

**MINUTES OF THE COUNCIL
OF THE METROPOLITAN SERVICE DISTRICT**

October 11, 1979

Councilors In Attendance

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

Councilors Not In Attendance

Coun. Marge Kafoury
Coun. Craig Berkman

Staff In Attendance

Executive Officer Rick Gustafson
Mr. Denton U. Kent
Mr. Andrew Jordan
Mr. James Sitzman
Ms. Judy Bieberle
Mr. William Ockert
Mr. Terry Waldele
Ms. Michele Wilder
Ms. Jill Hinckley
Mr. Charles Shell
Ms. Marilyn Holstrom
Ms. Sue Klobertanz
Mr. McKay Rich
Mr. Mel Huie
Mr. Merle Irvine
Ms. Mary E. Carder

Others In Attendance

Ms. Tracy Kelly
Ms. Cheryl J. Taylor
Mr. David A. Pahl
Ms. Joy Gay Pahl
Ms. Betty Liljeholm
Mr. Tom Liljeholm
Mr. Ken Rose
Mr. Steve Lockwood
Ms. Kay Joan Zachary
Ms. Ann Picco
Ms. Linda Macpherson
Mr. Dale Seaman
Ms. Lottie Seaman
Mr. R. W. Blunt, Jr.
Ms. Mary Elizabeth Blunt
Ms. Peggy Alvarez
Mr. Walter Stronach
Ms. Helen Stronach
Ms. Linda Whalen
Mr. Blackie Walsh
Mr. Robert B. Percy
Ms. Jean L. Percy
Ms. Adrienne Brockman
Mr. Jerry Brewster

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CALL TO ORDER

After declaration of a quorum, the October 11, 1979, meeting of the Council of the Metropolitan Service District (Metro) was called to order by Presiding Officer Michael Burton at 7:30 p.m. in the Council Chamber, 527 S. W. Hall, 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

Mr. Ken Rose, Rose City River Transit, presented the Council with a drawing of a proposed river depot and asked that the Council keep in mind when it is driving to Vancouver and Oregon City, that river transit is an option.

Ms. Ann Picco asked to address the Council concerning Agenda Item 7.4. She said she would be unable to wait until that item was heard by the Council. Chairman Burton gave permission for her to proceed.

Ms. Picco told the Council how very pleased she was that staff had graciously offered to provide mailing of a questionnaire to neighbors to discuss the landfill which was proposed in the area. She felt that this was a significant gesture and she was looking forward to seeing Councilors present at the meeting.

Ms. Joy Gay Pahl said that she is a resident of Durham and that she knew nothing about the technical aspects of the study for the proposed Durham Landfill. She objected to the waste treatment plant that was already situated in Durham and felt that the citizens of Durham had given enough in the public interest.

Ms. Linda Whalen, another resident of Durham, spoke in opposition to siting of the Durham Landfill. Ms. Joan Zachary spoke regarding landfills in general.

There were no other citizens present who wished to comment at this time.

4. CONSENT AGENDA

4.1 Minutes of the meeting of September 13, 1979.

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4.2 A-95 Review directly related to Metro.

4.3 Contracts.

Coun. Schedeen moved, seconded by Coun. Peterson, that the Consent Agenda be approved. All Councilors present voting aye, the motion carried unanimously.

5. REPORTS

5.1 Report from Executive Officer.

The Executive Officer reported that Metro has received a grant from the Meyer Foundation in the amount of \$20,000 to support establishment of a Development Office for the Zoo.

The Executive Officer said that Metro has commenced a Westside Transit Corridor Study with the first meeting of the Steering Group to be October 24, 1979, at 7:30 a.m. at Nendel's on Canyon Road.

5.2 Council Committee Reports

Transportation: Coun. Williamson asked Coun. Miller to report, since he had been unable to attend the meeting. Vice Chairman Miller reported that three things had come up at the Committee meeting which would take motions of support from the Council. She said one was a recommendation from the JPACT Committee that Metro involve itself in early transportation planning and financing, and that a committee be set up to do this work. She explained that there were concerns that the Committee should get input into the Governor's budget as soon as possible.

Coun. Miller moved, seconded by Coun. Schedeen, that the transportation financing packet should be developed by Metro over the next eight or nine months as a part of the Metro legislative package.

Chairman Burton explained that JPACT would forward this financing package to the Ways and Means Committee for study. He explained the necessity to get this material before the State Transportation Department in plenty of time so that it could be included in their budget.

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

Coun. Miller moved, seconded by Coun. Banzer, that the

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Council adopt the recommendation of the JPACT Committee that Metro become the lead agency for development of transportation energy planning in the Tri-Met area. She clarified that it was hoped that some creative ways for using energy packages and creative energy programs could be developed and that this should be assigned as a function of the Committee.

Chairman Burton said that he would assign this task to Coun. Miller and asked, therefore, that she withdraw this motion. She did so, with the consent of her second.

Coun. Williamson requested appointment of himself to serve on the Steering Committee of the Westside Transit Corridor.

Chairman Burton moved, seconded by Coun. Stuhr, that Coun. Williamson be appointed to the Westside Transit Corridor Steering Committee. Coun. Miller requested a substitute motion that Coun. Stuhr be appointed as Alternate. This was agreed to by the maker of the motion and his second. All Councilors present voting aye, the motion carried unanimously.

Solid Waste/Public Facilities: Coun. Deines called attention to three contracts which had been in the Consent Agenda at this meeting. He said one contract was for a Portland State University study which would have a great impact in the area. The study will begin in the Kelly Creek and Johnson Creek areas to monitor runoff from the streets. This study is not to measure groundwater but surface runoff.

Coun. Deines called attention to the pink sheet which had been included as a part of Contracts under the Consent Agenda. He said that three firms had been interviewed in connection with a study to evaluate the resource recovery project and that Zinder Companies, Inc. had been selected to provide technical assistance in evaluating energy markets and energy economical analysis for the resource recovery project. The contract was recommended with a "not to exceed" cost of \$43,500. Coun. Deines said that letting of this contract would give vital tools necessary to proceed with resource recovery planning.

Johnson Creek: Coun. Rhodes said that at the Johnson Creek Task Force meeting the fourth draft of the LID Ordinance had been studied and that this ordinance will be before the Council for first reading at its next meeting. This is only a drainage ordinance rather than a total

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facilities ordinance. It does adequately address the Johnson Creek needs, but the Committee will have to develop an ordinance specifically for Johnson Creek. Coun. Rhodes said that the Task Force is at the stage where is it ready for more citizen involvement and that neighborhood meetings will be initiated to explain the necessity for involvement of all those concerned, rather than just those owning frontage property.

Coun. Rhodes said that the representative from Milwaukie has decided that he will be unable to attend the Task Force meetings and has requested a replacement. Coun. Rhodes moved, seconded by Coun. Deines, that Mr. Steve Hill be appointed as a Johnson Creek representative from Milwaukie.

All Councilors present voting aye, the motion carried unanimously.

Zoo: Coun. Banzer said interviews will be held to select the Development Officer for the Zoo next week. She reported on public hearings in connection with the forthcoming financing for the Zoo, and said that the next meeting will be held at the new Gresham City Hall. She again asked that each Councilor attend, if possible.

Coun. Banzer said that a public concert has been planned to be held in June. More information will be forthcoming on this matter.

Ways and Means Committee: Coun. Kirkpatrick said the Ways and Means Committee has not met since the last meeting of the Council. She reminded Councilors that the meeting would be October 16, and asked any of those who are interested to attend. The Committee will be talking about budget report updates and the Financing Task Force. She reminded Councilors that the budget retreat will be December 1.

Planning and Development Committee: Coun. Peterson said the Planning and Development Committee had met twice since the last Council meeting, once in a special meeting which was primarily to work on items brought up at the last Council meeting concerning the Multnomah County Comprehensive Plan. Coun. Peterson said that the Plan was discussed very thoroughly and that the Committee had arrived at specific recommendations which will be before the Council later in the meeting.

Coun. Peterson said the Committee also discussed the Phase

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I Goals and Objectives, but the work plan that staff had prepared was not ready for action; therefore, Coun. Peterson asked that Item 5.3 be removed from the agenda to be heard at a subsequent Council meeting.

Coun. Peterson said that public hearings will be held on the Urban Growth Boundary (UGB), with the first to be held in Washington County. These hearings will be limited to the Findings which will be presented to the LCDC.

6. OLD BUSINESS

6.1 Multnomah County Request for Acknowledgment of Compliance with LCDC Goals.

Coun. Peterson moved, seconded by Coun. Stuhr, that Resolution No. 79-97 be adopted.

Mr. Jim Sitzman reported on the results of meetings of the Planning and Development Committee, to review and respond to concerns expressed by the Council at its September 27 meeting. He said that the Committee had taken these items under careful review and that the report focused on those items. The language contained has been drafted very carefully with Multnomah County staff.

The question of consistency of the Multnomah County Plan with the UGB in the area of West Hills was another item discussed at the September 27 meeting. This item was recommended for continuation with the understanding that Multnomah County would attempt to modify its Plan so that it would be consistent with the Metro plan. Following the last meeting of the Council it became apparent that Multnomah County was not now in a position to make modifications or to work toward doing so. Therefore, the Committee recommended that the Plan be denied because of inconsistency with the UGB in the West Hills area. The issue is not where the boundary exists, but whether or not the Multnomah County Plan is consistent with the regional UGB. The Planning and Development Committee has reviewed all of these issues very thoroughly, listened to additional testimony, and has recommended that the Council consider the Resolution without further testimony on the matter.

Ms. Adrienne Brockman of Multnomah County said that the County had hoped that the recommendation would be for compliance. They were aware that the matter was in litigation and the staff had tried to work out a compromise. Since no agreement had been reached, Multnomah County felt

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the Council would have to take the action proposed. She said that Multnomah County does appreciate the time the Committee took to study this matter and to receive very extensive testimony.

Coun. Kirkpatrick said Multnomah County had done a very good job on its Plan. She found it very difficult to vote for denial, but would support this recommendation because it was very important that both boundaries be the same. She wanted to re-emphasize that Multnomah County had done an excellent job. Coun. Peterson echoed those sentiments and also felt that it must be recognized that there was only one real issue that stood between approval and denial and that was a legal issue. Chairman Burton explained that denial meant that the Multnomah County Plan would still go before LCDC, but that it would have the recommendation of denial from the Metro Council.

Mr. Jerry Brewster said that Multnomah County was surprised at the recommendation and did not intend to accede to Metro demands to change its boundary.

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

7. NEW BUSINESS

7.1 Resolution No. 79-99, Recommending the City of Durham's Request for Acknowledgment of Compliance with LCDC Goals.

Coun. Kirkpatrick moved, seconded by Coun. Stuhr, that Resolution No. 79-99 be adopted.

Chairman Burton said he had received a number of letters from citizens of Durham which he passed around to the Council. He said in all cases the individuals had voiced support of the Durham Plan.

Mr. Gustafson commented that it was nice to have the opportunity to be positive, since the Metro predecessor, CRAG, had some strong contests with the city of Durham. He was happy to report that those had been resolved.

Ms. Sue Klobertanz gave a background report on the city of Durham and how it got to be where it is today. She said that she had received a number of letters, all of which were recommending acceptance of the resolution that is

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before the Council. She explained the location of the city of Durham, and said that the City, CRAG and Metro had gone through a great deal to get where they are now. She complimented the staff and officials of the City and said that they had been amiable and cooperative.

Mayor Bob Percy said the Plan, as it now stands, is supported by the majority of the City Council. He said there had been input from the citizens and that a great deal of time had been spent on its preparation. He hoped that the Plan would be accepted by the Metro Council.

Mr. Sitzman told Council members that there were some items that the City Council would be receiving from the Planning Commission that had not as yet been approved by the Council; therefore, approval by Metro Council would be contingent upon that occurring.

Mr. Bill Gilham of the city of Durham recommended that the Council further review the Durham Comprehensive Plan. He explained that he had voted against approval of the Plan and gave his reasons for doing so.

Mr. Dale Seaman said that he had owned property in the city of Durham for 20 years. He had attended all meetings and had worked hard to accomplish a difficult task. He said various staff people from Metro had worked with Durham to assist in completion of their Plan. The Durham Comprehensive Plan had been approved by the City Council, it addressed the land use goals of the state of Oregon, and at the same time, preserved the environmental concerns which were important to the community. Mr. Seaman urged the Metro Council to approve the Plan and forward it to LCDC with the recommendation that it be acknowledged.

Ms. Jean Percy, City Administrator for the city of Durham, said that they had spent a great deal of time making sure that everything was done in a proper manner. She said the Plan had gone from the Citizens Advisory Committee to the Planning Commission to the Council. In her opinion there was nothing improper in the manner in which preparation of the Plan was carried out.

Coun. Miller said that she had a strong interest in the preservation of trees and asked what was being done to preserve the trees in the area. Mr. Gilham explained that when sites are proposed for development a design review commission reviews the site to make sure that every tree possible is saved.

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Coun. Deines asked if the County still required 20,000 sq. ft. lots for septic tanks. Mayor Percy said that they probably did, but that under the new comprehensive plan, all new development would occur on sewers.

Coun. Peterson said that the Planning and Development Committee had heard testimony from the people of Durham and that the Committee was happy to recommend that the Plan be approved.

Question called on the motion. Roll call vote. Couns. Schedeen, Miller, Banzer, Peterson, Burton, Stuhr, Williamson, Kirkpatrick, Deines, Rhodes voted aye. Couns. Kafoury and Berkman were absent. The motion carried unanimously.

7.2 Administrative Procedure Rules.

7.2.1 Rule No. 79-1, Establishing Notice Procedure for Rule Making.

Rule No. 79-2, Establishing Procedure for Rule Making.

Chairman Burton explained that the Rules are only being discussed at this meeting. Action will be taken at the next Council meeting.

Mr. Andy Jordan explained the notice procedure and the procedure for rule making. He said that the rules are before the Council because of legislation which requires Metro to be subject to the State Administrative Procedures Act.

7.2.2 Ordinance No. 79-74, Repealing Contested Case Hearings Procedures Adopted by MSD Ordinance No. 42 (1976) (first reading).

It having been ascertained that it was the consensus of the Council to do so, the Clerk read Ordinance No. 79-74 the first time by title only.

Coun. Stuhr moved, seconded by Coun. Schedeen, that Ordinance No. 79-74 be adopted.

There will be no action taken on this motion at this meeting. Action will be taken at the second reading of the Ordinance at the October 25 Council meeting.

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**Rule No. 79-73, Establishing Rules of Procedure
for Contested Cases.**

Mr. Jordan called attention to a proposed amendment to this Rule, and explained that the amendment would clarify the fact that the Presiding Officer of the Council would act as the hearings officer only when the hearings were before the entire Council. The amendment would also allow the Council to prepare and approve a list of prospective hearings officers.

Mr. Jordan suggested that consideration be given to another amendment which would provide that hearings officers should be attorneys. He clarified that contested case procedures require that hearings officers develop Findings of Fact and Conclusions of Law, and come to those conclusions based upon the findings and conclusions. Mr. Jordan felt that this was the responsibility of an attorney and that an attorney would do that job best.

7.2.3 Ordinance No. 79-75, Amending Ordinance No. 79-73 (Personnel Rules) Relating to Personnel Discharge Procedures (first reading).

It having been ascertained that it was the consensus of the Council to do so, the Clerk read Ordinance No. 79-75 the first time by title only.

Coun. Stuhr moved, seconded by Coun. Williamson, that Ordinance No. 79-75 be adopted.

Mr. Jordan explained that the present Rules are unclear as to the procedure for grievance hearings. This amendment would enable discharged employees to have a choice of either filing a grievance or proceeding under the contested case procedures.

No action is required at this meeting. Adoption of the Ordinance will proceed on the meeting of October 25, 1979.

**7.2.4 Rule No. 79-4, Establishing Rules of Procedure
for District Declaratory Rulings.**

Mr. Jordan explained that this Rule was designed

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to allow the Council to determine particular issues which are petitioned to the Council by an outside party.

7.3 Public Contract Review

7.3.1 Ordinance No. 79-76, Designating and Creating Public Contract Review Board (first reading).

It having been ascertained that it was the consensus of the Council to do so, the Clerk read Ordinance No. 79-76 the first time by title only.

Coun. Kirkpatrick moved, seconded by Coun. Deines, that Ordinance No. 79-76 be adopted.

No action is required on this motion at this time. Adoption will continue at the meeting of October 25, 1979.

7.3.2 Rule No. CRB 79-1, Adopting Rules of Procedure for Meetings of the Metro Contract Review Board and Superseding OAR Chapter 127, Divisions 80 and 90.

Mr. Jordan explained that this Rule will supersede the State Public Contract Review Board Rules.

7.3.3 Rule No. CRB 79-2, Adopting Rules for Exemption of Certain District Contracts from Competitive Bidding Requirements.

7.3.4 Rule No. CRB 79-3, Adopting Rule Exempting Washington Park Zoo Primate Exhibit Contract from Competitive Bidding Procedures.

Mr. Jordan explained that this Rule requests exemption of this contract from bidding requirements. The Board has authority to either exempt classes of contracts or a particular contract.

There was Council discussion about the Washington Park Zoo primate exhibit contract. Hearings will be scheduled on this item at the Council meeting of October 25.

7.4 Resolution No. 79-100, Conducting Feasibility Study Report for Sanitary Landfill Known as Portland Sand and Gravel in

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Multnomah County.

Coun. Deines moved, seconded by Coun. Schedeen, that Resolution No. 79-100 be adopted.

Through the Agenda Management Summary, the Council was informed of the background on this request. At its meeting in February, the Council had authorized staff to proceed with feasibility study reports on four potential landfills. Since that time the owners of the Portland Sand and Gravel pit had approached Metro requesting study of the pit for use as a sanitary landfill. One of the sites previously authorized, the Alford site, would not be available for use as a landfill until gravel is first mined; therefore, staff has requested that, to avoid necessity of reissuing an RFP for engineer selection, a contract be issued for study of the Portland Sand and Gravel site in place of the Alford site.

With the growing demands for solid waste disposal and the fact that Rossman's Landfill in Oregon City will reach capacity in 1982, it is imperative that additional landfill sites be identified and constructed as soon as possible. Council is requested to adopt the attached Resolution and direct the Executive Officer to proceed with the feasibility study report for the Portland Sand and Gravel site as a possible sanitary landfill in accordance with adopted landfill siting procedures. Council is also requested to recommend that the Alford site in Clackamas County be removed from the list of those sites being actively considered as possible landfills. It is further requested that the Council approve execution of a contract with CH₂M HILL in the amount of \$74,200 to provide a technical feasibility study of the Portland Sand and Gravel site as a possible landfill.

Coun. Peterson moved, seconded by Coun. Banzer, that the Resolution be amended to provide an additional step as follows:

In the first paragraph after "BE IT RESOLVED," remove the language in brackets which reads "in identifying areas of concern to be further addressed in a feasibility study report and final design" and add: "and further, that Metro arrange an open public discussion in the vicinity of the proposed landfill before a decision is made by Metro on the issue of authorizing a full scale feasibility study."

Coun. Rhodes said she fully supported the intent and

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inclusion of citizen involvement but she disagreed with the timing. She said that a technical study and advisory group should be formed before a public meeting is held. She thought it was unfair to the citizens to allow them to believe that they had something to say about approving a study. She very strongly recommended against the amendment and recommended that the technical study be approved and once the information is received, public involvement be actively pursued.

Couns. Kirkpatrick, Stuhr and Deines agreed with Coun. Rhodes comments. Coun. Deines said that once the study began, Multnomah County could be requested to form a committee to make sure that there were representatives of persons from the area appointed to the investigating body.

Coun. Deines said that this should be done as a complete package. He said that Councilors ought not go out and talk to people until they had specific answers.

Coun. Peterson said that Councilors could not have much information initially since the primary purpose of this amendment would be to determine the citizen's advice as to whether the feasibility study should be conducted. Coun. Miller said she would support the amendment--that she thought the public should be informed about the Metro process and that it was important that the Council take the opportunity to deal with the people and confront them as individuals before they read it in the papers.

Coun. Banzer said she would appreciate it if the Council could go to the community first.

The Executive Officer said that the points being made were very good. Going out to the community and telling them about the process is important, but proper timing is essential. He explained the importance of proceeding with the study to investigate the three sites as soon as possible. Delaying the study two weeks would delay the possibility of returning to the Council with the information on all three sites.

Question called on the motion to amend the original motion. Roll call vote. Couns. Miller, Banzer, Peterson and Burton voted aye. Couns. Kirkpatrick, Deines, Rhodes, Schedeen, Stuhr voted nay. Couns. Kafoury, Williamson and Berkman were absent. The motion failed.

Roll call vote on the motion to adopt Resolution No. 79-100. Couns. Kirkpatrick, Deines, Rhodes, Schedeen,

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Miller, Peterson, Burton, Stuhr voted aye. Coun. Banzer voted nay. Couns. Williamson, Berkman and Kafoury were absent. The motion carried.

Coun. Stuhr moved, seconded by Coun. Kirkpatrick, that the Council substitute the 106th and Division site for the Alford site.

All Councilors present voted aye, except Coun. Banzer who voted nay. The motion carried.

Coun. Rhodes moved, seconded by Coun. Schedeen, that the Council recommend the letting of a contract to CH₂M HILL for an amount up to \$74,200 to provide a technical feasibility study of the Portland Sand and Gravel site as a possible landfill. All Councilors present voted aye except Coun. Banzer, who voted nay. The motion carried.


8. ANNOUNCEMENTS

There were no announcements to be made at this time.

ADJOURNMENT

There being no further business to come before the Council the meeting was adjourned.

Respectfully submitted,



Mary E. Carder
Clerk of the Council

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