

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

DECEMBER 2, 1982

Councilors Present: Councilors Banzer, Berkman, Bonner, Deines, Etlinger, Kafoury, Kirkpatrick, Rhodes, Schedeen, and Williamson.

Councilors Absent: Councilors Burton and Oleson (excused)

Staff: Donald Carlson, Andrew Jordan, Ray Barker, and Joe Cortright.

Testifiers: Frank Buehler  
Bob Stacey  
Demar Batchelor

The meeting was convened at 7:35 p.m. by Presiding Officer Banzer.

1. Introductions.

There were no introductions.

2. Written Communications to Council.

Ray Barker, Council Assistant, explained that a request for Metro to support or partially sponsor a three day conference on Solid Waste had been made by the Friends of the Earth, and that a draft letter in response was before them for their consideration. (Copy of letter and request are appended to the agenda of the meeting.) He added that Metro was under no obligation to support the conference financially.

There was then considerable discussion regarding the proposal and the draft letter. Councilor comments included endorsement of the concept and that it was something Metro should be doing itself, as well as reservations expressed regarding the conference coordinator and the proposal outline for the conference. It was suggested that additional study of the proposal needed to occur before a response was made to the Friends of the Earth and that the letter from the Council needed additional work.

Presiding Officer Banzer referred the matter to the next meeting of the Services Committee for discussion.

3. Citizen Communications to Council on Non-Agenda Items.

There were no citizen communications to Council on non-agenda items.

4. Councilor Communications.

Councilor Berkman reported on the Audit Committee's recommendation to adopt a resolution to establish an Investment Committee. He said the Investment Committee would be comprised of the members of the Audit Committee and three citizens with expertise in fiscal and investment matters, and that their appointment would be made by the Audit Committee Chairman and Presiding Officer with the approval of the Council.

He said the reason the resolution was coming before the Council before going to committee first was to implement the investment policies as soon as possible to realize investment opportunities for Metro's funds.

Resolution No. 82-378, for the purpose of creating a Metro Investment Committee.

Motion: Councilor Berkman moved adoption of Resolution No. 82-378. Councilor Schedeen seconded the motion.

Councilor Deines expressed objection to the process used to get the resolution before them.

Councilor Williamson commented that Coopers & Lybrand had suggested the formation of the committee.

Councilor Kirkpatrick expressed concern about appointing a committee without being able to review a charge to the committee. She also felt that the resolution should have gone through the regular process to allow the Council adequate review and adoption of a charge to the committee.

Councilor Berkman stated that it was his judgment that Metro could make as much as 1½ to 2 percent additional return on its money with other financial vehicles and that a delay could mean the loss of thousands of dollars. He said the Audit Committee was only asking for broad policy authorization to establish the committee at this point.

Councilors Schedeen and Bonner expressed support for the adoption of the resolution.

Councilor Deines clarified that he was not in opposition to the resolution but reiterated that he thought the regular process should have been followed.

Vote: The vote on the motion to adopt Resolution No. 82-378 resulted in:

Ayes: Councilors Banzer, Berkman, Bonner, Deines, Kafoury, Rhodes, Schedeen, and Williamson.

Nays: Councilor Kirkpatrick.

Abstention: None.

Absent: Councilors Etlinger, Burton and Oleson.

Motion carried, Resolution adopted.

5.1 Ordinance No. 82-149, amending the Metro Urban Growth Boundary in Washington County for Contested Case No. 81-10. (First Reading and consideration of exceptions) (Sharp Property)

Motion: Councilor Bonner moved adoption of Ordinance No. 82-149. Councilor Schedeen seconded the motion.

Councilor Bonner presented the Development Committee report and recommendation of approval.

Joe Cortright, Development Services Planner, presented the staff report, as contained in the agenda of the meeting.

Presiding Officer Banzer asked for presentations of exceptions to the staff report. There were none.

Councilor Kafoury noted that the staff report contained a letter from Washington County regarding the Bethany area and its possible removal from the Urban Growth Boundary, and asked what impact that proposal would have on the case before them.

Mr. Cortright responded that until a formal petition was received, it was the staff's view that the Bethany area was a part of the UGB and that the decision on the case before the Council should not be based on a "what if" situation, but rather on Metro's established standards.

General Counsel Jordan advised the Council that whatever was going on with the Bethany area was irrelevant to the case before the Council and should not be considered in making their decision.

The ordinance was passed to second reading on December 21, 1982.

5.2 Ordinance No. 82-148, amending the Urban Growth Boundary in Washington County for Contested Case No. 81-9. (Corner Terrace) (First Reading and consideration of exceptions)

Councilor Bonner presented the Development Committee report and remarked that the Committee had had a difficult time deciding which way to go with the case but was recommending approval.

Motion: Councilor Bonner moved adoption of Ordinance No. 82-148. Councilor Schedeen seconded the motion.

Joe Cortright, Development Services Planner, presented the staff report, as contained in the agenda.

Presiding Officer Banzer stated that two communications regarding the case had been received: Frank Buehler, Route 1, Box 1074, Hillsboro, and Robert E. Stacey, representing Michael McPherson and Gary Sundquist, 400 Dekum Building, 519 S.W. Third Avenue, Portland. (Copies of the letters are appended to the agenda of the meeting.)

Presiding Officer Banzer then asked for presentations of exceptions to the staff report.

Mr. Frank Buehler requested to be heard even though he had not established party status. General Counsel Jordan stated that it was his understanding that Mr. Buehler was out of the country when the Development Committee heard the case and that given the circumstances the Council could find that his evidence could not be presented at the original hearing and give him party status to present exceptions at this time.

Motion and Councilor Bonner moved that Mr. Buehler be allowed to  
Vote: testify. Councilor Schedeen seconded the motion.

By voice vote, the motion carried unanimously.

Mr. Frank Buehler, Route 1, Box 1074, Hillsboro, presented a petition in opposition to the trade (appended to the agenda of the meeting). He stated that notification to nearby owners was not adequate and that some of the petition signers lived as close as 200 feet and had not received notification.

Councilor Bonner inquired about the notification process. General Counsel Jordan stated that notification was required only to property within 250 feet of the portion of property that was being added to the Urban Growth Boundary, and not within 250 feet of the entire parcel that was owned by the applicant. He said that was why some nearby owners did not receive notification.

Councilor Bonner requested that the notice rule be reviewed by the Development Committee at some future date.

Councilor Etlinger asked Mr. Buehler if CPO #7 had taken a position on the case. Mr. Buehler responded that the CPO had taken a neutral position.

Mr. Robert Stacey, 400 Dekum Building, 519 S.W. Third Avenue, Portland, representing Mr. Sundquist and Mr. McPherson, testified in opposition to the addition of the Corner Terrace property to the UGB. However, he said, they did not oppose the exclusion of the Malinowski property from the UGB. He said the Corner Terrace property was agricultural land and that the standard applicable to the addition of any agricultural land which is not committed to urban or rural development had not been met by the Corner Terrace property. He said the standard was clear that farmland could not be added to the UGB through a minor amendment, with or without a trade, unless the farmland was needed to solve a severe service or land use inefficiency, and that the applicant had not identified a single negative impact on service or land use efficiency, much less a severe negative impact. He said the staff report and the applicant's submittal contained no finding which addressed the standard. Mr. Stacey said the purpose of the standard was to protect agricultural land along the fringe of the UGB from conversion through a process which

was designed to correct errors or make fine tuning adjustments and was not designed to allow the gradual inclusion of agricultural land.

Councilor Bonner commented that when the Rock Creek campus was established in the area it provided a service which couldn't be overlooked. He also said there were capital improvements existing in the area.

Councilor Kafoury stated she agreed with Mr. Stacey's arguments and that the school in the area did not imply that there was pressure to develop around it. She said schools were allowed in areas zoned for exclusive farm use.

Councilor Etlinger noted that there would be no net reduction in agricultural land if the trade was approved.

Councilor Deines stated that the Development Committee had more or less given their word that they would approve the proposal if a trade was found. He went on to say that if the Council thought the standard was too stringent that maybe they ought to consider revising the ordinance to change the standard, especially if the case before them was approved.

Councilor Kirkpatrick noted for the record that the November 8th minutes of the Development Committee reflected a unanimous vote of the Committee to support the trade.

Mr. Demar Batchelor, 139 E. Lincoln, Hillsboro, representing the applicant for Corner Terrace, stated that he felt Mr. Stacey had missed the mark in some of the conclusions he submitted to the Council. He said that Mr. Stacey had said the applicant had shown no negative impact if the property was not included in the UGB. He said it was their point of view that the service areas were consciously determined by the providers and that those service areas included the subject property. For example, he said, when the Wolf Creek Water District determined what the service area would be for the water line, it included the subject property. He said the same point of view is applied to the fact that Tri-Met services the area. He said there were facilities and services in the immediate area to serve the property and that a compelling case had been made that the full utilization of services would not occur unless the property was permitted to use them. He said the proposal was supported by the Washington County Board of Commissioners, the Washington County staff, that the CPD had taken no position on the matter, and that the Metro staff and Development Committee supported it.

Councilor Kafoury asked Mr. Batchelor to identify the severe negative impacts argued in Section 8, a(4) of the ordinance establishing the standards. Mr. Batchelor stated that the argument they tried to make was that when the water line was put in, the service area, which embraced the subject property, was decided upon, and based on that service area determination an investment of public monies was made on the theory that as the service area was connected, the public monies

would be recaptured. He said if the public bodies did not recapture the money from the land which was to use the services, then the costs were shifted to a smaller area of property, which was a severe negative impact on property within the UGB. He said the same line of argument could be made with Tri-Met. He said Tri-Met was running very expensive equipment right by the property, not just to pick up the Rock Creek campus people, but in hopes of recapturing its investment in equipment by a utilized facility. He said the services and facilities were not there to encourage development but instead because a public body consciously decided what the service area would be before they made the investment.

Councilor Kafoury stated that Mr. Batchelor's argument was not in the material she had read. Mr. Batchelor responded that it was in the record and had been made during the course of the public hearings.

Councilor Williamson asked if the sewer and water lines were in place at the time the UGB was established. Mr. Batchelor responded yes.

The ordinance was then passed to second reading on December 21, 1982.

5.3 Ordinance No. 82-147, approving in part the City of Portland's petition for Locational Adjustment of Metro's Urban Growth Boundary (UGB) for the area known as Schoppe Acres. (Second Reading)

Councilor Bonner presented the Committee report.

Councilor Rhodes asked if everyone in the area agreed to be removed. Mr. Cortright responded that the City of Portland had requested removal of the property and it was his understanding that the City had contacted the property owner and had secured permission and consent to have it removed from the Urban Growth Boundary.

Vote: The vote on the motion to adopt Ordinance No. 82-147 resulted in:

Ayes: Councilors Banzer, Berkman, Bonner, Deines, Etlinger, Kafoury, Kirkpatrick, Rhodes, Schedeen, and Williamson.

Nays: None.

Abstention: None.

Absent: Councilors Burton and Oleson

Motion carried, Ordinance adopted.

5.4 Ordinance No. 82-145, amending the Metro Urban Growth Boundary (UGB) in Washington County for Contested Case No. 81-8. (Cereghino Property) (Second Reading)

Councilor Bonner presented the Committee report.

There was no Council discussion.

Vote: The vote on the motion to adopt Ordinance No. 82-145 resulted in.

Ayes: Councilors Banzer, Berkman, Bonner, Deines, Etlinger, Kirkpatrick, Rhodes, Schedeen, and Williamson.

Nays: Councilor Kafoury

Abstention: None.

Absent: Councilors Burton and Oleson.

Motion carried, Ordinance adopted.

6. Executive Officer's Report.

There was no Executive Officer's Report.

7. Committee Reports.

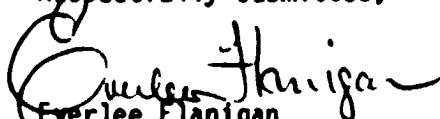
Presiding Officer Banzer reminded Council members of the Legislative Reception to be held on Monday, December 6, 1982 from 5:30 to 7:30; and of the staff Christmas Party on December 11th.

Councilor Etlinger reported on the regional ad hoc jail committee meeting and said the group had unanimously supported an effort of the Association of Oregon Counties to issue a letter to all the County Commissioners in the area stating that the ad hoc committee recommended that Metro be asked to issue revenue bonds to finance a jail.

Councilor Berkman made comments regarding the recent Oregonian articles about him and informed the Council that he would respond to those articles in a public forum the next week. He said he would try to advise each Councilor personally of his decision to resign or not.

There being no further business, the meeting was adjourned at 9:44 p.m.

Respectfully submitted,

  
Everlee Flanigan  
Clerk of the Council