

MINUTES OF THE COUNCIL
METROPOLITAN SERVICE DISTRICT

July 26, 1979

Councilors in Attendance

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

Couns. Stuhr and Kafoury were absent.

Others in Attendance

Ms. Ardis Stevenson
Dr. Larry Griffith
Mr. Kenneth McFarling
Mr. David Lawrence
Mr. Terry Morgan
Mr. Ken Dueker
Mr. Fred Wendiest
Ms. Marlene Leahy
Mr. Ernie Munch
Mr. Bob Bothman
Mr. Ted Spence
Mr. Edward Mitchell
Mr. John Ayer
Ms. Deanna Mueller-Crispin
Mr. Fred Leeson
Ms. Georgia Bechnal
Mr. Doug Wentworth
Mr. Bob Weil
Mr. Bob Jean
Ms. Bebe Rucker
Mr. Jim Corbett

Staff in Attendance

Executive Officer, Rick Gustafson
Mr. Denton U. Kent
Mr. Andrew Jordan
Ms. Judith Bieberle
Mr. James Sitzman
Ms. Caryl Waters
Mr. William Ockert
Mr. Rod Boling
Ms. Jennifer Sims
Ms. Peg Henwood
Mr. Tom O'Connor
Mr. Steve Siegel
Mr. Robert McAbee
Mr. Gary Spanovich
Mr. James Giesecking
Mr. Charles Shell
Ms. Marilyn Holstrom
Ms. Gretchen Wolfe
Ms. Linda Brentano
Ms. Sue Klobertanz
Ms. Barbara Higbee
Ms. Mary Carder

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CALL TO ORDER

After declaration of a quorum, the July 26, 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 the auditorium of the Water Service Building, 510 S. W. Montgomery Street, Portland, Oregon.

1. INTRODUCTIONS

There were no introductions.

2. WRITTEN COMMUNICATIONS TO THE COUNCIL

There were no written communications to the Council to be introduced at this time.

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

There were no citizens present who wished to address the Council at this time.

4. CONSENT AGENDA

4.1 Minutes of the meeting of June 28, 1979.

4.2 A-95 Review, directly related to MSD.

4.3 CONTRACTS

Chairman Burton asked that Items 4.4 and 4.5 be voted on separately from the Consent Agenda. It was the consensus of the Council that this be done.

Coun. Miller moved, seconded by Coun. Kirkpatrick that Consent Agenda Items 4.1, 4.2 and 4.3 be approved. All Councilors present voting aye, the motion carried unanimously.

4.4 Resolution No. 79-62, Authorizing Interstate Funding for Phase I, I-5 North Freeway Transportation Improvement Project (TIP).

Coun. Williamson moved, seconded by Coun. Schedeen that Resolution No. 79-62 be adopted.

Coun. Rhodes said that her initial reaction to ramp metering had been an absolute no. She did some checking on this matter and found that she could now agree but with

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some conditions.

Coun. Rhodes moved, seconded by Coun. Schedeen, that the Council recommend to the Oregon Department of Transportation that the I-5 Transportation Improvement Project include a provision for monitoring by State Police, that provision be made for a public information program and that it be understood that the project will not continue if ramp metering proves to be unsuccessful.

Coun. Miller said that she had voted no on this matter at the JPACT meeting. She continued that she was also opposed to the HOV lanes now in use on the Banfield project. Coun. Miller said she would not support HOV Bypass Lanes on the I-5 work project.

Coun. Williamson explained that the State Department of Transportation felt that adoption of Phase I would substantially increase the amount of traffic which could flow in the highway corridor. He expressed concern about the conditions that Coun. Rhodes wished to attach to this Resolution.

Mr. Bob Bothman of the Oregon Department of Transportation said he thought it was the intent of the Department to do all the things suggested by Coun. Rhodes. As far as enforcement, he was not sure whether that would be the responsibility of State or City police, but the Department was looking into that. The Department does have an active public information program. Regarding labeling of the project as an experiment, ODOT would not intend that the public would be led to believe that the project was temporary. The Department intended to use it for as long as it works.

Roll call vote on the amendment to Resolution No. 79-62. Couns. Banzer, Peterson, Burton, Williamson, Kirkpatrick, Deines, Rhodes, Schedeen voted aye. Coun. Miller voted nay. Couns. Kafoury, Stuhr and Berkman were absent. The motion carried.

Vote on Resolution No. 79-62 as amended. All Councilors present voting aye, the motion carried.

5. REPORTS

5.1 Report from Executive Officer.

The Executive Officer reported concerning HB 2929 that it

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was his understanding that the bill forbids governing bodies to meet outside their jurisdiction for the purpose of deliberating or making decisions. The bill goes into effect on October 5, unless it is vetoed by the Governor. The Executive Officer said this bill would not affect the Council retreat since the bill was not yet in effect, but that even so, it was not planned to make any decisions at the retreat.

The Executive Officer provided information on an energy grant which had been received through work with the National Association of Regional Councils. He reported that the MSD region had been selected as one of two agencies in the United States to receive a grant of \$4,000. The grant would be made available through the Department of Energy to conduct an assessment of the energy impacts of various federal programs. A target completion date and project details have not yet been laid out.

The Executive Officer reported on a proposed shopping center development which would be located in Clackamas County between Gresham and Sandy. Approximately two years ago Carmel Estates had proposed a shopping center in this location. After Clackamas County first approved the center, the city of Sandy appealed the decision to LCDC and CRAG joined the city in this appeal. The city of Sandy has now filed a second appeal to LCDC claiming violations of Goals #2, #3 and #11. The Executive Officer suggested that the Council intervene in the case in opposition to the development.

The Executive Officer updated the Council on progress toward acknowledgment of the UGB. He said that the Council Chairman had received a letter from the Chairman of the LCDC requesting that MSD answer five questions regarding implementation of the UGB. The Executive Officer circulated a draft proposed reply.

Mr. Jim Sitzman outlined the draft reply, saying that MSD is not obligated to enter into a formal planning compliance schedule, but that this provides information about the existing program of MSD.

Coun. Williamson suggested that it might be well to state what MSD intends to do, before stating the opinion that MSD is not legally obligated to comply with the request.

Coun. Kirkpatrick said that a subcommittee of the Ways and

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Means Committee had instructed staff about the content of the reply.

The Executive Officer said that there would be an opportunity for Council discussion of this matter at the August Council meeting. Councilors discussed the content of the report, expressing concern about the densities being required for the use of septic tanks and cesspools.

Another item reported by the Executive Officer to Council concerned refusal by the Washington County Commission to give MSD access to the Durham Pits to perform a water study. The Durham Siting Committee is meeting to attempt to get the Commission to agree to at least a study of whether the proposed landfill would contaminate the water supply in Durham. MSD staff believes that it should continue to press for permission to conduct the study.

Chairman Burton suggested that the Executive Officer explore all avenues to get the Washington County Commission to cooperate with MSD.

The Executive Officer said he would continue to work with the Advisory Committee to attempt to get access to the Durham site.

5.2 Council Committee Reports

Local Officials Advisory Committee: Chairman Burton said the LOAC Steering Committee met Friday, July 20. The Committee discussed reactivation of LCDC's Local Officials Committee. Stan Skoko will continue to represent the counties on that advisory committee. Joy Burgess asked Bob Sturges, Mayor of Troutdale, to serve on the committee as a representative of the cities of the region. Since he was unable to do so, Chairman Burgess appointed herself to fill that role. Staff has asked LCDC whether it would not be appropriate for an MSD representative to serve on the committee.

The LOAC Steering Committee had been asked to comment on redesignation of the MSD as a lead agency for A-95 review. The Steering Committee favored the redesignation, saying it was pleased with the role that MSD has had in the past.

Zoo Committee: Coun. Banzer said the Zoo Committee had come up with some things that could be used to identify the Zoo. She displayed a bumper sticker and said the

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Friends of the Zoo were selling the bumper stickers as well as Zoo tee shirts.

The Zoo Committee has authorized establishment of a private foundation and is in the process of requesting additional information in terms of funding and staffing. A proposal will be coming to the Council for approval at the meeting of August 9. There will be a newspaper poll and questionnaire concerning the proposed Zoo development plan.

Planning and Development Committee: Coun. Peterson said the Planning and Development Committee met Tuesday evening. The primary item of interest was the UGB. He said Mr. Sitzman had outlined a possible response to the LCDC five points. There was extensive discussion at the committee meeting concerning the proposed reply.

Coun. Peterson said the Committee had discussed the annual LCDC planning program review.

Mr. Peterson continued that Tri-Met had asked for ex officio status on the Housing Policy Alternatives Committee. It was decided that it would be appropriate to appoint a representative to the Housing Policy Alternatives Committee on an ex officio basis.

The next meeting of the Policy Alternatives Committees will be August 6 at 11:00 a.m., when there will be further discussion of the response to LCDC.

Ways and Means Committee: Coun. Kirkpatrick reported on the upcoming Council retreat and outlined the program and agenda. She said there will be a special meeting of the Ways and Means Committee on Tuesday to discuss long-term financing and she encouraged all interested Councilors to attend.

Solid Waste/Public Facilities Committee: Coun. Berkman said that the minutes of the Solid Waste/Public Facilities Committee meeting of July 3 were included in the packet. He said there would be a report from Coun. Rhodes later concerning the Johnson Creek Clean Up.

Coun. Berkman reported that the Executive Officer or the Chairman had been asked to attend a hearing Friday, August 3 at 10:00 a.m. at the DEQ concerning the "201" program.

Coun. Berkman said the Council Committee had held a

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special public meeting to discuss a proposed tire processing plant.

Coun. Deines said the Solid Waste/Public Facilities Committee had been urged to expedite demolition of landfill siting and he wanted to draw attention to the fact that MSD does have a procedure for siting landfills and that it was the consensus of the Committee that the procedures must be followed in siting any type of landfill.

Transportation Committee: Coun. Williamson said the minutes, which are included in the packet, would reflect action taken at the last Transportation Committee meeting. The next meeting of the Transportation Committee is scheduled for August 9, 1979 at 7:30 a.m., the place to be announced later.

Chairman Burton announced that there would be an Executive Session following the regular Council meeting.

5.3 A-95 Review Report

There was no action necessary on this Item and no action taken.

5.4 Progress Review Report for LCDC

Coun. Peterson reported that an LCDC progress report was made every year. He said the Planning and Development Committee had examined the report as prepared by staff and found it well done. The Committee recommended approval.

Coun. Peterson moved, seconded by Coun. Kirkpatrick, that Resolution No. 79-71, approving the 1978-1979 Annual Progress Review for Local Jurisdictions be adopted. All Councilors present voting aye, the motion carried unanimously.

6. OLD BUSINESS

6.1 Ordinance No. 79-73, Providing Personnel Regulations for the MSD and Repealing Interim Personnel Rules Adopted Pursuant to Council Resolution No. 79-2.

Chairman Burton opened the meeting to public comment. There was no one present who wished to speak at this time.

Coun. Kirkpatrick circulated correspondence to Council members from the Employees Steering Committee, recommend-

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ing support of the Personnel Rules. She explained that the process used for adoption of Personnel Rules had been a long one. She said the Ways and Means Committee had appointed a Task Force which was headed by Coun. Miller, and composed of several persons in the community. The draft document was marked up page by page, with a number of Councilors attending the initial session and providing input. The process enabled the Ways and Means Committee to present a final draft of the proposed Personnel Rules at this time.

Coun. Kirkpatrick moved, seconded by Coun. Miller, that Ordinance No. 79-73 be adopted.

Coun. Banzer referred to Section B on p. 26 and said that she did not believe that pregnancy was a disability, but that it was a natural function. She said she would propose that at the next meeting the Council strike the provision that referred to requirement of a physician's statement.

Coun. Banzer's second objection dealt with job sharing. She felt the Ways and Means Committee should implement a provision to provide for job sharing.

Coun. Kirkpatrick said that there were some of issues the Ways and Means Committee had been unable to resolve, but that the Ordinance could be amended when it became necessary to make a change.

Coun. Williamson said he had problems with some sections, but he was not prepared to discuss them until he had had a chance to talk with staff and other Councilors.

Coun. Peterson pointed out that Councilors had received a memorandum that he had prepared in reference to Article II, Section 8 (e) of the Personnel Rules. He explained that this section was related to confirmation of Executive appointments by members of the Council. He outlined the memorandum and said he thought it would be appropriate that the Committee present a number of alternatives for consideration by the Council.

Coun. Peterson moved that the Rules be referred back to the Ways and Means Committee with instructions to present alternatives on this particular section.

Chairman Burton said that since the Ordinance would be held over for another hearing he would rule that the

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motion was not in order.

Coun. Berkman asked if the Council rules provided, as an option, that alternative policy should be part of reports that come to the Council from the committee.

Chairman Burton said that this had been discussed with staff and it was found that this matter had not been acted on by the Council.

Coun. Banzer said she had checked on this matter and that the resolution that instructed Council to change procedures had failed to provide that a provision for alternatives be included.

Coun. Deines said the Committee had received so many alternatives that the number of alternatives should be narrowed down before suggesting any to the Council as a whole.

Coun. Williamson suggested that some time be set aside at the next meeting to fully discuss the proposed Personnel Rules. Coun. Kirkpatrick agreed that time should be set aside at the next meeting to accommodate full discussion of the Personnel Rules.

Coun. Berkman expressed his opinion that Coun. Peterson's memorandum raised a legitimate policy issue. He felt it would be appropriate to focus on the question of policy and that the right of confirmation should apply to key positions.

Chairman Burton agreed that there were positions which had an effect on policy. He said that he would hope that the Council would reserve the authority to be involved in confirmation over positions which related to the policy question.

The Executive Officer commented that, since he would not be present at the next Council meeting when the Ordinance would have its final reading, he would like to make a statement at this time. He suggested that the Council should consider the type of tradition it is establishing to a system of checks and balances and that he would hope that the Council could maintain its perspective about the long-term in creating this government. Also the Council should consider what type of relationship it wishes to establish with the Executive Officer. The Council should have a basic goal to place the specific issues into

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context and should consider whether it is going to be run by unwritten rules rather than written rules.

Coun. Miller suggested that it might be easier for the Council to vote if it knew the rationale behind the recommendation of the Task Force. She said that none of the issues brought before the Council in the Task Force report were brought without unanimous consent of the Task Force. She continued that the Task Force which included three gentlemen from business backgrounds, had unanimously made decisions based on good personnel management relationships. They were not discussing checks and balances, but the manner which should be used to administer this bureaucracy with a high degree of success. Coun. Miller thanked the Council for the chairmanship of the Task Force and for the fine Committee she had been provided, and for the excellent assistance provided to the Task Force by staff.

It having been ascertained that it was Council consensus to do so, the Clerk read Ordinance No. 79-73 the first time by title only.

7.2 Resolution No. 79-65, Establishing A Regional Strategy to Address Major Transportation Corridor Issues.

Coun. Williamson moved, seconded by Coun. Banzer, that Resolution No. 79-65 be adopted.

Coun. Williamson pointed out that the Regional Strategy to Address Major Transportation Corridor Issues had been included in the packet. He said that both JPACT and TPACT had recommended that the Council adopt the strategy.

Coun. Rhodes asked for a clarification of the strategy in the McLoughlin Corridor, saying that she was sure that it went beyond the city limits of Milwaukie. Mr. Ockert, Transportation Director, explained that the entire Milwaukie influence area was being discussed when reference was made to Milwaukie, not just downtown Milwaukie.

Dr. Larry Griffith, a private citizen, spoke in favor of Council adoption of the improvement strategy. He also spoke in favor of the proposed Light Rail System and said that there were not a great number of these lines being implemented in the United States at the present time. He expressed a hope that this system would be a model for the future.

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Coun. Deines said that, from his study of the strategy, it did not appear that the people in Clackamas County had been contacted. He was concerned that more planning was required for that area. He felt that movement on McLoughlin was definitely restricted and that alternatives should be considered in addition to only widening McLoughlin Blvd.

Coun. Williamson said that the Committee had not received adverse suggestions from the officials of Milwaukie, Oregon City or Clackamas County at either TPACT or JPACT. He suggested that, if those jurisdictions wanted to make amendments to the strategy, they could appear before TPAC or JPACT and try to work out something concrete to amend the policy. Mr. Ockert explained that a number of alternatives will be studied in the McLoughlin Corridor. Light Rail for that Corridor had been seriously considered, and the conclusion had been that a Light Rail system should not be pursued in this particular corridor, as it lacks the potential for solving the problems. He pointed out that a number of options beyond widening McLoughlin are related.

Coun. Miller said that she would support the Resolution, but that she did not like HOV lanes and would not support having them in the regional strategy.

Coun. Miller moved, seconded by Coun. Deines, that the Resolution be amended to delete from the regional strategy the recommendation to implement HOV bypasses in the I-5 North Corridor.

There was further Council discussion of the motion. Chairman Burton called for a roll call vote. All Councilors present voted nay, except Coun. Miller who voted aye. The motion to amend the Resolution failed.

A vote was taken on the original motion. All Councilors present voting aye, the motion carried unanimously.

7.3. Resolution No. 79-66, Forwarding Results of Analysis Regarding Highway 43 and Marylhurst South Access to ODOT.

Coun. Williamson said that the Committee had received a great deal of mail concerning this matter and some petitions. The staff had studied the problem to determine if a signal was warranted. Theoretically, one warrant was all that was needed to permit placement on the priority list. Both TPAC and JPACT had voted to forward the study

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to ODOT.

Coun. Kirkpatrick said she had done some telephoning and talking with the people from ODOT and it was her understanding that they were interested in this matter. She did understand that both TPAC and JPACT had found that this was not a regional problem, but she felt that it was important to pursue it.

Mr. Jim Corbett of Marylhurst Education Center spoke in favor of this Resolution. He told about the number of people who worked at Marylhurst, the fact that some were handicapped, and the concerns that the people from Marylhurst had had about the area for a number of years.

Mr. Ed Mitchell said that he felt buses should have room to pull off the main traveled lane.

Mr. Bob Bothman explained the priority list for traffic signals in the state of Oregon. He said that this intersection now meets the warrants and has been put on the list. He pointed out, however, that the list is long and that other proposed projects rank ahead of a Marylhurst project.

Coun. Kirkpatrick moved, seconded by Coun. Schedeen, that the Resolution be amended to add a second resolve that the MSD Council ask ODOT to return their findings to the Council and give further assistance to solve the problem if it is feasible.

Coun. Williamson asked if it would be possible to put up signs and if that would help.

Coun. Peterson suggested that this was not a regional problem.

Mr. Ockert said that TPAC had been concerned that this was not a regional concern and, therefore, it did not justify taking a lot of staff time.

Coun. Rhodes asked if there was a possibility of buses using the bike path. She thought that perhaps Tri-Met could work with ODOT to solve this problem.

Coun. Miller said that at the JPACT meeting she had not supported this resolution and that she questioned if there were any teeth in Coun. Kirkpatrick's amendment.

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Coun. Kirkpatrick explained that her motion was intended to get information back to MSD so that they could deal with the problem if indeed ODOT was not going to.

Coun. Miller said that she would vote against the amendment but she would vote in favor of the resolution. She explained that she did not know if there were other problems in the region, but that she did know that there was one here that she could deal with now. She thought this was a good place to start before there were other deaths.

A vote was taken on the amendment. All Councilors present voted aye, except Coun. Miller, who voted nay. The motion carried.

Vote was taken on Resolution No. 79-66, as amended. All Councilors present voting aye, the motion carried unanimously.

7.4 Resolution No. 79-67, Selecting Problem Areas for Consideration of MSD Interstate Transfer Reserve Funding.

Coun. Williamson moved, seconded by Coun. Banzer, that the Council adopt Resolution No. 79-67. Coun. Williamson explained that the MSD Council had established a study process and schedule for determining funding priorities for the \$20 million Interstate Transfer Reserve. The problem areas for further study had been narrowed through application of criteria established by the MSD Council. JPACT had reviewed the staff recommendations and proposed the following changes to those recommendations:

1. A Tri-Met proposal for new bus purchases is included in the high priority problem list with the understanding the City of Portland is requested to also consider the funding of bus purchases from their \$50 million dollar reserve.
2. That three problem areas be expanded to include additional facility options. The additions are 257th Avenue in East Multnomah County; 158th Avenue to the west of Beaverton; and Railroad/Harmony in the Milwaukie area.

The JPACT recommends that the high priority problem areas eligible for MSD regional reserve funding be approved.

Chairman Burton said that he had received two letters that addressed this issue.

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Coun. Rhodes questioned the manner for receiving public input and how the decision would be made on which projects would be funded.

Coun. Williamson informed her that public hearings will be scheduled before the Council considers allocating funds. The main responsibility for getting public input is up to the local jurisdiction which proposed the project.

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

7.5 Resolution No. 79-68, Amending Criteria for MSD Reserve of Interstate Transfer Funds.

Coun. Miller moved, seconded by Coun. Peterson, that Resolution No. 79-68 be adopted.

Coun. Williamson explained that Item 5 of the additional criteria, which was Exhibit A of the Resolution, had been of some concern to the Local Officials Advisory Committee, and that they could not totally support Item 6, which would give special considerations to local jurisdictions which finance road improvements. Coun. Williamson explained that in Item 5 criteria was not firm and it was not intended to exclude projects.

Coun. Rhodes moved, seconded by Coun. Burton, that the criteria be amended to eliminate both Items No. 5 and No. 6.

Coun. Miller said she would not vote for the amendment. She felt that jurisdictions should be encouraged to provide financing and that this was not the sole criteria.

Coun. Peterson said he would oppose the amendment because he strongly supported incentives which would provide road improvements. He felt that all the tools available should be used.

A vote was taken on motion to amend Resolution No. 79-68. The motion failed.

The vote was taken on Resolution No. 79-68. Coun. Williamson, Deines, Schedeen, Banzer, Berkman, Peterson voted aye. Couns. Kirkpatrick, Burton and Rhodes voted nay. The motion carried.

7.6 Resolution No. 79-69, Adopting Prospectus for Regional

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Transportation Planning in Portland/Vancouver Metropolitan Area.

Coun. Miller moved, seconded by Coun. Williamson, that Resolution No. 79-69 be adopted. All Councilors present voting aye, the motion carried unanimously.

7.7 Resolution No. 79-70, Reaffirming Withdrawal of I-505 From Interstate Highway System.

Coun. Schedeen moved, seconded by Coun. Rhodes, that Resolution No. 79-70 be adopted. All Councilors present voting aye, the motion carried unanimously.

8. ANNOUNCEMENTS

Chairman Burton announced that the Council would retire into Executive Session for an informational status report on union negotiations.

Coun. Banzer moved, seconded by Coun. Deines, that through the provisions of ORS 192.660, the Council adjourn into an Executive Session. The motion carried unanimously.

The regular meeting of the Council was adjourned.

Respectfully submitted,



Mary Carder
 Clerk of the Council

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