

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

REGULAR MEETING
JULY 7, 1983

Councilors Present: Councilors Banzer, Bonner, Deines,
Etlinger, Hansen, Kafoury, Kelley,
Kirkpatrick, Oleson, Van Bergen, Waker,
and Williamson.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Donald Carlson, Andrew Jordan, Ray Barker,
Dan Durig, Norm Wietting, Dan LaGrande,
Sonnie Russill, Diane Dimon, Dennis O'Neil,
Mark Brown, Andy Cotugno, Jennifer Sims.

Testifiers: Michael Shinn, Peter Staples, Frances
Hyson, Dr. John Anthony, Vern Rifer,
Geraldine Ball, Ken Bunker, Jeanne Orcutt,
and Beth Blunt.

A regular meeting of the Council of the Metropolitan Service District was called to order at 7:21 p.m. by Presiding Officer Banzer.

1. Introductions.

There were no introductions.

2. Councilor Communications.

There were no Councilor communications.

3. Executive Officer Communications.

Mr. Gustafson reported that RP&I Construction Company, the prime contractor on the Penguinarium Project and the joint venture prime contractor on the Alaska Tundra Project, had filed for reorganization under Chapter 11 of the Federal Bankruptcy Act.

Mr. Andrew Jordan, Legal Counsel, presented a memo regarding the Alaska and Penguinarium contracts (attached to the agenda of the meeting). He said Metro's interest was protected by bonds and if RP&I was not able to complete the projects, the surety companies would retain a new contractor to complete them.

Mr. Gustafson then reported that the Land Use Board of Appeals (LUBA) had remanded the Wildwood Landfill Conditional Use permit back to Multnomah County.

Mr. Jordan presented a memo regarding the LUBA decision and the reasons why LUBA decided the landfill did not comply with County standards (a copy of the memorandum is attached to the agenda of the meeting).

Councilor Hansen requested that members of the Council receive a copy of the LUBA decision.

Dan Durig, Solid Waste Director, presented a staff report which included Metro's landfill siting history and a copy of Resolution No. 81-252 which designated Wildwood as the regional landfill site for the area (a copy of the staff report is attached to the agenda of the meeting). He outlined the options available to Metro given LUBA's recent decision:

- a. Appeal the LUBA decision to the Court of Appeals;
- b. Request that Multnomah County modify its Comprehensive Plan and zoning ordinance so that its landfill siting criteria are possible to meet when strictly interpreted;
- c. Request that the Oregon Department of Environmental Quality site the landfill under terms of state law; and
- d. Investigate, locate, and obtain permits for an alternate landfill site.

Mr. Gustafson said his recommendation was that Metro simultaneously pursue the appeal of the LUBA decision to the Court of Appeals and urge that Multnomah County modify its relevant land use standards and reapprove the conditional use permit.

Councilor Kelley asked if it was known what the effect would be if the Multnomah County Comprehensive Plan were changed. Mr. Jordan responded that LUBA did not say that the standards in the zoning ordinance were inappropriate across the board; only that they were inappropriate for the job of siting a regional landfill. He said the question before the County could be very narrow--whether there ought to be a different standard for siting a regional landfill. He said he thought the question could easily be handled by the County without substantially revising other provisions of the Comprehensive Plan.

Motion: Councilor Kirkpatrick moved adoption of the Executive Officer's recommendation to simultaneously pursue the appeal of the LUBA decision to the Court of Appeals and urge that Multnomah County modify its relevant land use standards and the conditional use permit. Councilor Kafoury seconded the motion.

Motion to
substitute:

Councilor Deines moved to substitute the main motion with the following:

That the question of the LUBA decision be referred to the Regional Services Committee meeting of July 12th for public hearing and to make a recommendation to the Council at the July 26th meeting. Councilor Bonner seconded the motion.

Michael Shinn, Route 1, Box 120EEE, Portland, 97231, President, West Hills & Island Neighbors, recommended that the Council members read the LUBA opinion before making any decision. He said he disagreed with Mr. Jordan that LUBA indicated Multnomah County should amend its Comprehensive Plan. He said the site was inappropriate for a landfill and Metro should look for an alternate site.

Peter Staples, 12847 N.W. Alderview, Portland, said he read the LUBA decision differently than Mr. Jordan. His interpretation was that LUBA had decided Metro couldn't site a landfill in that particular area given Multnomah County's ordinances. He said he opposed changing the Multnomah County Comprehensive Plan to allow a regional landfill.

Frances Hyson, 17607 S.E. Mill Street, asked how much had been spent on the Wildwood site. Presiding Officer Banzer responded that approximately \$500,000 had been spent selecting the Wildwood site. Ms. Hyson stated that \$500,000 was too much and wrong for one site. She said Metro should look at other sites for a landfill.

Councilor Kirkpatrick stated that she had no objection to the issue going to the Services Committee but emphasized that the Council knew from the beginning that they would have to go to this point.

Presiding Officer Banzer commented she believed the LUBA decision was an overstrict interpretation of the Comprehensive Plan; that it was appropriate to pursue the change to Multnomah County's standards; and that she supported the appeal to the Court of Appeals.

Councilor Etlinger said he didn't think there was any indication that Multnomah County was going to change their Comprehensive Plan to accommodate a landfill for Metro and would be surprised if they did.

Vote on
substitute
motion:

The vote on the motion to refer LUBA's decision on the Wildwood Landfill to the Regional Services Committee resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Etlinger, Hansen, Kafoury, Kelley, Oleson, Waker, and Williamson.

Nays: Councilors Kirkpatrick and Van Bergen.

Motion carried.

4. Written Communications to Council on Non-Agenda Items.

There were no written communications to Council on Non-Agenda items.

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

There were no citizen communications to Council on Non-Agenda items.

6. Presentation of Energy Recovery Review Task Force Report.

Dr. John Anthony, Chairman, Energy Recovery Review Task Force, said the purpose of the Task Force was to assist the Council and Executive Officer in addressing policy issues related to an independent community review of the energy recovery facility proposal. He said they were asked to look at three specific areas: environmental aspects; legal responsibilities related to the construction; and the financing methods. He said subcommittees reviewed air quality modeling, health impacts, and recycling. He stated their general conclusions were:

- a. The Energy Recovery Project proposal was an appropriate method for the disposal of solid waste in the region.
- b. If built under the conditions as outlined by the task force, the Energy Recovery proposal would provide a reliable, legally and financing feasible, and environmentally sound facility that could be sited in the metropolitan area in a manner which served the public interest.
- c. The Oregon City site was a suitable location for such a facility.

He said in addition to their general conclusions, the task force report contained twenty-six specific recommendations to Metro regarding the energy recovery facility.

Councilor Deines asked what were the feelings about the environmental impacts.

Mr. Vern Rifer, member of the task force, responded that it was the unanimous conclusion of the task force that recycling, landfilling and energy recovery were necessary to make a combined program in the metropolitan area. He said the environmental impacts from landfilling were no worse nor better than from energy recovery and that the effects were controllable.

Councilor Oleson asked that given their conclusions, would the task force want Metro to pursue an energy recovery facility.

Dr. Anthony responded that it was not their position to make a recommendation one way or another. However, he reiterated it was the consensus of the Committee that all three types of waste disposal were needed and that an energy recovery facility was an appropriate, and necessary, facility for the region.

Mr. Gustafson expressed his gratitude to Dr. Anthony, Mr. Rifer, and members of the task force for their work.

Councilor Deines requested that the Presiding Officer write letters of appreciation to the members of the task force on behalf of the Council.

(A copy of the report of the task force is attached to the agenda of the meeting.)

7.1 Consideration of Resolution No. 83-416, for the purpose of amending the pay plan and awarding additional personal holidays.

Councilor Kirkpatrick stated that the resolution was the result of a recommendation of the Budget Committee and she supported its adoption.

Motion: Councilor Kirkpatrick moved adoption of Resolution No. 83-416. Councilor Hansen seconded the motion.

Councilor Deines stated he was going to vote against the resolution because he was opposed to the five personal holidays awarded to the employees.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger,
Hansen, Kafoury, Kelley, Kirkpatrick,
Oleson, and Waker.

Nays: Councilors Deines, Van Bergen, and
Williamson.

Motion carried, Resolution adoption.

8.1 Consideration of Ordinance No. 83-158, amending the Metro Urban
Growth Boundary in Multnomah County for Contested Case No.
81-6. (Jenne Lynd Acres) (Second Reading)

Mark Brown, Development Services Planner, briefly reviewed the staff report, as contained in the agenda of the meeting. He stated that no new information had been received since the first reading of the ordinance.

The ordinance was read a second time, by title only.

Frances Hyson, 16507 S.E. Mill Street, stated that at the meeting of June 23rd when the ordinance was read the first time, a letter from Bruce Brewmeister was entered into the record but not actually read into the record. She said it should have been and proceeded to read the letter into the record.

Councilor Kelley said she was not on the Council when the initial decisions were made on the proposal and she could not support the ordinance.

Vote: The vote on the motion to adopt Ordinance No. 83-158, made by Councilors Etlinger and Kirkpatrick on June 23, 1983, resulted in:

Ayes: Councilors Banzer, Bonner, Deines,
Etlinger, Hansen, Kirkpatrick, Oleson,
Van Bergen, Waker, and Williamson.

Nays: Councilors Kafoury and Kelley.

Motion carried, Ordinance adopted.

8.2 Consideration of Ordinance No. 83-157, adopting a codification of Metro Ordinances and repealing Ordinance No. 30. (First Reading)

Councilor Kirkpatrick reported that the Council Coordinating Committee unanimously recommended Council adoption of the ordinance.

Motion: Councilor Kirkpatrick moved adoption of Ordinance No. 83-157. Council Deines seconded the motion.

The ordinance was read a first time, by title only.

Geraldine Ball, 11515 S.W. 91st, Tigard, representing herself and D.J.B., Inc., submitted and read testimony requesting an interpretation of the Urban Growth Boundary (UGB) section of the Code and whether a trade could be affected which would remove property from the UGB and therefore lower the price of the property.

Mr. Jordan responded that the existing Metro ordinances provided that a trade may be made whereby land would come into the UGB in exchange for other land that would go out of the UGB. However, he said, it would be illegal to trade a piece out for the purpose of condemnation and a trade couldn't occur without the agreement of the property owners.

Ken Bunker, 1825 N.E. 125th Avenue, asked several questions regarding the Personnel section of the Code. He specifically questioned how long personnel had to work before they qualified for a leave, with or without pay. Mr. Jordan responded to Mr. Bunker's questions.

Councilor Kirkpatrick pointed out that the issue before the Council was the codification of existing ordinances and not specific elements of the ordinances to be codified.

Presiding Officer Banzer said it would be appropriate for the Council Coordinating Committee to review the specific concerns of Mr. Bunker regarding the Personnel section of the Code and asked Councilor Kirkpatrick to place the issue on her Committee's agenda.

The ordinance was passed to second reading on July 26, 1983.

8.3 Consideration of Ordinance No. 83-159, for the purpose of creating a reserve fund, amending Ordinance No. 82-153, and declaring an emergency.

Councilor Kirkpatrick reported that because of the nature of the ordinance and its timing, the Council Coordinating Committee had not had an opportunity to review the ordinance.

Motion: Councilor Kirkpatrick moved adoption of Ordinance No. 83-159. Councilor Waker seconded the motion.

Jennifer Sims, Budget and Administrative Services Manager, said that at the June 23rd when the Council adopted the budget ordinance there were changes proposed which would have amended the ordinance. Those recommended changes, she said, were not included as formal amendments at that time. She said the amending ordinance before the Council would rectify the omission. She said the emergency clause was necessary in order to meet the State's July 15th deadline for presentation of the budget.

The ordinance was then read by title only.

Councilor Deines stated he objected to the size of the Solid Waste Capital Fund but because the ordinance needed to be passed he would not participate in the voting.

Vote: The vote on the motion to adopt the ordinance resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: None.

Absent: Councilor Deines.

Motion carried, Ordinance adopted.

At this time, the Council recessed for five minutes.

9. Consideration of Metro/Tri-Met Relationship.

9.1 Resolution No. 82-407, for the purpose of declaring the Metropolitan Service District Council's intent to develop a plan and bring about the merger of Metro and Tri-Met.

- 9.2 Resolution No. 83-408, for the purpose of declaring the Metropolitan Service District Council's intent to do nothing toward the merger of the Tri-County Metropolitan Transportation District and the Metropolitan Service District.
- 9.3 Resolution No. 83-409, for the purpose of declaring the Metropolitan Service District Council's intent to commence the evaluation of combined Metro/Tri-Met functions.
- 9.4 Resolution No. 83-415, for the purpose of supporting the creation of a study commission to investigate and make recommendations on governance at metropolitan level including Tri-Met/Metro relationship.

Motion: Councilor Oleson moved adoption of Resolution No. 83-421, A Resolution for the purpose of supporting the intent of State Policy regarding transit operation in the Portland Metropolitan area and establishing a cooperative process to implement the state policy. Councilor Waker seconded the motion.

Presiding Officer Banzer then opened the public hearing.

Jeanne Orcutt, 12831 S.E. Morrison, 97233, spoke in opposition to Metro's take-over of Tri-Met. She cited examples of what she believed was Metro's inability to respond to the public. She also complained that former Councilors and public officials were allowed to testify prior to citizens at the initial public hearing on the Metro/Tri-Met relationship despite the order in which the sign-up cards were submitted.

Frances Hyson, 16507 S.E. Mill Street, testified in opposition to a Metro take-over of Tri-Met. She said the citizens were not listened to by the Metro Council.

Beth Blunt, President, Columbia River Region Inter-League Organization of the League of Women Voters, 45210 S.E. Coalman Road, Sandy, 97055, submitted and read a letter indicating support of Resolution No. 83-415 which would establish a metropolitan commission, independent of the Council, to "develop realistic recommendations for improvements to our metropolitan governance system" and did not support a Metro merger with Tri-Met at this time (a copy of the letter is attached to the agenda of the meeting).

Councilor Kafoury said the problem with Resolution 83-415 was that she was not comfortable with one organization being charged with the responsibility. She said she believed the discussion should involve as many organizations and citizens as are interested in the region. Ms. Blunt said she understood the role the Metropolitan Citizens League would play would be one of making nominations to the Commission.

Ken Bunker, 1825 N.E. 125th Avenue, said Councilor Kafoury brought up good points and that a good group of citizens from all over was needed if a study was conducted. He also expressed concern about the funding for a study.

Councilor Deines said he was not prepared to vote that evening given the introduction of a new resolution and amendments which were being proposed at the last minute. He suggested that a time be set after which no more additions would be considered and then make a final decision.

Councilor Bonner withdrew his Resolution, No. 83-407 from consideration and indicated support for Resolution No. 83-421.

Councilor Hansen said he supported Resolution No. 83-421 and if it was adopted, there was no reason to consider his Resolution No. 83-409 or any of the other resolutions proposed.

Motion to Councilor Kafoury moved to substitute
Substitute: Resolution No. 83-415 for Resolution No.
83-421. Councilor Williamson seconded the
motion.

Councilor Kafoury said the problem with Resolution No. 83-421 was that it assumed a take-over of Tri-Met which she couldn't support and believed that the general study proposed by the Metropolitan Citizens League was the more appropriate step to take.

Councilor Kelley said she agreed with Councilor Kafoury. She said she believed the legislation provided for Metro operating Tri-Met but that merged operations should only occur when it was in the best interests of the region.

Councilor Van Bergen stated he was opposed to Resolution No. 83-421. He said he was disturbed that the resolution was introduced only that evening with seven Councilors sponsoring it.

Councilor Etlinger stated the intent of Resolution No. 83-421 was very simple--affirming the state's policy to provide for the consolidation of regional governments and establish an elected governing body. He said the "do nothing" position would change state policy and turn the clock back. He said a study should occur which would look at Metro's future structure, funding and other functional issues, but was a separate issue than the Tri-Met issue.

Councilor Williamson said he had been Chair of JPACT for 4-1/2 years and that transportation was one of the areas where Metro had performed well. He expressed concern that any action on a Tri-Met take over might hinder Metro's relationship with the jurisdictions in the region. He said he was opposed to Resolution No. 83-421, but could support a broad based study which looked at Metro's functions including Tri-Met. He said Metro's track record indicated it was not ready to take over Tri-Met.

Councilor Waker said the issue was simple--that Tri-Met was an agency which used tax dollars to provide services and citizens should have the choice of who should spend those tax dollars. He said he would vote for Resolution No. 83-421 when the opportunity arose. He then read into the record a letter from State Representative Delna Jones which summarized the results of a survey of the Washington County legislative delegation regarding the Tri-Met and Metro relationship (a copy of the letter is attached to the agenda of the meeting).

Councilor Kirkpatrick commented that the question before the Council was probably the toughest the Council had faced. She said she believed philosophically that Metro should run Tri-Met, but not at this time. She said whatever the decision was that it should be a clear indication of Metro's philosophy and they should work toward its achievement.

Mr. Gustafson said he supported Resolution No. 83-421 based on two understandings: 1) that it was the intent of the majority of the Council to conduct a review of the Metro/Tri-Met relationship; and 2) that the door be left open for Tri-Met or other groups to influence how the process was undertaken to review the relationship. He pointed out that Resolve No. 1 in Resolution No. 83-421 could be misinterpreted and that it was his interpretation that it was a statement of support of state policy to eventually, without a time certain, have the transit operation under an elected board. He said he still supported the Metropolitan Citizens League proposal because it would not only study the Tri-Met issue, but other Metro related issues as well.

Vote: The vote on the motion to substitute Resolution No. 83-421 with Resolution No. 83-415, resulted in:

Ayes: Councilors Etlinger, Kafoury, Kelley, Kirkpatrick, and Williamson.

Nays: Councilors Banzer, Bonner, Hansen, Oleson, Van Bergen, and Waker.

Absent: Councilor Deines.

Motion failed.

Presiding Officer Banzer said the original motion to adopt Resolution No. 83-421 was now before the Council for consideration.

Motion to Amend: Councilor Kafoury moved to delete Resolve Nos. 1, 2 and 3 from Resolution No. 83-421 and substitute the following:

1. That the Council of the Metropolitan Service District will initiate a review of the Metro/Tri-Met relationship and will encourage and provide opportunities for participation in such review by all interested citizens in the region.
2. That the Council of the Metropolitan Service District directs the Presiding Officer and the Executive Officer to meet with Tri-Met officials and other interested parties to invite their active participation in such a review; and to submit a progress report to the Metro Council in 60 days.
3. That the results of such a review will serve as the basis for developing a permanent organizational relationship between Metro and Tri-Met.

Councilor Kirkpatrick seconded the motion.

Councilor Kafoury said she proposed the amendments because she couldn't support the language in the existing resolution. She

said her amendments indicated that a review was needed and would encourage that such a review take place with input from Tri-Met, citizens and other interested groups; and that the review would form the basis for making further decisions about a permanent relationship between the organizations.

Vote on
motion
to amend:

The vote on the motion to amend Resolution No. 83-421 resulted in:

Ayes: Councilors Kafoury, Kelley, Kirkpatrick, and Williamson.
Nays: Councilors Banzer, Bonner, Etlinger, Hansen, Oleson, Van Bergen, and Waker.
Absent: Councilor Deines.

Motion failed.

Motion to
Substitute:

Councilor Van Bergen moved that Resolution No. 83-408 be substituted for Resolution No. 83-421. Councilor Williamson seconded the motion.

Vote:

The vote on the motion to substitute Resolution No. 83-408 for Resolution No. 83-421 resulted in:

Ayes: Councilors Kirkpatrick, Van Bergen, and Williamson.
Nays: Councilors Banzer, Bonner, Etlinger, Hansen, Kafoury, Kelley, Oleson, and Waker.
Absent: Councilor Deines.

Motion failed.

Motion:

Councilor Oleson moved to eliminate debate and vote on Resolution No. 83-421. Councilor Hansen seconded the motion.

Vote:

A show of hands indicated that the motion failed (4 ayes and 7 nays).

Mr. Gustafson reiterated that the Council needed to be clear on the intent of Resolution No. 83-421.

Presiding Officer Banzer said that as the Chair of the Council her interpretation of the resolution was: Resolve No. 1 -- a reiteration of state policy; Resolve No. 2 -- that the Executive Officer and Presiding Officer are to begin a cooperative process to evaluate the relationship and report back to the Council.

She said if there was a misinterpretation or confusion regarding the intent, a motion to amend was in order.

There was there considerable Council discussion regarding the intent of Resolves 1 and 2 of Resolution No. 83-421.

Motion to Amend:

Councilor Kirkpatrick moved to amend Resolution No. 83-421 by deleting Resolve No. 2 and substituting the following language:

2. That the Metro Council intends to initiate a review of the Tri-Met and Metro relationship and conduct it in such a manner that all interested citizens have an opportunity to participate.

Councilor Kafoury seconded the motion.

Vote:

The vote on the motion to amend Resolution No. 83-421 resulted in:

Ayes: Councilors Banzer, Bonner, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, and Williamson.

Nays: Councilors Etlinger, Van Bergen, and Waker.

Absent: Councilor Deines.

Motion carried.

Motion to amend:

Councilor Kafoury moved to amend Resolve No. 1 of Resolution No. 83-421, as follows:

1. That the Metro Council supports in principle the intent of current state policy with respect to a Tri-Met/Metro relationship. (that the transit operation in the Portland metropolitan area should be under the general direction of the elected Metro Council.)

Councilor Kelley seconded the motion.

Vote: The vote on the motion to amend Resolution No. 83-421, resulted in:

Ayes: Councilors Kafoury, Kelley, Kirkpatrick, and Williamson.

Nays: Councilors Banzer, Bonner, Etlinger, Hansen, Oleson, Van Bergen, and Waker.

Absent: Councilor Deines.

Motion failed.

Motion: Councilor Oleson moved to call for the previous question. Councilor Bonner seconded.

Vote: The vote on the motion resulted in:

Ayes: Councilors Banzer, Bonner, Hansen, Kirkpatrick, Oleson, Van Bergen, Waker, and Williamson.

Nays: Councilors Etlinger, Kafoury, and Kelley,

Absent: Councilor Deines.

Motion carried.

Vote: The vote on the motion to adopt Resolution No. 83-421, as amended, resulted in:

Ayes: Councilors Banzer, Bonner, Etlinger, Hansen, Kirkpatrick, Oleson, and Waker.

Nays: Councilors Kafoury, Kelley, Van Bergen, and Williamson.

Absent: Councilor Deines.

Motion carried, Resolution adopted as amended.

10. Committee Reports.

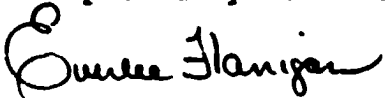
Councilor Kirkpatrick announced there would be no Council Coordinating Committee meeting in July.

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Presiding Officer Banzer reminded Council members that the second meeting of July would be held on Tuesday, July 26th.

There being no further business, the meeting adjourned at 10:30 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Everlee Flanigan". The signature is written in black ink and is positioned above the printed name and title.

Everlee Flanigan
Clerk of the Council

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