

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

**REGULAR MEETING
OCTOBER 6, 1983**

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

Councilors Absent: Councilors Kafoury and Kirkpatrick.

Also Present: Rick Gustafson, Executive Officer.

Staff Present: Donald Carlson, Andrew Jordan, Ray Barker, Tom O'Connor, Mark Brown, Doug Drennen, and Andy Cotugno.

A regular meeting of the Council of the Metropolitan Service District was called to order at 7:52 p.m. by Presiding Officer Banzer.

1. Introductions.

There were no introductions.

2. Councilor Communications.

There were no Councilor communications.

3. Executive Officer Communications.

Rick Gustafson, Executive Officer, indicated that he had several items to report to the Council:

- 1) He asked Tom O'Connor, Legislative Liaison, to report on the Special Session of the Legislature.

Mr. O'Connor presented a memo entitled "Special Session Tax Relief Plan" (attached to the agenda of the meeting). He summarized the Tax Relief Plan and explained how the Plan affected Metro:

Zoo: The A/B ballot was abolished. He said if a tax base for the Zoo in May was approved by the voters, the rate under the property tax freeze legislation (S.B. 792) would be established by that measure. He said the Zoo was

clearly defined as an "enterprise activity" and not subject to the expenditure limitation legislation (H.B. 3026). He also indicated that serial levies were exempt from the rate freeze.

Solid Waste: He said Solid Waste was an "enterprise activity" and would not be subject to the expenditure limitation legislation.

Mr. Gustafson said that Metro would notify local jurisdictions of the Tax Relief Plan and would conduct a workshop to help them understand its impacts.

- 2) Mr. Gustafson said the Metro office move was completed. He reported that the move costs to date were \$2,300; and that Columbia Research Center had moved into the subleased space and would begin rent payments February 1.
- 3) Mr. Gustafson stated that the Oregon City Commission removed the tonnage limitation and in lieu established a 800 ton 30 day average limitation. He said they also defeated a measure to charge a 25¢ a ton fee on the transfer station but did ask that Metro enter into an intergovernmental agreement for payment of extraordinary costs to the City due to transfer station activities. He said he would bring the agreement to the Services and Coordinating Committees for review.
- 4) He reported that the City of Portland had reviewed the St. Johns Landfill operation and had agreed to continue Metro's contract to run the landfill.
- 5) Mr. Gustafson presented a memo regarding "Legal Services" (attached to the agenda of the meeting). He said with the departure of Andy Jordan as Metro's Legal Counsel, it was recommended that Mr. Jordan be contracted with until a long range decision on the type of legal services Metro needed was determined during the 1984-85 budget deliberations.

Councilor Van Bergen said he agreed with the Executive Officer's proposal and that the decision on legal services was an Executive Officer function and not a Council function.

Councilor Williamson said he had problems with the contract, noting that the contract allowed anyone at the firm of Bollinger, Hampton and Tarlow to work on Metro business.

He said a comparison of other jurisdiction's legal service hourly rates should be conducted. He said he believed they could get more for their money with an in-house counsel.

Motion: Councilor Hansen moved to refer the issue of legal services to the Council Coordinating Committee for final disposition.

Councilor Williamson seconded the motion.

Councilor Hansen said the reason he was making the motion was that he was concerned that they were faced with a decision that evening with no prior written material on the matter. He said he preferred to have time to reflect on the decision.

Motion to amend: Councilor Williamson moved to amend the main motion to refer the issue of legal services to the Council Coordinating Committee for consideration and recommendation to the Council.

Councilor Hansen accepted the suggestion as a friendly amendment to the main motion.

Presiding Officer Banzer said the Chair would rule that the Executive Officer's recommendation would stand until such time that a different direction was provided by the Council and in the interim she, Councilors Williamson and Van Bergen, and the Executive Officer would analyze the needs for on-going legal services and report to the Council Coordinating Committee.

Mr. Gustafson then expressed his appreciation for Mr. Jordan's achievements and contributions during his years with CRAG and Metro and presented him with a plaque.

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.

6.1 Consideration of Resolution No. 83-429, for the purpose of establishing a Study Commission to make recommendations on metropolitan governance in the greater Portland area.

Councilor Etlinger said the purpose of the resolution was to establish a study commission to help define the future of regional government and Metro's purpose. He requested that the resolution be amended to change the name "Futures Group" to "Columbia-Willamette Futures Forum".

Motion: Councilor Etlinger moved adoption of Resolution No. 83-429, with the amendment to change the name "Futures Group" to "Columbia-Willamette Futures Forum". Councilor Bonner seconded the motion.

Councilor Waker commented that any study group should include those people who made decisions about giving up services they provided.

Councilor Etlinger responded that groups to be involved were listed in the resolution and that regional and local jurisdictions were included. He said the intent was to determine what was achievable in the next legislative session. He said he hoped Metro would financially support a portion of the study.

Councilor Bonner commented that he supported the resolution because he believed they needed to take a look at themselves and understand what others expected of Metro.

Councilor Williamson said he thought the functions already performed by Metro were not unsubstantial and should be given more credit.

Vote: The vote on the motion resulted in:

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

Nays: Councilors Deines and Waker.

Absent: Councilors Kafoury, Kirkpatrick, and Van Bergen.

Motion carried.

Presiding Officer Banzer requested that Councilor Etlinger be the liaison between the Council and the Executive Officer in implementing the resolution.

7.1 Consideration of Ordinance No. 83-162, amending the Urban Growth Boundary (UGB) in Clackamas County for Contested Case No. 81-2. (Second Reading)

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

Mark Brown, Regional Services Planner, stated no new information had been received since the first reading of the ordinance.

There was no Council discussion or public testimony.

Vote: The vote on the motion to adopt Ordinance No. 83-162, made by Councilors Kafoury and Williamson on September 29, 1983, resulted in:

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

Nays: None.

Absent: Councilors Kafoury, Kirkpatrick, and Van Bergen.

7.2 Consideration of Ordinance No. 83-161, for the purpose of updating the adopted Metropolitan Service District Regional Transportation Plan. (Second Reading)

Councilor Etlinger asked which document, the Regional Transportation Plan (RTP) or the Transit Development Program (TDP), had the most significance as far as transit policy. Andy Cotugno, Transportation Director, responded that the Regional Transportation Plan was a broad view of what the overall transit system should do and the Transit Development Program followed the policies in the RTP but was more detailed with short-term transit system improvements as opposed to long term ones.

Councilor Etlinger then asked when it was appropriate to amend the RTP to incorporate additional long range transit policies. Councilor Williamson responded that the RTP could be amended at any time as long as it followed a reasonable procedure for amendment.

Councilor Bonner said he thought what Councilor Etlinger was aiming for was a process which allowed review of the more specific transit development policies to determine whether they were or were not in compliance with the RTP.

Councilor Etlinger said transit governance and joint development were not addressed in the RTP and that a discussion of the two issues could occur with the local jurisdictions and Metro during the annual RTP update process.

Motion: Councilor Bonner moved that in the process of reviewing, amending and adopting the RTP during the coming year that a public review be conducted of the Transit Development Program to determine if it was consistent with the transit policies of the RTP.

Councilor Bonner said it had been unclear in the past that there was the opportunity to openly review the TDP in a public forum to determine if the program was in compliance with Metro's RTP and that his motion would allow that opportunity.

Councilor Williamson stated that it was JPACT's intent to conduct such a review for the next RTP update.

Councilor Bonner withdrew his motion and in lieu requested that the Presiding Officer send a communication to JPACT requesting that JPACT review the process that Tri-Met will follow in updating their Transit Development Program, with recommendations to the Metro Council on how the Council might review the Program for consistency with the Regional Transportation Policy.

Vote: The vote on the motion to adopt Ordinance No. 83-161, made by Councilors Williamson and Kirkpatrick on September 29, 1983, resulted in:

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

Nays: None.

Absent: Councilors Kafoury, Kirkpatrick, and Van Bergen.

Motion carried.

8.1 Consideration of awarding contracts to construct a Truck Wash Facility and Roof Cover to service commercial haulers at the Clackamas Transfer & Recycling Center (CTRC).

Councilor Hansen reported that the Services Committee had discussed the issue but made no recommendation to the Council.

He said the Coordinating Committee recommended that the Executive Officer be directed to rebid the contract for the wash facility. He said, in addition, the Council Coordinating Committee had requested staff to seek MBE participation from the original low bidder and present the results at the October 6 Council meeting. He then asked staff to respond to the request.

Doug Drennen, Solid Waste Department, responded that the original low bidder had been contacted and had indicated they would not be able to meet the MBE requirements.

Motion: Councilor Hansen moved that the Council Coordinating Committee's recommendation be adopted--that the Executive Officer be instructed to rebid the contract for the truck wash facility, with the exception of the roof structure portion. Councilor Deines seconded the motion.

Councilor Hansen said the Council Coordinating Committee believed that the Council's adopted MBE policy should be adhered to and that he could see no way that the Council could reverse itself and award a bid to a contractor who had not met the MBE requirements. He said none of the bidders had met the requirements and, in addition, the low bid was several thousand dollars higher than the engineer's estimated cost for the project.

Councilor Waker asked if they were on firm ground by rejecting the bids. Mr. Jordan responded they could reject the bids for any reason.

Vote: The vote on the motion resulted in:

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

Nays: None.

Absent: Councilors Kafoury, Kelley, Kirkpatrick, and Van Bergen.

Motion carried.

At this time, the Council recessed for five minutes.

8.2 Status Report on Review of Metro/Tri-Met Relationship.

Presiding Officer Banzer noted for the record that the Council had received communications from the following individuals: Richard J. Brownstein, Mayor Frank Ivancie, Mayor Joy Burgess, William S. Naito, Ernest Bonyhadi, County Executive Dennis Buchanan, Mayor Margaret Weil, City Commissioner Mike Lindberg, and Douglas Goodman (copies of the letters are attached to the agenda of the meeting).

Mr. Gustafson said that Mr. Jordan had completed his analysis of the law as it related to the Metro Council's authority to order a transfer of Tri-Met to Metro, as requested by the Council. (A copy of the analysis is attached to the agenda of the meeting.)

Mr. Jordan said the conclusion of his analysis was that it would be difficult, if not impossible, to affect a merger at this time under current state law. He said there were two major problems:

- 1) There was no clause in the legislation which provided specifically that ordinances of Tri-Met would survive a merger; that is, they would have to be readopted upon merger. He said that Metro, upon merger, would have to readopt the Payroll Tax, which would be subject to referendum, and therefore suspension and potential loss at the polls. He said a suspension and loss would severely affect Metro's ability to operate the transit system or issue bonds to repay outstanding bonded indebtedness.
- 2) The other problem was H.B. 2228 which required approval of a financial plan by the state prior to a merger. He said it was unlikely that a financial plan could be approved if there was the potential that the payroll tax would be lost to pay the bonded indebtedness.

Mr. Jordan said the legislature needed to clarify or correct the legislation before a merger could take place.

Councilor Bonner indicated that specific legislation needed to be developed to 1) address the survivability of the Tri-Met ordinances, 2) clarify the ability of Metro to appoint the Tri-Met Board, and 3) clarify H.B. 2228. He said they should decide now to start work on that legislation for the 1985 session.

Motion: Councilor Oleson moved that the Council direct the Presiding Officer to appoint a Council task force to work with the Metro staff to consider possible Tri-Met merger issues and to develop specific proposals in preparation for the 1985 legislative session. Councilor Bonner seconded the motion.

Councilor Williamson said the Council had passed a resolution regarding the issue which called for public input to the decision and asked if the motion would supersede that resolution. Councilor Oleson responded that the work of a task force was a separate issue; that there had been quite a bit of public input already and they would continue to get public input through the study commission established by Resolution No. 83-429.

Councilor Waker said through a task force they could provide a full range of options for a course of action for the legislature. He said those options could range from severing the marriage clause to a takeover scenario. He said he would like to see options and not necessarily have the task force pick only one option and work on that.

Councilor Hansen said he supported the motion and felt a task force of Councilors was the logical way to address the issue.

Councilor Bonner said a majority of the public opinion thus far had supported a merger, eventually. He said they had good, solid backing for keeping the option open.

Councilor Etlinger said they needed to decide what they wanted in the next six months and work to get a political consensus to go to Salem with in 1985. The other alternative, he said, would be to work out an agreement with Tri-Met and take that to Salem. He said a political consensus could not be addressed by an internal task force but only by a public process of getting people involved in a transit discussion.

Councilor Williamson said they could try to work cooperatively with Tri-Met on issues or they could have a war with Tri-Met, which he thought they would have if they continued to move in the direction they were going. He said there was the potential of a bitter fight in the legislature.

Councilor Kelley said they had begun a process of learning more about their relationship with Tri-Met and that she supported further education of the issues involved.

Mr. Gustafson commented that Councilor Oleson's motion was not a positive step toward learning more. He said it was threatening to state they wanted to develop legislation to take over Tri-Met. He suggested that the process of learning more should be an open public discussion among local jurisdictions, interest groups and citizens.

Councilor Oleson said the intent of the motion was to get the discussion out of the Chamber and with those who wanted to learn more.

Councilor Bonner asked what product was expected from the task force. Councilor Oleson said the answer to that wouldn't be known until they started work on it. He said the main objective was to consider all alternatives.

Presiding Officer Banzer said they needed to give the legislature a message of what Metro wanted, to sever or to merger. She said if the issue was dropped, a negative public perception may occur about Metro raising the issue and then dropping it. If they continued, she said, they would probably exacerbate the problems with Tri-Met. She said they seemed to be between a rock and a hard place and it was a no win situation.

Motion to
amend:

Councilor Hansen moved to amend the main motion to read as follows:

That the Council direct the Presiding Officer to appoint a task force to work with the Metro staff to consider possible Tri-Met relationship issues and to develop specific proposals in preparation for the 1985 legislative session.

Councilor Oleson accepted the suggestion as a friendly amendment to his motion.

Councilor Kelley asked if one of the products of the task force would be to identify issues and develop a process for how they would look at those issues. Presiding Officer Banzer said the motion could be interpreted that that was one of the products.

Mr. Gustafson said if the Council formed a task force it would be perceived as closing themselves off from the public, and he would be opposed. He said they needed to get public input and discuss it openly. He said he supported the original resolution which called for a public discussion of the issue and did not make any decisions about a takeover. He said he had been supportive of the Council's stated intent to look at all the

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options and provide public input, but if that was not the intent he would be opposed to any further action by the Council to close itself off from looking at all the options and providing public discussion.

Councilor Oleson said the motion simply called for an informal extension of the Council to look at the issue.

Councilor Bonner asked what the Executive Officer would do in lieu of a task force. Mr. Gustafson responded that the Council members needed to work individually with their constituents to foster greater public input; and that they should support other groups work on Metro, such as the City Club Committee. He said it wasn't necessary to have a task force to draft legislation.

Councilor Kelley suggested the task force should only develop a process for considering the issues involved. She said they needed more technical information before they drafted legislation.

Councilor Bonner proposed that they continue the discussion until the next meeting.

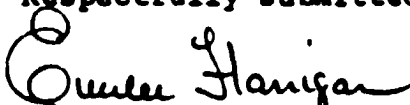
Presiding Officer Banzer continued discussion of the issue to the November 3, 1983 Council meeting.

9. Committee Reports.

There were no Committee Reports.

There being no further business, the meeting adjourned at 10:50 p.m.

Respectfully submitted,


Everlee Flanigan
Clerk of the Council

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