

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

**December 13, 1984**

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

**Also Present:** Rick Gustafson

**Staff Present:** Don Carlson, Eleanore Baxendale, Dan Durig, Doug Drennen, Norm Wietting, Ed Stuhr, Mary Jane Aman, Randi Wexler, Wayne Rifer, Dennis Mulvihill, Sonnie Russill, Phil Fell, Dan LaGrande, Peg Henwood, Herman Brame, Steve Siegel, Leigh Zimmerman, Ray Barker, Andy Cotugno

Presiding Officer Kirkpatrick called to order the regular meeting of the Council at 5:30 p.m.

**1. INTRODUCTIONS**

None.

**2. COUNCILOR COMMUNICATIONS**

Ray Barker reported that at the November 15 Council Management Committee meeting, the Committee requested all Councilors complete a questionnaire that would assist in determining the goals of the Solid Waste Policy Alternatives and Solid Waste Rate Review committees and what roles these committees should play in assisting the Council. Mr. Barker requested these completed questionnaires be returned to him immediately after tonight's meeting. Findings would be considered at the next Management Committee and a report would then be presented to the Council, he said.

**3. EXECUTIVE OFFICER COMMUNICATION**

Executive Officer Gustafson reported the selection of a new Zoo Director was progressing on schedule. He said the two finalists would return to Portland for second interviews and he would be asking the Council to confirm one of the candidates at the January 10 meeting if the Council adopted Ordinance No. 84-183 regarding confirmation of key positions.

The Executive Officer referred the Council to his memo regarding a request for a Zoo admission increase. He said staff proposed to increase adult admissions from \$2.00 to \$2.50, effective February 1,

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1985, in order to meet the goal of producing 50 percent of operations revenues from non-tax sources. Other age categories would also experience rate increases. In addition, it would be proposed to increase the age of the "youth" category from five years of age to three, explaining this would be consistent with the rate structure for train rides. The Executive Officer said his memo would also be circulated to the Friends of the Zoo Board executives and others for comment. The first reading of an ordinance to increase Zoo admission rates would be before the Council on January 10, 1985.

At the Executive Officer's invitation, Andy Cotugno explained a report had been completed on the assessment of light rail transit in the Milwaukie corridor and its possible impact on the highway project in this area. He said staff were now reviewing this information with all interested parties and the Council would be asked to make a decision on the program this spring.

Mr. Cotugno reported the Southern Pacific Railroad, adjacent to Macadam Avenue, had been approved for abandonment by the Interstate Commerce Commission (ICC). A 120-day public use condition period had been established to permit interested agencies to negotiate with the Railroad on possible acquisition of the right-of-way, he said. Mr. Cotugno said this land was identified in the Regional Transportation Plan as a possible transitway and regional bike route. He said Metro was interested in keeping the land within the public domain and staff were working with other agencies to that end, he said. In response to Presiding Officer Kirkpatrick's question, Mr. Cotugno explained staff were working with the 1000 Friends of Oregon on this project because they were the one agency that could bring about cooperation of the six different agencies interested in having the land used for public purposes.

The Executive Officer said he had been serving on a 12-member task force regarding Washington County transportation matters. The task force concluded priorities should be with highway funding, transit improvements and light rail feasibility studies, in that order. Further, the task force concluded Tri-Met should proceed with preliminary engineering for light rail, recognizing this could be a part of the future transportation plan. Executive Officer Gustafson asked the Council to accommodate Chairman Wes Myllenbeck's request to present the task force's findings to the Council in January, 1985.

The Executive Officer next referred the Council to a memo from Eleanore Baxendale regarding landfill fees charged by the Department of Environmental Quality (DEQ). Because no courts will reverse DEQ's fee schedule in Metro's favor, Ms. Baxendale recommended the legislature be asked to adopt stronger laws. The Presiding Officer

asked Councilors to review Ms. Baxendale's memo and be prepared to make a recommendation to staff at the January 10 Council Meeting.

Executive Officer Gustafson congratuated Councilor Van Bergen on being named a "First Citizen" by the North Clackamas County Chamber of Commerce because of his outstanding service to the community.

Finally, the Executive Officer reported the Multnomah County Commission had voted to approve amendments to the County Comprehensive Plan regarding landfill including an amendment that effectively excluded the Wildwood site from the Plan. He said the final adoption for these amendments would occur on December 18 and he urged Metro Councilors to appear and make their opinions known.

**4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS**

None.

**5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS**

None.

**6. CONSENT AGENDA**

**Motion:** Councilor Williamson moved, seconded by Councilor Kafoury, to approved the Consent Agenda.

**Vote:** The vote on the motion resulted in:

**Ayes:** Councilors Banzer, Bonner, Cooper, Deines, Kafoury, Kelley, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick

**Absent:** Councilor Hansen

The motion carried and the following items were approved or adopted:

6.1 Minutes of the Council Meeting of November 8, 1984

6.2 Resolution No. 84-520, Endorsing an Increase to the State Gas Tax and Associated Weight-Mile Tax for State, County and City Road Improvements

6.3 Resolution No. 84-524, Appointing a Citizen of the Community (Bonnie Kraft) to Meet with the Council Management Committee to Review Investment Matters

6.4 Resolution No. 84-525, Appointing Members to the Intergovernmental Resource Committee (Councilors Kirkpatrick and Bonner and Councilor-Elect DeJardin)

7. ORDINANCES

7.1 Consideration of Ordinance No. 84-183, for the Purpose of Amending the Personnel Rules for Appointments and Employment Contracts, Code Sections 2.02.040 and 2.02.270 (Second Reading)

Motion: The motion to adopt this Ordinance was made at the meeting of November 20, 1984, by Councilors Bonner and Williamson.

There was no public testimony regarding the Ordinance.

Presiding Officer Kirkpatrick suggested the portion of the Ordinance addressing employment contracts be deleted from consideration and staff prepare more detailed information about Code Section 2.02.270 and proposed changes to be considered at a later date.

Motion: Councilor Bonner moved to amend the main motion by deleting Code Section 2.02.270, Section 2, relating to employment contracts, from consideration under this Ordinance. Councilor Kafoury seconded the motion.

Vote: A vote on the amendment to the main motion resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Kafoury, Kelley, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick

Absent: Councilor Hansen

The motion carried and the main motion was amended.

Vote: A vote on the main motion to adopt the Ordinance, as amended, resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kafoury, Kelley, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick

Absent: Councilor Banzer

The motion carried and the Ordinance was adopted, as amended. Code Section 2.02.270 relating to employment contracts would be brought before the Council as a separate ordinance at a later date.

7.2 Consideration of Ordinance No. 84-184, for the Purpose of Amending the Regional Waste Treatment Plan ("208" Plan) to Incorporate Amendments No. 12, 13, 14 and 15, and Request Plan Recertification (Second Reading)

Motion: The motion to adopt this Ordinance was made at the meeting of November 20, 1984, by Councilors Williamson and Deines.

There was no public testimony regarding this Ordinance.

Vote: A vote on the motion to adopt the Ordinance resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kafoury, Kelley, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick

Absent: Councilor Banzer

The motion carried and the Ordinance was adopted.

7.3 Consideration of Ordinance No. 84-181, for the Purpose of Amending the Disadvantaged Business Program (Second Reading)

Herman Brame reported he had changed the Ordinance now being considered as instructed by the Council on November 20. These amendments included: 1) changing all references to the "Investment Committee" to read "Council Management Committee", and 2) deleting language that Metro would provide direct assistance to minority or women-owned businesses and replacing it with language specifying that Metro would provide referral services to businesses needing special assistance.

Motion: Councilor Williamson moved to adopt the Ordinance. Councilor Kafoury seconded the motion.

There was no public testimony concerning this Ordinance.

Vote: A vote on the Ordinance resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kafoury, Kelley, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick

Absent: Councilor Banzer

The motion carried and the Ordinance was adopted.

**8. RESOLUTIONS**

**8.1 Consideration of Resolution No. 84-511, for the Purpose of Adopting Disadvantaged Business Program Goals for FY 1984-85**

**Motion:** Councilor Kafoury moved to adopt the Resolution. Councilor Van Bergen seconded the motion.

Mr. Brame explained representatives from the Associated Women Contractors of Oregon (AWCO) had requested the goals for participation of women-owned businesses be increased. They recommended this change due to a great number of new women-owned businesses that would soon be registered on the City of Portland's minority program list. Mr. Brame recommended the Council adopt goals for women-owned business participation to reflect an average of those goals originally proposed and those proposed by the AWCO.

**Motion:** Councilor Kafoury moved to amend the main motion by increasing the WBE goals listed in Exhibit "A" to reflect a percentage based on averaging those goals suggested by the AWCO and those previously recommended by staff. Councilor Williamson seconded the motion.

**Vote:** A vote on the motion to amend the Resolution resulted in:

**Ayes:** Councilors Banzer, Bonner, Cooper, Deines, Hansen, Kafoury, Kelley, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick

The motion carried and the Resolution was amended.

**Vote:** A vote on the main motion to adopt the Resolution, as amended, resulted in:

**Ayes:** Councilors Banzer, Bonner, Cooper, Deines, Hansen, Kafoury, Kelley, Oleson, Van Bergen, Waker, Williamson and Kirkpatrick

The motion carried and the Resolution was adopted as amended.

**EXECUTIVE SESSION**

The Presiding Officer called a recess at 6:30 p.m. for the purpose of conducting an Executive Session, held under the authority of ORS 192.660(1)(e). Present at the session were Councilors Bonner, Cooper, Deines, Hansen, Kafoury, Kelley, Oleson, Van Bergen, Waker,

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Williamson and Kirkpatrick. The regular session of the Metro Council was reconvened by the Presiding Officer at 7:10 p.m.

8.2 Consideration of Resolution No. 84-521, for the Purpose of Approving the Transfer of Franchise Permit from Riedel International, Inc. to KFD, Inc.

Motion: Councilor Deines moved adoption of the Resolution. Councilor Hansen seconded the motion.

After Mary Jane Aman explained the purpose of the Resolution, Councilor Cooper asked why the franchise permit transfer was being requested. Ms. Aman explained the Metro Code required permit holders to report changes in corporate structure to Metro and because the structure had substantially changed, a transfer of permit was required. She then introduced Gary Newbore of Riedel International, Inc. to explain changes in corporate structure.

Mr. Newbore said the basic ownership of Riedel International would not change. The actual operation of the landfill would be the responsibility of a different corporation, KFD, Inc., however. He said the reasons for this change had to do with personnel changes and diversification of the parent company.

In response to Councilor Cooper's question, Mr. Newbore explained that corporate liability would still be the responsibility of the parent company. Ms. Aman said she had received letters of assurance from several bond companies stating KFD, Inc. was bondable.

In responding to Councilor Van Bergen's question, Mr. Newbore replied that one individual owned both companies and the ownership of the landfill was being transferred to KFD, Inc.

Vote: A vote on the motion to adopt the resolution resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kafoury, Kelley and Kirkpatrick

Nay: Councilor Van Bergen

Absent: Councilors Banzer, Oleson, Waker and Williamson

The motion carried and the Resolution was adopted.

8.3 Consideration of Resolution No. 84-522, for the Purpose of Granting a Franchise to Oregon Waste Management, Inc. and Genstar Conservation Systems, Inc. for the Purpose of Operating a Solid Waste Processing Facility

Dan Durig explained this Resolution had been recommended for adoption by the Solid Waste Policy Alternatives Committee and by the Rate Review Committee. He commended the idea for the processing facility as innovative and as an excellent example of private initiative. Under the proposed franchise, the joint venture would accept special loads of waste which would contain high percentages of recyclable material. The material would be dumped at the facility, sorted through, and recyclables would then be recovered, Mr. Durig said.

Responding to Councilor Bonner's question, Mr. Stuhr replied the franchisee would charge \$12 per ton for materials - one dollar less than the cost of disposing of materials at St. Johns Landfill. Merle Irvine, owner of Oregon Waste Management, further explained he would be watching the financial aspects of the operation very closely to determine whether this fee would be sufficient to offset expenses and attract loads of desirable material.

Councilor Bonner asked what kinds of information would Metro receive from the franchisee in exchange for granting a permit. Mr. Stuhr replied the Metro Code required the franchisee to submit monthly reports regarding numbers of commercial trucks received, tonnage of mixed waste received, tonnage of waste disposed at landfills, tonnage of recycled materials, and the fee charged commercial haulers for franchisee's services.

Councilors Hansen and Cooper commended the applicants on their initiative and encouraged their success as a means of helping to solve the region's solid waste problems. The Association of Oregon Recyclers, Portland Recycling and the Portland Association of Haulers also endorsed the new business venture.

Motion: Councilor Kafoury moved to adopt the Resolution.  
Councilor Hansen seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kafoury, Van Bergen and Kirkpatrick

Absent: Councilors Banzer, Kelley, Oleson, Waker and Williamson

The motion carried and the Resolution was adopted.



8.4 Consideration of Resolution No. 84-523, for the Purpose of Granting a Commercial Rate Increase to the Killingsworth Fast Disposal Landfill

Dan Durig introduced Ed Stuhr, who prepared the staff report for the meeting materials, and George Hubel, chairman of the Solid Waste Rate Review Committee. He said Gary Newbore and Greg Richman of Killingsworth Fast Disposal Landfill would also be on hand to answer questions about the Resolution.

Mr. Stuhr explained Killingsworth Fast Disposal Landfill (KFD), currently operating under a Metro franchise, had applied for a rate increase as required by the Metro Code. He said the Rate Review Committee had considered this application, staff met with KFD to analyze financial statements, and both concluded the rate increase should be granted KFD. He said the Council must consider two key issues relating to this request, as amended by the Metro Code: 1) what right does a franchisee have to a profit and 2) is the requested 15 percent rate of return appropriate in this case.

Councilor Cooper questioned whether the reported 50 percent income tax rate reported in KFD's financial statement was an accurate figure and said it appeared many of the figures appeared to be inflated. When Mr. Stuhr responded the Metro Code ordained staff must examine what would constitute a reasonable rate of return and 15 percent seemed reasonable, Councilor Cooper said he thought 15 percent too high for what he considered to be a relatively low risk venture.

Mr. Hubel, in response to Councilor Cooper's statements, agreed that the financial statements submitted by KFD contained inflated figures. He said representatives from the staff and his committee met with KFD to explain problems they had with the financial statements and specific items that must be excluded from consideration. However, he said, the committee ultimately supported granting the request after allowing for their exclusions and after considering what would be a reasonable rate of return for this type of operation compared to Metro's rates.

Councilor Hansen questioned how rates could be accurately analyzed when a company doing work for KFD was owned by the same individual that owned KFD. Gary Newbore, representing KFD, explained there was no extra profit in the capital items listed because Riedel International conducted business at as a separate, profit making venture from KFD. He also said the financial report being reviewed by the Council was not prepared by a Riedel-owned company.

Councilor Bonner questioned whether, if the rate increase were granted, more waste would be brought to St. Johns Landfill, and

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therefore undermine Metro's goals of diverting waste from its facility. Mr. Stuhr said that question was not addressed when reviewing this request because Metro's Code did not specifically require staff to consider that question being requested. However, the Code allows the Council to consider any additional factors it deems necessary, he said.

The Presiding Officer then opened the matter to public testimony.

Chris J. Bochler, Metropolitan Disposal Corporation, 8443 North Kerby, Portland, Oregon, testified his corporation was against the high increase. However, he said, this increase would be justified if the Council would adjust its transfer fee system and apply these fees to more facilities throughout the region.

Paul Gruetter, Owner, AGG Enterprises, Route 1, Box 179, Portland, Oregon, recommended KFD be subject to a tonnage price the same as Metro's landfill. He said this would be a fair system for the consumer and would keep a better balance in filling up one landfill faster than another. Mr. Gruetter said he currently disposed of about 40 percent of his loads at St. Johns. However, if rates at KFD were to increase, he estimated about 60 percent of his loads would go to St. Johns.

Pete V. Viviano, Southeast Dropbox Service, P. O. Box 66067, Portland, Oregon, said he thought, all factors being equal, his loads would be disposed at whichever facility were the most conveniently located. Under the current system, however, he thought extra heavy loads would be disposed at KFD because it still operated on a volume basis. He urged the Council not to change the volume rate system at some landfills in order to keep costs down for disposal of demolition wastes.

Mr. Newbore said in the four years he had been in business, Metro had raised its rates every year. This, however, was the first time his company was requesting a rate increase. He said the increase was necessary in order to make a reasonable profit for his company. He also expressed dissatisfaction that the process for applying for a rate increase had taken over five months.

Motion: Councilor Deines moved to amend the main motion by granting a 15 percent rate increase effective January 1, 1985. Another 15 percent rate increase would be granted effective January 1, 1986, unless, based on a study regarding the effects of diversion which must be presented to the Council in December, 1985, the Council decided to rescind the second increase.

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Councilor Deines explained this amendment to the Resolution would allow staff one year to examine the impacts of the 15 percent rate increase and the Council could then determine whether another increase should be granted. He also thought the initial 15 percent increase would be much easier for haulers to accept than the proposed 30 percent increase.

Terry Ege, Ege Sanitary Service, Troutdale, Oregon, said if the Resolution were adopted it would be very difficult to explain to his customers why he would have to increase his rates, especially on such short notice from Metro. He also explained he had to apply for a rate increase from the cities of Wood Village and Troutdale if he increased his rates which would be a lengthy process. He said Metro made it very difficult for him to make a reasonable profit and to remain in business. Mr. Ege also criticized the process for notifying the industry about the rate increase Resolution, saying he learned about this matter from non-Metro sources.

Regarding Councilor Deines' motion, Ms. Baxendale said it would be appropriate for the Council to explain for the record why they would require a one-year study of the impacts of a 15 percent rate increase, rather than a 30 percent rate increase as originally proposed.

Councilor Dienes explained the 15 percent rate, rather than a 30 percent rate, was preferable because a two week notice for the increase originally proposed may not allow haulers to make a reasonable profit, especially it is required three to four months to inform customers of these increases. A 15 percent rate increase would be much easier to pass along to customers, he said. Also, Councilor Deines said more information needed to be gathered regarding waste that could be diverted to St. Johns as a result of the possible increase, especially since recent changes in Vancouver and Marion County landfill rates have effected Metro facilities.

Paul Gruetter, Route 1, Box 179, Portland, Oregon, suggested the Council make any increase effective February 1, 1985, to allow the hauling and dropbox industry enough time to inform their customers of the increase.

Dewey Mansfield, S & M Dropbox Service, 2820 S.W. Taylors Ferry Road, Portland, Oregon, testified he did not think the current economic conditions warranted a rate increase. He also thought more material would be disposed at St. Johns because of the increase and he urged the Council not to adopt the resolution.

Vote: A vote on the motion to amend the main motion resulted in:

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**Ayes:** Councilors Bonner, Deines, Hansen and Kirkpatrick

**Nays:** Councilors Cooper, Kafoury, Kelley and Van Bergen

**Absent:** Councilors Banzer, Oleson, Waker and Williamson

The motion to amend the main motion failed.

**Motion:** Councilor Hansen moved to make the effective date of the Resolution February 1, 1985. Councilor Deines seconded the motion.

**Vote:** A vote on the motion to amend the main motion resulted in:

**Ayes:** Councilors Bonner, Deines, Hansen, Kafoury, Kelley and Kirkpatrick

**Nays:** Councilors Cooper and Van Bergen

**Absent:** Councilors Banzer, Oleson, Waker and Williamson

The motion carried.

Ms. Baxendale requested Councilors state, for the record, individual reasons for voting against the main motion to adopt the Resolution. These reasons must relate to the standards for granting rate increases to franchisees, as stated in the Metro Code, she explained.

The Council Clerk pointed out there was no main motion on the table. After discussion regarding this matter, a motion was made.

**Motion:** Councilor Deines moved to adopt the Resolution and Councilor Van Bergen seconded the motion.

**Vote:** A vote on the motion resulted in:

**Ayes:** Councilors Deines, Van Bergen and Kirkpatrick

**Nays:** Councilor Bonner voted no because the increase was too large, would have a negative impact on the volume of waste diverted to St. Johns Landfill, and not enough time would be given for the dropbox and hauling industry to inform their customers of the increase.

Councilor Cooper voted no for the same reasons stated by Councilor Bonner.

Councilor Hansen voted no because he was concerned the rate increase would have a negative impact on the haulers. The increase was too high and not enough time would be allowed for haulers to inform their customers. He also voted no because the effects of possible diversion of waste to St. Johns were unknown. Councilor Hansen said he regretted Councilor Deines' amendment for two 15 percent rate increases had failed. He requested the matter be considered again at the Council Meeting of January 10, 1985.

Councilor Kafoury voted no for the same reasons stated by Councilor Hansen.

Councilor Kelley voted no because she did not think the staff report provided sufficient information on which to make an informed decision.

Ms. Baxendale, in explaining the process for a franchisee reapplying for a rate increase, asked the Council to provide staff with clear instruction about the kinds of information the Council would consider in granting the increase in addition to those specific criteria outlined in the Metro Code. Councilor Kafoury said the impacts of waste diverted to St. Johns must be considered. Councilor Hansen requested clarification of the applicant's financial data eliminated from consideration by the Rate Review Committee as well as the possible impacts of diversion. Councilor Cooper agreed with Councilor Hansen's request and also thought a 30 percent rate increase was too high.

Seona Baldwin, Baldwin's Sanitary Service, Portland, Oregon, testified the 30 percent rate increase requested by KFD was too high and if granted, would pose an undue hardship on the industry. She suggested six months time be allowed for Metro to prepare a study on the effects of this increase on St. Johns Landfill and for the industry to prepare for another increase.

There being no further discussion on the Resolution, Presiding Officer Kirkpatrick said this matter would be considered a second time at the Council Meeting of January 10, 1985. She requested the public notify staff if they wanted to be on the mailing list for that meeting.

8.5 Consideration of Resolution No. 84-526, for the Purpose of Amending the Pay Plan for Non-Union Metro Employees

Motion: Councilor Bonner moved to adopt the resolution and Councilor Kafoury seconded the motion.

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Vote: A vote on the motion resulted in:

Ayes: Councilors Bonner, Cooper, Hansen, Kafoury,  
Van Bergen and Kirkpatrick

Nay: Councilor Deines

Absent: Councilor Banzer, Kelley, Oleson, Waker and Williamson

The motion carried and the Resolution was adopted.

There being no further business, Presiding Officer Kirkpatrick  
adjourned the meeting at 9:00 p.m.

Respectfully submitted,



A. Marie Nelson  
Clerk of the Council

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