

MINUTES OF THE COUNCIL
OF THE METROPOLITAN SERVICE DISTRICT

February 22, 1979

Councilors in Attendance

Chairman Michael Burton
Vice Chairman Donna Stuhr
Coun. Charles Williamson
Coun. Craig Berkman
Coun. Jack Deines
Coun. Jane Rhodes
Coun. Caroline Miller
Coun. Cindy Banzer
Coun. Gene Peterson
Coun. Betty Schedeen
Coun. Marge Kafoury
Coun. Corky Kirkpatrick

Staff in Attendance

Executive Officer Rick Gustafson
Mr. Denton Kent
Mr. Andrew Jordan
Mr. James Sitzman
Mr. Robert McAbee
Mr. Wm. Ockert
Ms. Judith Bieberle
Mr. Corky Ketterling
Ms. Amelia Lanier
Mr. Merle Irvine
Ms. Caryl Waters
Mr. McKay Rich
Ms. Karen Tweten
Ms. Barbara Higbee
Ms. Sue Klobertanz
Ms. Marilyn Holstrom
Mr. Warren Iliff
Ms. Jennifer Sims
Ms. Anne Kelly Feeney
Mr. Jack Bails
Ms. Peg Henwood
Ms. Linda Brentano
Mr. Terry Waldele
Mr. Bill Pettis
Ms. Mary Carder
Mr. Clyde Scott
Mr. Keith Lawton

Others in Attendance

Mr. Tim Castle
Ms. Irene Wasson
Mr. Robert Bothman
Mr. Paul Bay
Mr. T.C. Wasson
Mr. George D. Ward
Mr. David A. Phillips
Mr. Ronald Watson
Mr. Ed Stritzke
Mr. Norman Colvin
Mr. Howard Harvey
Ms. Carol Harvey
Ms. Nancy Varekamp
Mr. Bob Weil
Mr. Cowles Mallory
Ms. Marlene Leahy
Mr. Tom O'Connor
Mr. George Hubel
Mr. Thomas Vanderzanden
Mr. Gordon Alle
Mr. Michael Alesko
Mr. Fred Leeson
Ms. Margaret Lewis-
Williamson
Mr. Lloyd Gilbertson
Mr. Harold Schmidt
Ms. Mary N. Fischbuch
Mr. Chester Fischbuch
Mr. Dick Hemmerling
Ms. Jeanne Thomas
Mr. Delmar Walgraeve
Ms. Ruth Walgraeve
Mr. Leo Mandel
Ms. Margaret D. Coyle
Ms. Sharon Derderian
Ms. Lorraine M. Winthers
Mr. Henry Kane
Mr. Frank Angelo
Mr. Mike Borresen
Mr. Ted Spence
Mr. Oliver J. Domreis
Mr. Jim Fisher

MSD Council
Minutes of February 22, 1979

CALL TO ORDER

After declaration of a quorum, the February 22, 1979, meeting of the Council of the Metropolitan Service District (MSD) was called to order by Presiding Officer Michael Burton at 7:00 p.m. in Conference Room "C" of the MSD offices at 527 Hall Street.

1. WRITTEN COMMUNICATIONS TO THE COUNCIL

Chairman Burton announced that a letter had been received from Mr. Henry Kane, which would be handled later in the meeting under new business.

2. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

There were no citizens who wished to make a presentation to the Council at this time.

3. CONSENT AGENDA

3.1 Minutes of Meeting of February 8, 1979

Coun. Berkman moved, seconded by Coun. Miller, that the minutes of the meeting of February 8, 1979, be approved as distributed.

Coun. Williamson asked that, on page 8, paragraph two, the minutes be amended to show that his comments took place before the vote. He also asked that a change be made in the wording to reflect that he was in favor of studying all the sites possible.

Question called on the motion. The motion carried unanimously.

4. REPORTS

4.1 Report from Executive Officer

Executive Officer Gustafson asked that General Counsel Andy Jordan relate to the Council the status of certain appeals that have been filed in Clackamas County.

Mr. Jordan said that certain land in the region has been designated as "rural" in the Land Use Framework Plan. In the past two months, Clackamas

MSD Council
Minutes of February 22, 1979

County has approved subdivisions and major partitions which staff considers to be in violation of the State Goals, the County Plan and the Framework Plan. Five appeals have been filed with the Clackamas County Commission, with hearings scheduled in March and April. The land has been subdivided into one or two acre lots on septic tanks, which staff believes constitutes low density urban development outside the urban area, in violation of land use decisions.

Mr. Jordan requested Council support in pursuing appeals to the County Commission of Clackamas County and to LCDC.

Coun. Williamson asked that the Council be given an opportunity to review these cases before they were appealed.

Chairman Burton pointed out that this was an administrative matter, and that staff would keep the Council informed.

The Executive Officer asked Mr. Kent to report on progress of the Budget process.

Mr. Kent reported that a proposed schedule has been drawn for the FY 1980 budget preparation process. He outlined dates for completion of segments leading to Council action and submittal to the TSCC and final adoption by the Council.

Executive Officer Gustafson reported that he had been contacted by Representative AuCoin who told him that the MSD has been a successful candidate for an EPA grant of \$400,000 for the Resource Recovery Project.

The Executive Officer informed the Council of speaking engagements he will be having in each District so that Councilors may attend meetings if they choose.

The Executive Officer introduced Mr. Tom O'Connor, new Local Government Assistant who will work on grants.

MSD Council
February 22, 1979

5.2 Resource Recovery Project - Informational Briefing

Mr. Corky Ketterling of the MSD staff outlined steps taken toward establishment of a resource recovery project as an element of the solid waste management plan for the MSD. He demonstrated by means of slides the necessity for such a project, and explained how the project would reduce waste to fuel which would then energize machinery for paper-making.

Councilors questioned Mr. Ketterling about various aspects of the project, and about availability of funds to carry out Phase II of the project.

Mr. Ketterling explained the budgetary implications of the project as well as the impact the resource recovery project will have on numerous interest groups and consumers.

This item was informational and required no Council action.

5.3 Pending MSD Litigation

Through the Agenda Management Summary Mr. Jordan informed the Council of the status of legal proceedings in which the MSD is currently involved.

Councilor Rhodes was concerned if individual Councilors were covered by insurance against suit in any of these cases. She was assured that the Council was covered by insurance for this type of occurrence.

This item was informational and required no Council action.

6. OLD BUSINESS

6.1 Ordinance No. 79-67, providing for Administrative District 2, Criminal Justice System Improvement Plan (Second reading)

Coun. Rhodes moved, seconded by Coun. Miller, that Ordinance No. 79-67 be adopted. Rollcall vote. The motion carried unanimously.

MSD Council
Minutes of February 22, 1979

6.2 MSD Legislative Program

6.2.1 Resolution No. 79-20, Seeking Legislation Including MSD Officials in State Ethics Law (Introduced by Michael Burton)

Coun. Berkman moved, seconded by Coun. Peterson, that Resolution No. 79-20 be adopted.

Chairman Burton explained his reasons for introducing this legislation, saying he felt the Council was a public body, and that, in his opinion, submittal of the statement should be a requirement for this Council.

Council discussed the effect this requirement would have on them individually. It was the consensus that failure to include it in the original legislation had been an oversight.

Question called on the motion. The motion carried unanimously.

6.2.2 Resolution No. 79-21, Declaring Metropolitan Service District Support for Acquisition of St. Mary's Woods for a State Park (Introduced by Donna Stuhr)

Councilor Stuhr explained her intent in introducing this Resolution.

Coun. Kirkpatrick said she personally supported this type of effort, but questioned whether it should be a Council determination. She said she would vote against the motion, but did support the project.

Coun. Stuhr suggested that this matter be postponed so that the Council could be provided with more information about the proposal.

Coun. Kirkpatrick moved, seconded by Coun. Kafoury, to postpone this matter until the next regular meeting of the Council. The motion carried unanimously.

MSD Council
Minutes of February 22, 1979

6.2.3 Resolution No. 79-23, Proposed Amendment to
Senate Bill #66 - Economic Development

Coun. Banzer moved, seconded by Coun. Deines, that Resolution No. 79-23 be adopted.

Mr. Ray Bartlett, MSD Urban Economist, explained that the State Legislative Committee on Trade and Economic Development recently sponsored Senate Bill No. 66 which deals with issuance of industrial revenue bonds, a revolving fund for industrial development loans and identification of counties as the primary local body to do economic planning.

Staff testified at a legislative committee meeting regarding this bill and has proposed testimony which would assert MSD's role and concern for economic development planning in the District and give MSD the means to implement industrial development projects by borrowing from the revolving fund or referring a project to the State Department of Economic Development.

Councilors discussed the bill presently in committee and the effect of pending amendments thereto.

Councilor Miller said she would vote against this motion. She had researched the matter and found that a number of public bodies were already involved in economic development. She was concerned that MSD involvement might create a duplication of efforts, or that SEDS funds might be pulled away from the local jurisdictions.

After considerable Council discussion, Coun. Williamson moved, seconded by Coun. Peterson, that this item be held over to the next regular meeting. The motion failed.

Executive Officer Gustafson said this resolution had broader ramifications than amendment of Senate Bill No. 66, and that he would have appreciated an opportunity to study the implications of the MSD's role in economic development planning for the region.

Councilors discussed further the implications of adopting the resolution, and were generally agreed

44

MSD Council
Minutes of February 22, 1979

that this was not the time for the MSD to become involved in the matter.

Question was called on the motion.

~~Coun. Williamson moved, seconded by Coun. Banzer, that the item be tabled.~~

Rollcall vote was requested on the original motion for adoption. Couns. Kirkpatrick, Kafoury, Burton and Williamson voted aye. Couns. Deines, Rhodes, Schedeen, Miller, Banzer, Peterson, Stuhr and Berkman voted nay. The motion failed.

Coun. Banzer moved for reconsideration.

A short break was taken.

6.2.4 Resolution No. 79-15, Seeking Legislation Permitting the MSD to determine Solid Waste Disposal and Landfill Sites.

Coun. Kafoury moved, seconded by Coun. Deines, that the Council adopt Resolution No. 79-15.

Chairman Burton asked Mr. Berkman to speak to an alternative to this Resolution which Coun. Berkman had prepared.

Coun. Berkman asked that an alternative be considered in lieu of the resolution as currently drafted. He said the rationale for the alternative was that the proposal was part of a package which had been under discussion for six weeks and that the proposal presented four specific alternatives under which MSD could site a landfill. Coun. Berkman said the language of the original proposal had been significantly modified by the introduction of the alternative.

Coun. Berkman moved, seconded by Coun. Rhodes that the Resolution be amended by striking the wording after the words "Now, therefore, be it resolved," and adding the proposed amendment.

There was Council discussion of the meaning of the amendment, as it pertained to counties, with several councilors voicing a preference for the original resolution.

MSD Council
Minutes of February 22, 1979

Coun. Peterson felt perhaps the best solution would be to support the bill proposed by the legislature to grant siting authority to the DEQ.

Coun. Miller felt the local jurisdictions should have an opportunity to solve the problem, and that final authority should rest with MSD. She did not want the DEQ to be involved. She felt the resolution had been well done by the committee, and said she would support it.

There was further discussion about the necessity for a landfill in each county. Coun. Berkman pointed out that the landfill would not necessarily be built, but that the site would be located and all permits taken so that the site could be built when the need arose.

Coun. Kirkpatrick asked if the alternative had been proposed by the committee or by Coun. Berkman.

Coun. Berkman replied that he had asked the General Counsel to draft some language in this form, and that he was not sure whether the Committee had seen the amendment.

Coun. Rhodes told the Council that the committee had seen the amendment, had accepted it and had made no comments against it.

Coun. Banzer moved, seconded by Coun. Stuhr, to call the previous question. The motion carried unanimously.

Rollcall vote on the amendment to strike the language of the Now, Therefore, and substitute the alternative language submitted by Coun. Berkman. Couns. Burton, Stuhr, Williamson, Berkman, Kirkpatrick, Deines, Rhodes, Miller, Banzer and Peterson voted aye. Couns. Schedeen and Kafoury voted nay. The motion carried.

Councilors discussed further amendments to the Resolution. A five minute break was

MSD Council
Minutes of February 22, 1979

taken for the purpose of discussing proposals to amend the Resolution.

Mr. David Phillips, Solid Waste Administrator for Clackamas County, said the Clackamas County Board had voiced opposition to MSD taking authority to site landfills. Mr. Phillips felt the amended version of the Resolution would create more problems than the original. Mr. Phillips himself was in favor of the Resolution.

Coun. Rhodes asked if it was necessary to amend the Resolution to include the added provisions, or if a consensus would be sufficient. It was the opinion of the Chairman that a consensus would suffice.

Question was called on the main motion, as amended. Rollcall vote. Couns. Kirkpatrick, Deines, Rhodes, Miller, Banzer, Peterson, Kafoury, Burton, Stuhr, Williamson and Berkman voted aye. Coun. Schedeen voted nay. The motion carried.

6.2.5 Resolution No. 79-28, Proposed Amendment to MSD Legislative Bill #2 (Exemption of St. Johns and Oregon City Landfills)

Coun. Miller asked if it was anticipated that the Resource Recovery project would be operational by 1981. She was concerned whether it would be wise to exclude the St. Johns landfill without a time certain for its inclusion. She suggested a five-year period.

Chairman Burton said he would direct the Executive Officer and staff to work with the city of Portland to draw up an agreement in the event resource recovery was put into operation prior to the expiration of use of the St. Johns landfill.

Coun. Stuhr moved, seconded by Coun. Williamson, that, based on comments made relative to inclusion of the St. Johns landfill within a

MSD Council
Minutes of February 22, 1979

definite time frame, the Council adopt Resolution No. 79-28.

Executive Officer Gustafson explained that the city of Portland is not in favor of allowing the MSD to franchise the St. Johns Landfill prior to the site reaching capacity or prior to the operation of MSD's Resource Recovery Facility. Therefore, the amendment was proposed. Staff will work with the City to provide a greater understanding of the necessity to set rates when the Resource Recovery Facility is in progress.

Question was called on the motion. All Councilors voted aye except Councilor Kirkpatrick, who voted nay, saying she had not had an opportunity to speak to the issue.

7. NEW BUSINESS

7.1 Cipole Sanitary Landfill (Resolution N. 79-11)

Coun. Rhodes moved, seconded by Coun. Kafoury, that the Council adopt Resolution No. 79-11.

Merle Irvine, Acting Director of the Solid Waste Division, provided background to the Council of work done toward siting a sanitary landfill at Cipole.

Mr. Irvine delineated, by means of slides, the location of the site, and possible problems which might arise.

Mr. Irvine explained that passage of Resolution No. 79-11 would enable staff to proceed with a feasibility study for the Cipole site as a possible sanitary landfill, in accordance with the landfill siting procedures adopted by the Council at a previous meeting. Mr. Irvine explained steps to be taken subsequent to preparation of the feasibility study, and funds required for various phases of the technical studies.

Councilors questioned Mr. Irvine about ownership of the site, capacity and other items bearing on the decision.

MSD Council
Minutes of February 22, 1979

Coun. Berkman mentioned that he was not the person who had introduced this resolution, and requested that this be corrected in the minutes.

Coun. Berkman suggested that Council use the list of sites furnished by staff and consider several sites simultaneously.

The Executive Officer felt this was a positive proposal and suggested that this be discussed with the Task Force. The number of sites to be examined would be governed by the limitation on resources. The Executive officer would strongly support having the Council identify sites which might be candidates for a permit and staff would be very careful how it expended the resources.

Coun. Stuhr asked that a tour of some of the sites be arranged for Councilors. Coun. Banzer also requested that such a tour be arranged.

Coun. Berkman said that it was his honest opinion, that the Durham Pits site should be looked at again. He felt there would be opposition from citizens regardless of the location of the site, and that, in fairness to the citizens in the area, the Durham Pits site should be reconsidered in the package.

Chairman Burton said the motion before the Council was a request to proceed with a feasibility study for the Cipole site. If the Council wished to include other sites, a motion to this effect would be in order.

Mr. Lloyd Gilbertson, representing a committee planning organization for Washington County (CPO #5), spoke regarding the study of the Cipole site, expressing concern over several physical features which mitigated against using the Cipole site as a landfill. He felt the CPO could assist the Council in its evaluation of the site.

The Council asked what could be done to study these sites, short of spending \$10,000.

MSD Council
Minutes of February 22, 1979

Coun. Kirkpatrick asked if staff was at the point where it must invest \$8,000 or \$10,000 at any of these sites to determine anything further.

Mr. Irvine said this was basically correct. Staff was now at the point where it must expend monies at each site it studied further.

Coun. Kirkpatrick said she would vote against the motion, because she felt it was unfair to look at one site. She felt the study should be done as a package, weighing one site against another.

Chairman Burton agreed that a package was needed, but he felt Council could vote on this site, and add others as they wished.

Executive Officer Gustafson explained the steps required, and said an advisory committee could not be formed until Council approved a feasibility study. The resolution before the Council would not approve a landfill and would not approve spending money. It would only allow staff to get started toward siting a landfill.

Coun. Rhodes moved, seconded by Coun. Stuhr, that the question be called. The motion carried.

Rollcall vote on adoption of Resolution No. 79-11. Couns. Rhodes, Schedeen, Miller, Peterson, Kafoury, Burton, Stuhr, Williamson, Berkman and Deines voted aye. Couns. Banzer and Kirkpatrick voted nay. The motion carried.

7.2 Mira Monte Sanitary Landfill (Resolution No. 79-22)

Chairman Burton suggested that in both Resolutions 79-11 and 79-22, in the fifth "Whereas," the word "will" be changed to "may."

Coun. Stuhr moved, seconded by Coun. Williamson, that Resolution No. 79-22 be adopted.

Mr. Dick Hamerling said he was a resident of Canby. He was concerned that sites being investigated were below the water level. He urged the

MSD Council
Minutes of February 22, 1979

Council to proceed with construction of a resource recovery plant, rather than continuing to seek a landfill site.

The question was called on the motion. All Councilors present voted aye except Councilor Banzer, who voted nay. The motion carried.

Coun. Berkman moved, seconded by Coun. Schedeen, that the Durham Pits site be reconsidered.

Question called on the motion. All Councilors voting aye, the motion carried unanimously.

Coun. Banzer moved, seconded by Coun. Kirkpatrick, that Site No. 14 be added to the list for reconsideration. (Alfred Kohene site)

Coun. Kafoury asked for clarification of what this action would precipitate.

The Executive Officer explained that this action would permit staff to look at these sites more closely.

Question called on the motion. All Councilors voting aye, the motion carried unanimously.

7.3 Bid Award - Elephant Enclosure

Through a supplemental Agenda Management Summary, Council was apprised of bids received at 3:00 p.m., February 16, 1979, as follows: Haertl Construction, \$762,200; Bart Hess Construction, \$678,166; Humphrey Construction, \$627,700; Schrader Construction, \$678,244.

The engineer's estimate was \$613,000. Staff recommended that the bid for the Elephant Enclosure be awarded to Humphrey Construction for \$627,700, and that the Council authorize the Executive Officer to negotiate the contract.

Coun. Williamson moved, seconded by Coun. Kafoury, that the bid be awarded to Humphrey Construction Company, for \$627,700, and that the Executive Officer negotiate the contract. The motion carried unanimously.

MSD Council
Minutes of February 22, 1979

7.4 Exemption of MSD from state Administrative Procedures Act (APA)

Coun. Williamson moved to delete the bill to provide exemption of the Metropolitan Service District from the APA from the MSD legislative package.

Coun. Williamson said that Mr. Henry Kane had made a presentation at the last council meeting requesting that the Council keep the MSD subject to the Administrative Procedures Act. Since that time a bill had been introduced at the legislature proposing that MSD be excluded from the State Administrative Procedures Act. Mr. Kane has requested that this item be on this agenda for Council discussion.

Mr. Kane explained what the Administrative Procedures Act was and what it did or did not do.

Councilors questioned Mr. Kane further concerning the Act, and his reasons for proposing that the Council remain subject to the Act.

Question called on the motion. Rollcall vote. Couns. Rhodes, Schedeen, Banzer, Stuhr, Williamson, Berkman, and Deines voted aye. Couns. Peterson, Kafoury, Burton and Kirkpatrick voted nay. Coun. Miller abstained. The motion carried.

7.5 Increasing Federal Funding Authorization for Six Projects having Cost Overruns (Resolution No. 79-27)

Coun. Kirkpatrick moved, seconded by Coun. Banzer, that Resolution No. 79-27 be adopted.

Mr. Wm. Ockert, Director of the Transportation Department, explained the procedure to deal with cost overruns on transportation projects using either federal Interstate Transfer funds or Federal Aid Urban (FAU) funds. He explained that nine FAU projects will require additional federal funding above that currently authorized. Because of the scale of the overrun on three of the projects, it is possible to administratively adjust the authori-

MSD Council
Minutes of February 22, 1979

zation. Six of the projects, however, have overruns of such magnitude that Council approval is required before federal obligation can be requested. The projects and the amount of cost overruns for each were outlined in the Agenda Management Summary.

Question called on the motion. The motion carried unanimously.

7.6 Borrowing of Mt. Hood Freeway Interstate Transfer Monies for Federal Aid Primary (FAP) and Selected Federal Aid Urban (FAU) Projects (Resolution No. 79-24)

Coun. Kafoury moved, seconded by Coun. Stuhr, that Resolution No. 79-24 be adopted.

Through the Agenda Management Summary staff provided the Council with background on the need for transfer monies from the Mt. Hood Freeway fund.

Coun. Rhodes was concerned whether there would be sufficient funding to complete all projects.

Mr. Ockert said that, under current cost estimates there appears to be enough money to finish current projects. However, if cost estimates go up significantly, or if the projects do not move as quickly as anticipated, inflation may take its toll.

Question called on the motion. The motion carried unanimously.

7.7 Prioritization of Remaining Unobligated Federal Aid Urban (FAU) Funds (Resolution No. 79-25)

Coun. Kafoury moved, seconded by Coun. Stuhr, that Resolution No. 79-25 be adopted.

Through the Agenda Management Summary staff provided the Council with background on the need to prioritize remaining unobligated Federal Aid Urban Funds.

Coun. Stuhr questioned what would happen if the proposal for light rail failed in the legislature.

MSD Council
Minutes of February 22, 1979

Mr. Ockert said there would be no problem as far as FAU funds were concerned.

Question called on the motion. Motion carried unanimously.

7.8 Amendment to Transportation Improvement Program (TIP) to Include Transit Projects (Resolution No. 79-26)

Coun. Deines moved, seconded by Coun. Williamson, that Resolution No. 79-26 be adopted.

Mr. Ockert explained that Tri-Met had requested that projects previously programmed in the adopted Transportation Improvement Program (TIP) for FY 1980 through FY 1982 be reprogrammed for FY 1979 and FY 1980. In addition, three new projects were being proposed. Approval would allow Tri-Met to request UMTA funds for the proposed projects.

Councilors questioned Mr. Paul Bay, Planning Director of Tri-Met, regarding several of the projects, and the cost of some of the equipment listed.

Question called on the motion. All Councilors voted aye except Coun. Rhodes, who voted nay. The motion carried.

There being no further business, the meeting was adjourned.

Respectfully submitted,


Mary E. Carder
Clerk of the Council