

MINUTES OF THE METRO COUNCIL

January 28, 1993

Council Chamber

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

Councilors Absent: None

Also Present: Executive Officer Rena Cusma

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

1. INTRODUCTIONS

None.

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

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. ORDINANCES, FIRST READINGS

4.1 Ordinance No. 93-482, For the Purpose of Amending Metro Code Chapter 5.02, Metro Solid Waste Disposal Charges and User Fees at Metro Facilities

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

Presiding Officer Wyers announced Ordinance No. 93-482 had been referred to the Solid Waste Committee for consideration.

5. ORDINANCES, SECOND READINGS

5.1 Ordinance No. 93-477A, For the Purpose of Establishing Criteria for Council District Apportionment, and Declaring an Emergency (Public Hearing)

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

Presiding Officer Wyers announced Ordinance No. 93-477 was first read on December 22, 1992, and referred to the Governmental

Affairs Committee for consideration. She said the Governmental Affairs Committee considered the ordinance on January 7 and 21 and recommended Ordinance No. 92-477A to the full Council for adoption on January 21.

Motion: Councilor Moore moved, seconded by Councilor Hansen, for adoption of Ordinance No. 93-477A.

Councilor Moore gave the Governmental Affairs Committee's report and recommendations. She explained amendments made by the Committee and how the Committee established criteria for the Apportionment Commission. She said the Committee discussed at length having whole districts comprised within the counties. She said arguments in favor were that counties did exist and citizens would be more aware of who their Councilor was. She said to that effect, Section No. 4 was amended to read: "To the maximum extent possible after meeting all other applicable criteria, each of the three counties with territory in the Metro area shall have at least one district wholly within that county," and that Section No. 5 was amended to read: "The commission shall give consideration to existent precincts and, to the maximum extent possible after meeting all other applicable criteria, maintain communities of interest. Communities of interest are represented in counties, cities under 15,000 population, established neighborhood associations, neighborhood planning organizations, community planning/participation organizations, or other similar groups as specifically defined by the commission." She clarified that the last sentence in Section No. 5 of the ordinance printed in the agenda packet was incorrect and the corrected copy of the ordinance should be referred to for the vote.

Councilor Moore said the Committee also discussed the Commission's work plan and that they wanted the Commission to hold at least one hearing within 30 days after forming to gather information and then, after a draft reapportionment plan was developed, to hold public hearings in each of the proposed seven districts.

Councilor Moore said the Committee also amended the ordinance to add Section No. 7, "The apportionment commission shall complete a draft plan by May 15, 1993, in order to provide sufficient time for public hearing and review."

Councilor Moore noted Council Analyst Casey Short's memorandum dated January 28, 1993, "Ordinance No. 93-477A - Apportionment Criteria," which gave the Clackamas County Board of Commissioner's apportionment preferences for Clackamas County cities, which information was provided by Councilor Gates.

Councilor Washington noted in Section No. 6 of the ordinance, "on" should be spelled "one."

Councilor Devlin stated for the record an issue he believed could come up with regard to the Apportionment Commission, noting the two criteria as stated by the Governmental Affairs Committee: 1) Consistency with federal guidelines contained in the 1990 census; and 2) The Commission should use the latest estimates. He said the two criteria might not conflict, but said if growth in the region had increased more than the stated 5 percent, or more than 53,000 citizens, the Apportionment Commission should use the latest population estimates for consistency with federal guidelines.

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

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye on Ordinance No. 93-477A with typographical errors as noted corrected. The vote was unanimous and Ordinance No. 93-477A was adopted.

5.2 Ordinance No. 93-474. An Ordinance Amending Ordinance No. 92-449B, Revising the FY 1992-93 Budget and Appropriations Schedule for the Purpose of Funding Increases in the Solid Waste Revenue Fund Operating Account (Public Hearing)

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

Presiding Officer Wyers announced Ordinance No. 92-474 was first read on December 10, 1992, and referred to both the Solid Waste and Finance Committees for consideration. She said the Solid Waste Committee considered the ordinance on January 5 and the Finance Committee considered it on January 13 and recommended Ordinance No. 93-474 to the full Council for adoption.

Motion: Councilor Buchanan moved, seconded by Councilor Devlin, for adoption of Ordinance No. 93-474.

Councilor Buchanan gave the Finance Committee's report and recommendations. He explained the ordinance would amend the Solid Waste Revenue Fund Budget to authorize the hiring of 13 additional employees to meet additional program needs, primarily in the area of household hazardous wastes (HHW). He said the HHW Program had received waste from approximately 200 customers per week rather than the 50 customers per week estimated in original staff projections. He said the increase in customers had

increased the volume of HHW material to be processed. He said Sam Chandler, Solid Waste Operations Manager, said the Solid Waste Department reviewed two methods to meet increased needs: 1) Utilizing the services of the existing disposal contractor to handle the increased waste; or 2) Hiring additional employees to provide services. He said staff concluded the second option was more cost-effective and would save \$732,000 over the course of one year.

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

Councilor McLain noted the Solid Waste Committee report printed in the public was specific as to why additional full-time employees had to be hired and said the hires would fulfill a public need.

Councilor Hansen asked if surveys were still being held on the source of HHW. She asked Mr. Chandler if the FTEs funded could also be used at Metro Central Station, or if additional FTEs would be requested next year. Presiding Officer Wyers said the FTEs funded should take care of all current and future needs. She noted data had been gathered on HHW users via their zip codes. Mr. Chandler said staff would develop and distribute a map in February based on where users originated from. Councilor McLain noted staff was also developing data on the different types of HHW disposed of. Councilor Gardner said there was a great deal of demand for these services despite HHW days sponsored by Metro in the past. He asked if staff projected demand for HHW disposal services would decrease. Mr. Chandler said the solid waste system had to provide ancillary services and provide data on alternative products. He said the education component would create lesser demand in the future. He said there was a great deal of HHW material in the region that had to be disposed of and did not anticipate the demand for HHW disposal would dwindle soon.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was unanimous and Ordinance No. 93-474 was adopted.

6. RESOLUTIONS

6.1 Resolution No. 93-1731. For the Purpose of Endorsing the Region's Priority Congestion Mitigation/Air Quality Program Projects and Amending the RTP and FY 93 TIP for Inclusion of These Projects and the Transportation Enhancement Projects

Main Motion: Councilor Gates moved, seconded by Councilor Kvistad, for adoption of Resolution No. 93-1731A.

Councilor Gates gave the Planning Committee's report and recommendations. He explained the resolution would endorse the region's priority congestion mitigation/air quality program projects and amend the Regional Transportation Plan (RTP) and the FY 1993 Transportation Improvement Plan (TIP) for inclusion of those projects and the Transportation Enhancement Projects. He said the two new categories added through the Intermodal Surface Transportation Efficiency Act (ISTEA) were: 1) Congestion Mitigation/Air Quality (CMAQ) funds for projects to reduce vehicle emissions through transit improvement projects, ride-share, park-and-ride, bicycle lanes and pedestrian paths; and 2) Transportation Enhancement Funds for projects that make the transportation system a "better neighborhood." He said such projects would act to mitigate the impact of the transportation system on the surrounding area rather than address capacity or operation. He said projects could include landscaping, environmental assistance, wetland damaged projects, and restoration of historic aspects of projects. He said over the last six months, Metro's Planning Department and the Oregon Department of Transportation (ODOT) had used the process to define projects criteria and solicit applications for regional projects and that ODOT had done the same state-wide. He said the bill under which the funds were provided would last for six years. He said the list of projects before the Council for consideration was for three years and that the second three-year portion would be completed next year.

Councilor Gates said information published in the packet included information on criteria, how projects were placed on the priority ranking, and information about the costs of, and information about, the projects themselves.

Councilor Gates noted the "A" draft before the Council included language on the Americans with Disabilities (ADA) Act.

Councilor Moore expressed concern because of the list of projects to be funded by the CMAQ funds and said her main concerns centered on design. She said one project in particular in Washington County would cost \$250,000 and wanted to ensure the design did create an actual reduction in congestion.

Motion to Amend: Councilor Moore moved to amend Resolution No. 93-1731, seconded by Councilor Devlin, with additional language: 1) Adding an eighth Whereas clause; "Whereas, the design of such projects is crucial to their success and must respond to the American's with Disabilities Act (ADA) and other similar standards for safe, usable, and attractive pedestrian and bicycle traffic"; adding Be it Resolved Section No. 7; "That all projects for construction of pedestrian or bicycle facilities shall conform to the standards established in the federal ADA Access Guidelines and with the performance standards found in the State of Oregon's "Best Management Practices" for the Goal 12 Transportation Planning Rule." and to renumber Section No. 8 as Section No. 9 and Section No. 9 as Section No. 10.

Councilor Moore said ADA and the Best Management Practices were selected because ADA mandated certain procedures and the Best Management Practices, while only it was only a guideline and not regulatory in nature, provided room to respond to local needs. She said the new language was not intended to be prescriptive, but to provide some guidance on the kind of projects the Council would like to see designed.

Councilor Van Bergen said the amendments could be acceptable at this time, but requested Resolution No. 93-1731A be referred back to the Planning Committee for further review.

Councilor Devlin asked staff what deadline Metro had to meet when adopting the resolution.

Mike Hoglund, Transportation Planning Supervisor, said the Transportation Enhancement Projects had already been approved and the CMAQ projects were scheduled to go before the OTC on February 17 or the following month dependent on ODOT staff's time line. He said there was adequate time if the "A" version was referred back to Committee for further work at this time.

Councilor Devlin did not believe the amendments would unduly concern JPACT, but believed if the resolution went back to Committee, it should also go back to JPACT and asked if there was sufficient time for that to occur.

Andy Cotugno, Director of Planning, said JPACT could review the amended resolution on February 11 and the resolution could be scheduled for consideration at the February 25 Council meeting. Mr. Hoglund said the OTC could review the list before or after

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adoption of the resolution and said the amendment did not materially alter the project list.

Councilor Kvistad said he had no objections to amendment and adoption at this time.

Mr. Cotugno said amendments dealing with the TIP should be referred back to JPACT and be returned with the changes incorporated. Councilor Van Bergen asked if the amendment language altered the TIP. Councilor Gardner said the amendments did not alter the TIP or the list of projects.

Councilor Gates suggested adoption of the original resolution now and then referral to JPACT with recommended amendments.

The Council discussed timing and procedural issues further. Councilor Devlin did not anticipate JPACT objecting to the amendments as proposed. Mr. Cotugno said the amendment would not alter the TIP. Councilor McLain said it was appropriate for the Council to make its own amendments and did not think the amendment presented procedural difficulties. Councilor Monroe supported the amendment, but believed amendments should be made at Committee. Councilor Buchanan supported the motion to amend also. Presiding Officer Wyers said it was convenient to have the opportunity to amend legislation at the Council level if necessary.

Vote on Motion to Amend: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was unanimous and Resolution No. 93-1731 was amended.

Councilor Moore briefly discussed the list of projects and noted the new Exhibit C before the Council for inclusion with the resolution. She discussed one project's inappropriateness for inclusion and asked if the Council wished to delete it. Councilor McLain said the Council was not always provided with comprehensive information or analysis on projects provided at the Committee level and that more should be provided in the future to assist the Council in decision-making.

Vote on Main Motion as Amended: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was unanimous and Resolution No. 93-1731A.

6.2 Resolution No. 93-1738, For the Purpose of Amending the FY 93 Unified Work Program and Authorizing Contracts with ODOT and 1000 Friends of Oregon for the LUTRAQ Project

Motion: Councilor Devlin moved, seconded by Councilor Buchanan, for adoption of Resolution No. 93-1738.

Councilor Devlin gave the Planning Committee's report and recommendations. He explained the resolution would amend the FY 1993 Unified Work Plan (UWP) and authorize contracts with ODOT and 1000 Friends of Oregon. He said Metro was acting in its capacity as a metropolitan planning organization (MPO) to pass through funds from the Federal Highway Administration (FHWA) for the Land Use, Transportation and Air Quality (LUTRAQ) project. He said Mr. Cotugno stated the LUTRAQ study had two aspects: 1) The research and development aspect on modelling requirements; and 2) The production of an alternative that was included in the Western Bypass study in December 1992. He said that alternative had become one of ODOT's alternatives and would be examined by ODOT. He said this resolution would fund the remainder of the research and development aspect of the LUTRAQ Project. He said the results of the study would assist Metro's 2040 project and how to comply with LCDC's Rule 12 and Metro's Regional Urban Growth Goals and Objectives (RUGGOS). He said Councilor Kvistad stated concern about the resolution at Committee, stating it was inappropriate not to fund the project at this point, but did express concern about Metro passing through funds to an entity that could have interest in a potential action by Metro.

Councilor Kvistad stated his objections to the process. He said passing public funds through an agency to any entity that had direct involvement in the project being funded and was advocating a direct alternative whether on it was on one side or the other side, was not appropriate public policy. He said the study's benefits were positive for Metro, but said he could not support the resolution because of his concern about the process used and related issues.

Councilor Gardner concurred with Councilor Devlin's comment on the project's benefits to Metro because of the enhanced modelling capability gained. He said Metro made grants or passed through funds to many private groups/entities and cited the 1% for Recycling Program as an example. He said those parties could come back to Metro in the future after having received Metro funds raised from solid waste rate revenues and advocate a project and/or a policy. He said if Metro did not endorse the funds, it would not get the funds at all and miss the opportunities offered by the LUTRAQ project. He said Metro's role was to serve as the middle man.

Councilor McLain concurred with Councilor Gardner and said counties and cities could be regarded as special interest groups. She noted citizens formed groups which in turn became special interest groups.

Vote: Councilors Devlin, Gardner, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilor Kvistad voted nay. Councilor Buchanan was absent. The vote was 11-1 in favor and Resolution No. 93-1738 was adopted.

6.3 Resolution No. 93-1739A, For the Purpose of Adopting a Policy on Plastics Recycling in the Metro Region

Motion: Councilor McLain moved, seconded by Councilor Hansen, for adoption of Resolution No. 93-1739A.

Councilor McLain gave the Solid Waste Committee's report and recommendations and noted a fax received from Estle Harlan, Tri-County Council, dated January 28, 1993. She said Ms. Harlan indicated the hauling industry's support of the resolution as amended, provided that Metro would not support the use of tip fees or other public sources of funding to improve plastic recycling infrastructures or to cover promotional efforts that should be made by the plastics industry.

The Council briefly discussed the resolution further.

Vote: Councilors Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Washington and Wyers voted aye. Councilors Buchanan and Van Bergen were absent. The vote was unanimous and Resolution No. 93-1739A was adopted.

6.4 Resolution No. 93-1747A, For the Purpose of Establishing the 1993 Metro Legislative Task Force

Motion: Councilor Gardner moved, seconded by Councilor Hansen, for adoption of Resolution No. 93-1747A.

Councilor Gardner gave the Governmental Affairs Committee's report and recommendations. He explained in the past, resolutions appointing committee chairs to the Legislative Task Force had listed those persons by name, and explained Resolution No. 93-1747A appointed committee chairs to the Task Force generically to avoid redundancy in the future. He said resolution would also give further detail on what the Legislative Task Force's role would be and how the Council would adopt

positions on State legislation. He said after discussion, it was decided that the Governmental Affairs Committee would be the conduit to make recommendations on state legislation to the full Council for consideration.

Councilor Van Bergen believed the Task Force only should be the venue in which to process legislation and did not approve of using the Governmental Affairs Committee for the same purpose. Councilor Gardner clarified that the Governmental Affairs Committee had been selected for logistical purposes only as a central clearing place to process recommendations on state legislation. He said it was clear that committee chairs were expected to schedule legislative items before their committee for discussion. Councilor McLain explained the Governmental Affairs Committee had shared Councilor Van Bergen's goals and wanted to ensure the Council shared the same knowledge on legislative issues and said Exhibit A as amended should address Councilor Van Bergen's concerns.

Councilor Devlin said the Governmental Affairs Committee should have a legislative package developed by its second meeting in February for the full Council to support. Councilor Van Bergen again expressed his objections to the resolution because of failures in past years with regard to the process. Councilor McLain said the Council's standing committee structure should be fully utilized. Councilor Gardner noted Western Advocates would brief the Council/Committees on legislative issues on a regular basis. The Council briefly discussed the issues further. Councilor Moore explained it was clear that speakers would give the State Legislature the Metro Council's recommendations as made and that the need for the Task Force was in case there was an extremely short time line in which to make recommendations to the Legislature.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Washington and Wyers voted aye. Councilor Van Bergen voted nay. The vote was 12-1 in favor and Resolution No. 93-1747A was adopted.

7. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Noel Kline, Western Advocates, briefed the Council on legislative activities to-date and the Council discussed the same.

Councilor McFarland announced with regret that Rosie, Metro Washington Park Zoo's first elephant, had been euthanized the date of this meeting due to ill health.

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**All business having been attended to, Presiding Officer Wyers
adjourned the meeting at 5:40 p.m.**

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Paulette Allen".

Paulette Allen
Clerk of the Council