No. 94-2014. For the Purpose of Amending a Contract with Jacob Tanzer for Legal Services Regarding Metro Executive Officer Authority**

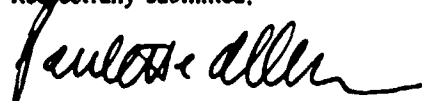
Deputy Presiding Officer Washington said Resolution No. 94-2014 would also be considered at the September 22 Council because it was companion legislation to Ordinance No. 94-565A.

**9. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS**

None.

Deputy Presiding Officer Washington adjourned the regular meeting at 7:29 p.m.

Respectfully submitted,



Paulette Allen  
Clerk of the Council  
MCMIN94.251