

185A

MINUTES OF THE COUNCIL
OF THE METROPOLITAN SERVICE DISTRICT

August 9, 1979

Councilors in Attendance

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

Councilors Not in Attendance

Coun. Marge Kafoury
Coun. Jack Deines

Staff in Attendance

Mr. Denton U. Kent
Mr. Andrew Jordan
Ms. Jennifer Sims
Mr. McKay Rich
Mr. James Sitzman
Mr. Charles Shell
Ms. Linda Brentano
Ms. Marilyn Holstrom
Ms. Judith Bieberle
Mr. Tim Culler
Ms. Caryl Waters
Mr. John Gregory
Ms. Michele Wilder
Ms. Peg Henwood
Ms. Vickie Grimes
Mr. Robert McAbee
Ms. Barbara Higbee
Ms. Mary Carder

Others in Attendance

Mr. Dean Smith
Mr. Don Clark
Mr. Fred Leeson
Mr. Bob Weil
Mr. Dick Brenneke
Mr. Hans Juhr
Ms. Lynne Aiken
Ms. Jeanine Carr
Mr. Bruce Etlinger
Mr. Terry Morgan
Ms. Linda Macpherson
Dr. Peter A. Nathan
Mr. Chip Hinckley
Mr. John Grotling
Mr. Richard A. Ricks
Mr. Lynn Dingler
Mr. Ed Leek
Mr. Richard Rix
Mr. Jim Keller

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CALL TO ORDER

After declaration of a quorum, the August 9, 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, Portland, Oregon.

1. INTRODUCTIONS

There were no introductions.

2. WRITTEN COMMUNICATIONS TO THE COUNCIL

Chairman Burton said he had received a written communication from Steinfelds Production Company concerning the Portland Recycling Team. The Chairman asked that the committee on Solid Waste prepare a response to this correspondence.

Chairman Burton also received a letter from Multnomah County Executive, Donald E. Clark, asking to testify with regard to the A-95 Review on the Veterans Hospital.

Chairman Burton reported that he had received a letter from the Multnomah County Community Action Agency which he would discuss at a later time on the agenda.

Coun. Williamson read a letter he had received from County Executive Clark, written to the Joint Policy Advisory Committee on Transportation in opposition to relaxation of the federal ozone standard.

3. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

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

4. CONSENT AGENDA

4.1 Minutes of the meeting of July 12, 1979.

4.2 A-95 Review, directly related to MSD.

4.3 Contracts

Chairman Burton said that two matters under Item 4.2 would be withdrawn from the Consent Agenda at the request of the Council to allow separate discussion, since there were persons in the audience who wished to speak to these items.

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Coun. Stuhr moved, seconded by Coun. Kirkpatrick, that Items 4.1, the Items on 4.2 with the exclusion of the Gresham Plaza and Veterans Hospital reviews, and Item 4.3 be approved. All Councilors present voting aye, the motion carried unanimously.

4.2 A-95 Review of Veterans Administration Hospital Draft Environmental Impact Statement (DEIS).

Multnomah County Executive Donald E. Clark expressed his support for the new MSD Council. He said he believed that this was an appropriate forum for addressing metropolitan issues. He asked to speak in particular concerning A-95 Review of the Veterans Hospital. Executive Clark said that this A-95 Review should raise tough questions which demanded an answer. His first question was concerning the lack of exploration of a "no build" option for the proposed Veterans Hospital. He also questioned the impact of building additional beds; whether there were alternative systems that would be less inflationary, more cost effective, and provide a higher quality of health care; whether there were alternative systems available that would allow veterans free choice on where to get their health care; what the impact was of centralizing services in one part of the region and requiring sick veterans to travel to get health care, rather than to go to local hospitals and health professionals; whether such a system was consistent with our public policies on energy, health care cost containment and on serving sick, poor veterans; what the impact was of perpetuation of the current system on controlling the size of the federal bureaucracy. Executive Clark questioned why veterans did not have the option for comprehensive health care with the emphasis on well care and what the utilization differential was between regular hospitals and veterans hospitals.

Executive Clark said these questions had not been answered through the draft environmental impact statement. He said that most had been asked by the Northwest Oregon Health Systems, the local HSA, and the MSD's technical review group on health issues. Executive Clark requested that a negative A-95 recommendation be forwarded until these questions were satisfactorily addressed.

Councilors questioned Executive Clark on the number of beds that were now available which could be used by veterans. Executive Clark said that there were over 1,000 beds, 840 of which were operational, and that this would be a redundancy of facility. Executive Clark said he

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supported the staff recommendation, but hoped there would be an even stronger message come out of the Council as a result of this meeting.

Dr. Peter Nathan said he is a private practitioner in Portland. He expressed his private opinion that there was no necessity for a new VA hospital. He said he had polled his fellow physicians, and had found that 70% felt that there should be no new VA hospital, and that this would be a duplication of facilities. Dr. Nathan believed the medical profession had the responsibility as health providers to look at the needs of the whole community, not limit their concerns to a particular interest of one segment of the population. Dr. Nathan saw no reason that veterans could not be serviced through the existing medical system.

Coun. Berkman asked if physicians would be willing to work with governmental agencies to set up a pilot project to try to demonstrate how alternative health care systems for veterans could be developed at the same or less cost than is being proposed through this facility. He asked if there would be a chance to get some of these dollars for such a use.

It was Dr. Nathan's opinion that the average physician shared Coun. Berkman's view. He said the officers of the Oregon Medical Association had not been approached recently and that there might be some cooperation now through that body.

Coun. Stuhr asked what the main argument had been in favor of the facility. Dr. Nathan said the main purpose was to educate young doctors--there had never been an argument that it was to provide for the veteran's needs.

Mr. Bruce Etlinger, member of the Northwest Oregon Health Systems agency planning committee and the Oregon Coalition for National Health Security, read a prepared statement to the Council. He outlined past history of the issue of location of the VA hospital and asked that MSD review this information and the growing chorus against the new investment of scarce health resources. Mr. Etlinger also touched on the number of beds in the area and rate of occupancy of those beds. He said that there are 1,700 empty beds available on an average day in our community. *amended 9/1, 3/79*
Mr. Etlinger compared the need for a new veteran's hospital to the region's decision not to build the Mt. Hood Freeway, as the last chance for a public body to

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address an issue that has a total price tag of \$3.5 billion. He wanted the community to do its own health planning, reduce the number of existing beds in the community, and stop the escalating health care costs.

Mr. Richard Rix, Executive Director of the Northwest Oregon Health Systems (NOHS), said NOHS is responsible for health planning in a six-county region. Mr. Rix read a statement prepared by President Sylvia Davis, endorsing the comments of Don Clark, Dr. Nathan and Bruce Etlinger.

Chairman Burton asked Mr. Rix if it was the position of NOHS that the EIS should be reconsidered with a "no build" or that the project as proposed was not viable and should not be considered at all. Mr. Rix said that it was the view of the NOHS that Congress should examine the feasibility of utilizing community hospital services that compete with the veterans facility in health care. It should look at the dollars being redirected to provide for veterans to receive health care in the mainstream.

Coun. Kirkpatrick asked Coun. Berkman if he felt that there was any chance that these funds could be diverted so that something significant could be accomplished with them.

Mr. Rix asked if he could try to answer that question. He said he thought the NOHS Board would be supportive of trying to help in that area.

Mr. Ed Leek, Chairman of the Northeast Coalition of Neighborhoods, said that he represented nine neighborhoods and that they agreed with all comments made at this meeting--that it would be appropriate that the funds be diverted and no new hospital be constructed. Mr. Leek said that his group advocated that, if a new hospital was to be built, it should be located at the Emanuel site, rather than at Marquam. He outlined deficiencies in the EIS and suggested that the A-95 Review should be voiced in stronger terms. He said that if there was any other way to provide county health care for veterans than through a new VA hospital, that is what should be done.

Coun. Berkman asked if the Council had the capacity to make suggestions when it had a project before it for review. Mr. Kent said that it was his interpretation that MSD was a clearinghouse agency which could make any comment it felt appropriate. Comments are advisory to the funding agency and provide a basis for making investment

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decisions. There is a wide range of options that can be exercised in the A-95 Review.

Coun. Rhodes reminded the Council that what they were discussing was the impact statement, not the question of the site or whether or not the hospital should be built. Coun. Rhodes said the "no build" option had been added to the original request and asked if it would be possible to add an option of community health care. Ms. Brentano explained that it would be necessary to provide a rationale for the "no build" option which would include utilization of facilities that are not currently fully utilized. Coun. Rhodes suggested that wording be included as follows: "...to develop a pilot project which would utilize the funds to provide services through facilities now in place."

Coun. Miller said that Mr. Leek had made several points that were not addressed in the A-95 recommendations. She asked if Ms. Brentano recommended that these be added. Ms. Brentano said she saw no problem with including Mr. Leek's recommendations.

Coun. Berkman asked if it was correct that the VA could expend 15% of its budget in expanding health care outside its own system. Chairman Burton said this was correct.

Coun. Williamson asked why the Council could not give a negative A-95 report. Chairman Burton replied that Coun. Rhodes had been correct in saying that the review was of the EIS, not of the facility itself. Chairman Burton said he personally felt that the Council could state that building this hospital would have an adverse impact on health planning in the region, or even make suggestions for other possible uses of the money.

Coun. Berkman agreed with Mr. Etlinger that there might be an analogy with this project and that of the Mt. Hood Freeway. He suggested that public opinion should be polled and the question of the "no build" alternative reviewed to see if the Council could demonstrate that there was a willingness on the part of people to put together a pilot program as a viable alternative to not building this hospital anywhere. Coun. Berkman was concerned that if it was not done now it might be too late in October.

Coun. Williamson moved, seconded by Coun. Berkman that the Council submit a negative A-95 recommendation on the EIS,

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based on lack of proper study as outlined in the staff report and lack of information and response to questions raised by Multnomah County Executive Clark and the concerns raised by Mr. Leek; that the Council further indicate that it did not support the construction of the Veteran's hospital at this time because of its potential negative impact on health care planning in the community; and that the Council urge pursuit of a community pilot program, as described by Coun. Kirkpatrick and Coun. Berkman.

Coun. Miller raised the question whether it was Mr. Williamson's intent that Mr. Leek's proposal be specifically included. Coun. Williamson said that was part of his motion.

Coun. Peterson wanted to be sure that the motion incorporated an alternative of using the funds that would be earmarked for construction of a new facility to provide for treatment of veterans in existing community hospitals, or near their homes. Coun. Williamson agreed that this had been incorporated in his motion.

*amended
9/13/79*

Coun. Kirkpatrick said she would vote against this motion and support the staff recommendation. Coun. Kirkpatrick offered to work with staff to determine whether a pilot project would be feasible in this state. She said she would be hesitant to follow the "no build" option, since the Council really did not have enough information to make that recommendation right now. Coun. Kirkpatrick agreed that it would be appropriate to state that the EIS is lacking.

Coun. Berkman said that even though there was a possibility the money might not be allocated to this region, the Council would not want the money spent in a foolhardy way.

Coun. Miller seconded Coun. Berkman's comments. She said she did not want to take any benefits from the veterans but she did not think that this was the question.

Chairman Burton said he would support a negative comment on this A-95 for the reasons stated, which included asking the VA to look at alternatives which were mentioned at this meeting.

Roll call vote. Couns. Schedeen, Miller, Banzer, Peterson, Stuhr, Williamson, Berkman voted aye. Couns.

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Kirkpatrick and Rhodes voted nay. Couns. Deines and Rafoury were absent.

4.2 A-95 Review on Gresham Plaza Housing Project.

Mr. Jim Keller, Planning Director for the city of Gresham, spoke regarding the A-95 Review of the Gresham Plaza housing project which recommended approval of 91 of the 205 units requested. He disagreed with some comments made in the staff report. Mr. Keller outlined the suitability of the project for the site and said it was consistent with Gresham criteria. He said that the area was a prime location for elderly in that all facilities aimed toward elderly citizens were within walking distance of this site. He objected to use of the AHOP figures, saying that the Gresham area projects included in those figures would probably never be built, since services could not be provided at this time to those projects.

Coun. Stuhr asked what was being done to address the needs of large families and lower income families in the Gresham area as provided in the Housing Opportunity Plan. She was concerned that Gresham did not have a method for locating other types of low-income housing. Mr. Keller said there were 28 dwelling units under construction at this time for low-income housing in Gresham.

There was Council discussion about the affect on other areas of the region of the over-building of elderly units in Gresham. Mr. Kent explained that oversubscribing one type of housing in a particular geographic area would not remove the need for providing the other types of units at another location in the region. A total allocation has been provided for elderly in the region and oversubscribing in one place takes away resources available to other areas.

There was further discussion of the impact of building this number of elderly units in the city of Gresham. Coun. Miller asked Mr. Keller why he felt that the 150 unit project might not be built. Was this because of escalating costs? Mr. Keller said that one of the projects was remote from the City, the plans had been developed two years ago and there was now no way to withdraw those funds. A planned 100 unit project that would be more suitable for low-income families because of its location could perhaps be aimed at family housing rather than elderly housing.

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Coun. Miller asked if she was to understand that Mr. Keller would try to work to have this 100 unit project become another type of project. Coun. Miller asked staff to what extent this project would cause Gresham to be over the minimum standard if Council approved the recommendation. Ms. Brentano explained that there are 91 elderly units allocated. It would be the difference between 205 and 91. She said that the 150 units were not counted against the HOP goals because the projects had been proposed prior to adoption of the HOP.

Coun. Schedeen described the location of the property and said that the report had failed to state that this property was close to the hospital. Also, there was an excellent senior center within four blocks of the location.

Chairman Burton asked Ms. Brentano what the time frame was for the A-95 submittal. He thought it might be a good idea to direct staff to meet with the parties involved and try to work out an agreement that would affect the decision of the Council.

Mr. Hans Juhr spoke in support of building these units. He said he had been requested by HUD to build them. They were bonus units that would go down the drain if the money was not used. Mr. Juhr said the units were needed, and that the site was the best he had ever run across for a senior project.

Chairman Burton asked why this site would not be a good one for small and large family units. Mr. Juhr explained that the site was only a square block and comparable units could not be built for family use since HUD would not allow families in multi-story buildings. In addition, senior citizens do not require parking.

Coun. Miller moved, seconded by Coun. Schedeen that the MSD Council support the A-95 Review of the Gresham Plaza Housing Project.

Coun. Stuhr asked if the site was in conformity with the local zoning ordinance. Mr. Juhr said that he had been advised by Gresham staff that they would support this project as a nonconforming use of the site.

Coun. Kirkpatrick asked if it would be possible for the Council to approve only the 91 units that would comply with the AHOP. Mr. Kent said this would be within the realm of the Council authority.

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Mr. Juhr said the tenants would not be able to pay the high rents resulting through building less units. The reason for the A-95 was for a subsidy of the rents. Mr. Juhr did not think the state agency would support the project under these conditions.

Coun. Peterson asked if the maker of the motion would have any objection to an amendment which would direct the staff to attempt to work out an arrangement with Gresham and HUD to change the existing 150 assisted units to family occupancy. Coun. Miller said she had no objection, but she thought the project was worthwhile on its own merits. She recognized that Gresham had been caught in a transition period and she was acting on their good faith that they were planning to do other kinds of housing developments and make low-income family housing available. Her approval of the project was based on Gresham's willingness to work with MSD.

Coun. Kirkpatrick moved, seconded by Coun. Stuhr, that the Council support the subsidy on 91 units of Section 8 elderly housing.

Coun. Schedeen said limiting the project to 91 units would cancel it. Coun. Miller said she would oppose the amendment because the affect of the amendment would be to cancel the project.

Question was called on the motion to amend. The motion failed.

Coun. Williamson moved, seconded by Coun. Miller, to amend the main motion to provide that approval would be conditioned upon an agreement being reached between MSD and the city of Gresham on redesignating the 150 units to family unit housing.

Mr. Kent asked if representatives from HUD would be invited to this meeting. Coun. Williamson agreed that HUD representatives should be included, and that the developer of the project should also be included in this meeting.

Chairman Burton said he would vote against the amendment because it was his intent to refer the matter over to the next meeting until there had been an opportunity to explore the options.

Question called on the motion. All Councilors present voted nay except Coun. Peterson who voted aye. The motion failed.

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Coun. Rhodes moved, seconded by Coun. Berkman, that discussion be postponed until the Council meeting of August 23, 1979.

Coun. Miller asked if it was the intent of the motion to include that the parties get together and try to resolve this issue in the manner that Chairman Burton recommended. Coun. Rhodes agreed that this was her intent.

Mr. Jühr said that if something were to happen that these funds would become available, HUD would not approve anything until an A-95 Review was in.

Ms. Lynne Aiken of the Oregon State Housing Division told the Council that HUD would not approve proposals without A-95 recommendations.

Chairman Burton said he was going to vote against this motion, since it was his intention to set up a meeting of all parties and try to resolve the problem. He asked Coun. Rhodes to clarify that this was the intent of the motion. Coun. Rhodes confirmed that this was her intent.

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

Coun. Rhodes said she wanted information from HUD regarding what the funding was, what funding was available and an understanding of HUD's role and the different possibilities for funding.

5. REPORTS

5.1 Report from Executive Officer

There was no report from the Executive Officer.

5.2 Council Committee Reports

Chairman Burton said he had received a letter from Multnomah County Community Action Agency Advisory Board to the Committee on Human Resource Programs. This letter was offering a position to a member of the MSD Council to sit on the MCCA Advisory Board. Chairman Burton said that while MSD is not directly into those types of services that they impact regional matters and the Council should be aware of the matters that are going before that Board. Therefore, he said that it was his intent to accept membership on that Board and that he would appoint himself

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to that position if there were no objections from the Council. No one voiced an objection to this suggestion.

Chairman Burton said a Local Officials Advisory Committee (LOAC) meeting was scheduled for August 15 at 5:30 p.m. at the MSD offices and the agenda would be a discussion of the UGB.

Chairman Burton continued that the Port of Portland Commission had adopted a policy on new land development. He suggested that the proposal could have an impact on regional planning and that the Council should at least be aware of this proposal.

Zoo Committee: Coun. Banzer distributed packages of Animal Snackers and explained that the Committee had obtained these and several other novelties to publicize the Zoo and care of animals in the Zoo. She said the other items of Committee business were covered in the material contained in the agenda.

Planning and Development: Coun. Peterson said that the Planning and Development Committee had spent a majority of the time at its meeting working on the draft of the staff response to LCDC concerning implementation of the UGB. Coun. Peterson said that this matter would be discussed further under Item 5.3 of the agenda.

JFACT: Coun. Williamson said that the JFACT Committee had met this morning and that the Transportation Policy Advisory Committee had met Tuesday night. Several transportation items are to be scheduled for action on the next Council agenda. The Committee has made progress with the matter of citizen participation and hopes to present the Council with some suggestions for recommendations for appointments at the first meeting in September. Coun. Williamson said forms have been prepared for citizens to fill out and that the Committee would like to have those submitted within the next three weeks.

Coun. Williamson reported that the Committee received a request from Tri-Met to appoint a Councilor to serve on the Task Force to look into special needs for transportation. Coun. Schedeen said she would be willing to serve. Coun. Stuhr offered to act as alternate.

Chairman Burton said he would make that appointment unless there were any objections from the Council. There being no objections he appointed Coun. Schedeen to the Tri-Met Committee with Coun. Stuhr as alternate.

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Solid Waste: Coun. Berkman said the Solid Waste Committee had not met since the last Council meeting. The Committee had been involved with Johnson Creek and he would ask Coun. Rhodes to report on the Johnson Creek matter.

Coun. Rhodes said that several groups are planning to participate in the Clean Up of the Creek. She asked for volunteers from the Council to assist with the Clean Up which was planned for Saturday, August 11.

Ways and Means Committee: Coun. Kirkpatrick stated that a process to study long-term financing has been started and that Councilors are invited to submit ideas for long-range financing methods.

Chairman Burton asked that the Ways and Means Committee address the question of what constitutes "Other Expenses" for Councilors.

5.3 Report on Progress in Addressing LCDC Concerns on Implementation of Urban Growth Boundary.

Mr. Kent said that the LCDC was holding a meeting August 10 which he and Mr. Sitzman would be attending to give a status report. He said that anyone else was welcome to come and could make a presentation.

Coun. Kirkpatrick said she would be there in case it was necessary to make some comment.

Mr. Sitzman explained that DLCD and MSD had prepared a joint staff report which was the result of four meetings between the two staffs and meetings with the Planning and Development Committee. Mr. Sitzman highlighted points in the document. He said there had not been agreement on every issue but there had been agreement on the basic posed components. He continued that the Commission had named five question areas, which it requested that the LCDC staff and MSD staff work to resolve. Mr. Sitzman asked Councilors if they felt staff was headed in the right direction. He said staff would return to the Council meeting of August 23 for approval of a statement to be sent to the Commission in September.

Coun. Stuhr said she understood that a letter would be directed to the Executive Officer from the Washington County Commissioners requesting another month's delay. They had asked that Coun. Stuhr also request that the Council comply with that request. Coun. Stuhr was not

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sure what the implication of a month's delay would be but she said that the Commissioners felt they needed time to have proper hearings, etc.

Mr. Jim Allison, president of the Washington County Landowners Association, said that some highly controversial issues are involved in this document and he wanted to be sure he understood the procedure. He asked if the Council would be presenting a resolution to LCDC proposing amendment of language of the text of the Land Use Framework amendment.

Mr. Sitzman said he thought it would be possible that this would have to be done to meet the request of the State. Mr. Allison reminded the Council that if this was done it would be subject to referendum since it was an amendment to the Land Use Framework Element.

Mr. Kent pointed out that there was a split vote by the LCDC at the point the Boundary was first proposed as to whether or not that Commission would want any actions in those five areas taken prior to their acknowledgment or whether or not a commitment to work toward resolution of those five areas would be sufficient for them to accept the Boundary. It was Mr. Kent's understanding that LCDC would be predisposed to a commitment to work toward resolution of the problem areas.

Chairman Burton said he shared Mr. Allison's concern regarding a referendum if Council was placed in the position to make legislative changes. Chairman Burton thought perhaps the Commission should be made aware that it had put MSD in a position of having to go to the voters.

Coun. Williamson thought it might be an important measure for referral, since it would not be voted on until November of next year. He thanked Mr. Allison for his concern and said his comment was well taken.

6. OLD BUSINESS

- 6.1 Ordinance 79-73, Providing Personnel Regulations for the Metropolitan Service District and Repealing Interim Personnel Rules Adopted Pursuant to Council Resolution No. 79-2 (second reading). (Public comment)

Chairman Burton opened the public hearing and requested that the Clerk read the Ordinance by title only for the second time. It having been ascertained that it was the

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consensus of the Council to do so, the Clerk read Ordinance No. 79-73 the second time by title only.

There being no one present who wished to present testimony the hearing was closed.

Chairman Burton reminded the Council that a motion to adopt Ordinance No. 79-73 had been made at the July 26 Council meeting.

Coun. Williamson asked to make several motions to amend the Personnel Rules.

Coun. Miller reminded Council that at the last meeting she had asked that, if questions were to arise, she be allowed to give the rationale of the Committee's position so that the Councilors would understand why the recommendation was made. She reminded the Council that all recommendations of the Task Force had been unanimous.

Coun. Williamson said that he had been involved in litigation over personnel policies and that he did not want to see the MSD Council spend a lot of time in termination or disciplinary hearings. In that connection, Coun. Williamson moved, seconded by Coun. Kirkpatrick, that the first sentence of Section 2 be amended to read: "Personnel Rules shall be adopted solely by Council and amended solely by Council," and delete the rest of the first paragraph.

Coun. Williamson's second portion of the motion was to suggest that the words "If practical" be added at the beginning of the first sentence of the second paragraph.

Ms. Vickie Grimes, representing the Employees Steering Committee, asked for the reasoning for putting "if practical" before the paragraph pertaining to the 10 day provision. Coun. Williamson said that he did not want to preclude having the Council take action on the matter, and this amendment would be the simplest way to accomplish that.

Mr. Kent reminded the Council that any amendment to the Ordinance would require two readings, so everyone would automatically receive two weeks' notice.

Vote was taken on the motion to amend Section 2. All Councilors present voting aye, the motion carried unanimously.

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Coun. Williamson commented that on page 7, the paragraph pertaining to recruitment appeared to him to require that staff be allowed to apply first to fill vacant positions and after everyone from staff was reviewed applications could be considered from persons outside the agency. Coun. Williamson felt MSD needed to get the best people for any vacant position and that employees should compete with other applicants to insure this. He had no problem with staff getting first notice if there was an understanding in-house that applicants would be provided with a written response before other avenues were pursued. The response would not mean that the applicant had or had not been selected, but only that the applicant would be considered along with everyone else. Coun. Williamson suggested addition of a sentence providing that the response to the applicant need not be a positive or negative statement but simply that the applicant would be considered with outside applicants.

Coun. Miller felt the motion might be unnecessary as indicated. The reason the word "response" was used rather than "approval" or "disapproval" was to leave it open that employees would be considered with other candidates. Coun. Miller was glad that the question was raised so that the intent would be in the record.

Coun. Williamson moved, seconded by Coun. Schedeen, that a sentence be added to Section 8 (d) stating that sufficient response need not be an ultimate decision on the application but could simply state that the applicant was being considered along with outside applicants.

Coun. Miller suggested that the original language be retained with the change that each applicant should have written response pertaining to eligibility before outside recruitment was considered. She suggested insertion of the words "pertaining to eligibility." Mr. Kent said that he had a problem with that language. He thought the written response should be on the "status of each application."

Coun. Williamson said that the language stated by Mr. Kent would meet his objective and he would amend his motion to that affect. His second agreed.

There was a vote on the motion. All Councilors present voting aye, the motion carried unanimously.

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Coun. Williamson moved, seconded by Coun. Banzer, that Section 13 (b) pertaining to layoff be amended to read: "Laid off employees shall have rehire preference for the position within the classification from which they were laid off." Coun. Williamson said the Rule provides one (1) year following lay off. He felt that was confusing if employees felt they should be considered for positions for which they were not qualified.

Mr. Kent explained that lay off could be due to abolition of a job and it was possible the person could fit in another position in the same classification.

Vote was taken on the motion. All Councilors present voting aye, the motion carried unanimously. Coun. Williamson moved, seconded by Coun. Banzer, that Section 18 (c) (13) be amended to delete "any conviction by court of law" and insert "obvious commission of a crime." Coun. Williamson explained that if it was clear that a crime had been committed, the agency should be able to let somebody go.

Coun. Miller explained that one of the original proposals had just such wording. There are a number of non-criminal acts which would not specifically be classified a crime and for that reason the wording was left out.

Coun. Rhodes said that she had problems with the words "obvious crimes." She felt that the original wording was sufficient.

Coun. Williamson said that he would withdraw the motion. It was consensus of the Council that this would be allowed.

Coun. Williamson moved, seconded by Coun. Schedeen, that Section 18 (d) be amended. Coun. Williamson suggested that the words "appropriate though" be deleted and leave in the words "every circumstance." It would read, "It is not necessary that these steps be taken progressively in every circumstance...."

Coun. Miller explained that in most cases the appropriate procedure would be followed, but to allow exceptions through such an amendment would not state the Council's preference in relation to due process. After further discussion of Coun. Williamson's suggestion, he withdrew the motion, with the consent of his second.

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Coun. Williamson moved, seconded by Coun. Berkman, that Section 18 (f) be amended, changing the word "working" days to "business" days. It was pointed out by Mr. Jordan that this would require amendment throughout the Personnel Rules. Mr. Jordan felt that "working" days in that sense meant "business" days.

Coun. Williamson suggested that this could be put into the definition. He felt it should be clarified that the Executive Officer should be able to suspend someone immediately. Coun. Williamson said he would withdraw that motion if it was confirmed that this was the intent.

Coun. Miller said that she would prefer not to try to change the language in the entire Rules, but would direct that the definition "workday" be expanded to say what Coun. Williamson meant.

Coun. Peterson said that in the Federal Personnel Rules the term "working day" was used and its meaning was synonymous with what Coun. Williamson was calling "business days."

Coun. Miller suggested that the General Counsel could work out a definition which explained that those were the standard working hours at MSD.

Vote taken on motion. All Councilors voted aye, except Coun. Rhodes who voted nay. The motion carried.

Coun. Williamson moved, seconded by Coun. Schedeen, that wording be added that "Written notice be given to the employee in person or mailed to the last known address of the employee."

Vote was taken on the motion as stated. All Councilors present voting aye, the motion carried unanimously.

Coun. Banzer moved, seconded by Coun. Rhodes, that on page 26, Section 35 (b) Maternity Leave, amend the second sentence relating to disability by adding the phrase: "except for a physician's statement" before the words: "shall apply."

Coun. Miller explained the reason for the recommendation and the requirement for a limit on leave. The requirement of a physician's statement would notify MSD of the length of leave required.

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Coun. Banzer felt that the requirement for a physician's statement in connection with maternity leave was an "infringement of people's rights."

Vote taken on the motion. All Councilors present voted nay, except Coun. Banzer who voted aye. The motion failed.

Coun. Peterson said that Coun. Deines had drafted a proposal relative to appointment, and since Coun. Deines was not present, Coun. Peterson would try to impart his meaning.

Coun. Peterson moved, seconded by Coun. Berkman, to provide that Article II, Section 8 (e) be amended as follows: "the Council shall have authority to review and approve or disapprove all or some of the personnel appointments made by the Executive Officer. Upon the request of three (3) or more Council members the Council will review qualifications of the Executive Officer's nominee in accordance with procedures adopted by the Council."

Coun. Peterson explained that this meant that the Council would not automatically review any positions, but when there was a vacancy the Executive Officer would notify the Council. At that point three Councilors could request a review of the qualifications.

Coun. Stuhr asked if it was the intent of that motion to state that this request would have to come prior to hiring the person.

Coun. Kirkpatrick did not think the language was clear or that three Councilors were enough. The Council did not do business by minority. Coun. Schedeen suggested five persons.

Coun. Berkman agreed with Coun. Kirkpatrick's reference to a small minority of the Council. However, Coun. Berkman feared that a majority requirement might be construed as a majority agreement. It might be viewed as an adverse reflection on the Executive Officers nomination. He agreed with Coun. Schedeen's suggestion of five persons.

Coun. Schedeen moved to amend the motion to read "five." Couns. Peterson and Berkman said they would accept five as the proper number.

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Coun. Miller explained the rationale of the Task Force and asked why the review should be limited to specific persons. There are clearly some staff positions that have an impact on Council policy and the Task Force had listed the ones that should be part of the confirmation process.

Coun. Berkman felt that the Council could adopt this amendment for a trial period. It could always be amended at an appropriate time in the future.

Coun. Williamson moved, seconded by Coun. Kirkpatrick to amend the motion to delete the first sentence which begins "The Council shall have authority to approve or disapprove...." and add that the request from five Councilors should be made within seven (7) days from the date of the notice. Couns. Peterson and Berkman agreed to accept this amendment.

Coun. Williamson asked Mr. Kent if staff would have problems with this procedure. Mr. Kent said it was his understanding that the reason for the Committee's original proposal was not that any one on the staff would interface publicly on policies that have already been established, but the Council confirmation would apply to those positions which as a normal part of their duties, provided a reflection or commitment role for the agency. Mr. Kent felt that this was a proper limit and that confirmation should be used for those who reflect the policy-making, not policy-implementing use. He felt the Chief Administrative Officer could appropriately be added to the original list of three.

Coun. Peterson explained that the proposal was not meant to apply to all 12 positions automatically, but only on the request of five Councilors. Coun. Peterson listed the positions to be included in the motion, as outlined in his previous memorandum to the Council:

1. Chief Administrative Officer
2. Legal Counsel
3. Legislative Liaison
4. Council Secretary
5. Information Officer
6. Local Government Relations Officer
7. All Department Heads

Roll call vote was taken on the amendment. Couns. Schedeen, Banzer, Peterson, Burton, Stuhr, Williamson, Berkman voted aye. Couns. Rhodes, Miller, Kirkpatrick

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voted nay. Couns. Deines and Kafoury were absent. The motion failed.

Coun. Miller moved, seconded by Coun. Rhodes, that a substitute for the main motion be the original language introduced by the Task Force which specified that because of the duties associated with certain positions which included the General Counsel, Legislative Liaison, and Director of Local Government Assistance and Citizen Involvement, the Council should have the right of confirmation of these positions.

Roll call vote on the substitute motion. Couns. Burton, Stuhr, Williamson, Kirkpatrick, Rhodes, Schedeen, Miller voted aye. Couns. Peterson, Berkman, Banzer voted nay. The motion carried.

Coun. Banzer moved, seconded by Chairman Burton, that Coun. Miller's motion be amended to include the Zoo Director in the list of those to be reviewed. There was discussion on the motion. Question called. The motion failed.

Coun. Peterson moved, seconded by Coun. Rhodes, that since the Chief Administrative Officer had agreed that his position should be subject to Council confirmation, that an amendment would be appropriate to provide for the confirmation of the Chief Administrative Officer.

Question called on the motion. Roll call vote. Couns. Rhodes, Banzer, Peterson, Burton, Williamson, Berkman voted aye. Couns. Miller, Stuhr, Kirkpatrick voted nay. The motion carried.

Coun. Burton moved, seconded by Coun. Peterson, that Step 4 be substituted with Step 5 to reverse the order for processing a grievance.

Mr. Jordan asked if the motion included the necessary language changes to rewrite these Sections. Chairman Burton agreed that this was the intent. He clarified that it was his intent that the Executive Officer be the final step in the dismissal from the agency.

Coun. Williamson said that there is some authority that people are entitled to a hearing. He asked if, with the amendment, that requirement would be satisfied.

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Mr. Jordan said that a hearing by a body having authority to make a decision or make a recommendation would satisfy.

Coun. Miller said this was one of the most discussed points at the Committee meeting -- whether to place the troika last or whether to have it at all. The concern of the Committee was to keep the troika at the end. She explained that this provision was intended to be used in the cases of dismissal only. It was intended to cut down law suits by creating an appeal step above the Executive Officer.

Chairman Burton moved, seconded by Coun. Peterson, to withdraw the motion and make a new motion to simply eliminate Step 5 and have Step 4 read as it does now, with the exception of the last sentence which would read "except Step 5 below, the decision of the Executive Officer shall be final and binding upon...." Coun. Burton felt that since the Executive Officer has the right to hire, he should be given the right to fire. The Council should stand behind him in a court of law, if necessary. Mr. Kent agreed that a troika should come before the decision of the Executive Officer. It would be inappropriate to have the Executive Officer's decision subject to the decision of an independent three person body.

Ms. Grimes said that it was the feeling of the Steering Committee of the Employees Association that the troika should be at the end and she would strongly support Coun. Miller's position.

Chairman Burton explained that the way the Rules are written now, the panel would supplant the Executive Officer's decision to fire. Since there is already an appeals law, he felt this would suffice. He clarified that the motion was to eliminate Step 5 of Section 19, and to amend Step 4 in the last paragraph to read "The decision of the Executive Officer shall be final and binding on the employee or group of employees."

Vote was taken on the motion. The motion carried.

Coun. Miller said that there had been a slight problem with Section 29 relating to Compensatory Time. It had been discovered that in sections (c) and (d) there was a great deal of ambiguity and confusion about the intent. She explained that the intent was that sections (c) and (d) be read together. Compensatory Time was originally created to discourage the employer from overworking the

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staff in lieu of hiring other people and paying their fringe benefits. The Committee questioned whether a rule should be written dealing with compensatory time when currently this agency has no problem about compensatory time. The Committee also questioned whether the Council wished to write a rule to deal with compensatory time since there could be future problems. Employees could be forced to take their time without accumulating it (by putting a "cap" on compensatory time). A "cap" could provide that an employee not earn more than 40 hours compensatory time each six (6) months before using compensatory time or provide that an unlimited amount could be earned but twice a year the time must be reduced to 39 hours.

Coun. Stuhr moved, seconded by Coun. Rhodes, to strike the language now in the Rule to eliminate that Section 29, and insert Section 29 as it appeared in the existing Interim Personnel Rules. A vote was taken on the motion. All Councilors present voting aye, the motion carried unanimously.

The question was called on the motion to adopt Ordinance No. 79-73. Roll call vote. Couns. Miller, Schedeen, Peterson, Burton, Stuhr, Williamson, Kirkpatrick, Rhodes voted aye. Couns. Banzer and Berkman voted nay. Coun. Deines and Kafoury were absent. The motion carried.

7. NEW BUSINESS

7.1 Resolution No. 79-72, Establishing a Private, Non-Profit Foundation At The Washington Park Zoo.

Coun. Banzer reported on work being done at the Washington Park Zoo to improve the facility. She explained that these improvements cost a great deal. To not impose too great a burden on the taxpayer, the Committee had suggested creation of a Development Foundation to raise private funds and aggressively seek grants. Coun. Banzer explained the steps necessary to create such a foundation and told the Council that it would be necessary to allocate adequate developmental money to support the initial effort. The Committee estimated that \$40,000 annually, over a two year period, should be sufficient. Coun. Banzer said the Zoo Director would have a major role to play. However, a Development Director should be employed to take general responsibility for administration of the program. She said that individual would work very closely with the Zoo Director and serve as Development

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Program Liaison to the Council and to the Executive Officer. The Committee suggested that funds for creation of the foundation come from the Zoo contingency account. Assignment for responsibility for gaining outside resources for the Zoo Development Program would be focused in the foundation and the Development Director. Project priorities for fund expenditures would continue to be set by the Council. The Committee has requested approval of Resolution No. 79-72.

Mr. Warren Iliff said that the staff felt that this was an important step and requested a time line for recruitment of a Development Officer.

Coun. Miller questioned Coun. Banzer about the relationship of the proposed Foundation to Friends of the Zoo.

Coun. Banzer explained that the charge to the Development Foundation would be to obtain grants and major donations to the Zoo. The Friends of the Zoo primarily provide publicity and promote the Zoo. They are not involved in major funding.

Coun. Kirkpatrick asked if it was the intent to have a Foundation Board. Coun. Banzer agreed that it was.

Coun. Kirkpatrick did not see any evidence of this proposal in either the Resolution or the minutes.

Coun. Banzer said that it was her understanding that there would be a Foundation Board which would actually run the Foundation.

Coun. Kirkpatrick asked if the Committee would be coming back to the Council before anything was done. She thought the Resolution was lacking unless the Council had considerably more information. If this Resolution was only to endorse a concept for further staff work before money was spent she could support it.

Mr. Iliff said that on the second page of the staff report there was a project priority for fund expenditures which would continue to be set by the Council.

Coun. Kirkpatrick said that this needed to be included in the Resolution. Coun. Kirkpatrick moved, seconded by Coun. Miller, to amend the last sentence of the Resolution to read: " as approved by the MSD Council, to underwrite capital improvements at the Washington Park Zoo."

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Coun. Banzer agreed to this amendment, saying that this was the intent of the Committee.

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

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

7.2 Resolution No. 79-73, Approving Conditional Sales Agreement Between Digital Equipment Corporation and MSD.

Coun. Rhodes moved, seconded by Coun. Stuhr, that Resolution No. 79-73 be adopted.

Coun. Rhodes said she had done extensive research into the capabilities of the proposed computer, had viewed the computer that MSD has in existence, and had found that the new computer would be a bigger and better model which could properly handle existing programs. She said the Council had already budgeted for funding for this equipment and she strongly recommended that this proposal be approved as written.

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

7.3. Resolution No. 79-74, Appointing Presiding Officer as Member of Ways and Means Committee.

Coun. Stuhr moved, seconded by Coun. Williamson, that Resolution No. 79-74 be adopted.

Coun. Miller did not see the necessity of a resolution for this appointment unless it was to move from the role of Ex Officio to a voting member. It was explained that this was the intent.

All Councilors present voting aye, the motion carried unanimously.

8. ANNOUNCEMENTS

Coun. Williamson reminded Councilors that at the retreat it had been decided that the Council would hold an informational meeting once a month. Coun. Williamson suggested that once a month the meetings start at 5:30 p.m. with an informational session, with the regular session starting at 7:30 p.m. The

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Council would sit with the Executive Officer and define the kinds of things that they would be discussing.

Coun. Rhodes objected, saying that this would not be an informational session. The Council should have a regular meeting and should also have a brainstorming meeting.

After further discussion, Coun. Stuhr moved, seconded by Coun. Rhodes, that the Council implement an informal session once a month to start at 5:30 p.m., prior to the regular Council meeting, and that the regular Council meeting start at 7:30 p.m. It was the consensus of the Council that this should be done. There was no formal action.

7.4 Exception to Hiring Freeze. Coun. Stuhr moved, seconded by Coun. Williamson, that the Council accept the staff recommendation concerning an exception to the hiring freeze for a Word Processing Operator.

Coun. Berkman asked what had occurred with reference to the Funds since the hiring freeze went into effect and whether anything additional was being done to improve the financial situation.

Mr. Kent reported that the agency had gone through a long period without securing a Senior Accountant. A Senior Accountant has been hired and staff is working toward preparing a monthly financial report for Council.

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

The meeting was adjourned.

Respectfully submitted,



Mary Carder
Clerk of the Council

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