

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

April 25, 1985

Councilors Present: Councilors DeJardin, Gardner, Hansen, Kelley,
Myers, Oleson, Van Bergen, Waker and Bonner

Councilors Absent: Councilors Cooper, Kirkpatrick and Kafoury

Staff Present: Don Carlson, Eleanore Baxendale, Jennifer Sims,
Sonnie Russill, Vickie Rocker, Leigh Zimmerman,
Norm Wietting, Chuck Geyer, Ed Stuhr, Doug
Drennen, Keith Lawton, Kay Rich, Bob Porter,
Andy Cotugno, Ray Barker

Chairman Bonner called the meeting to order at 5:35 p.m.

1. INTRODUCTIONS

None.

2. COUNCILOR COMMUNICATIONS

The Presiding Officer reported he had received a letter from Councilor Cooper, who would not be able to attend this meeting, stating his opinions on matters relating to the FY 1985-86 Budget and Resolution No. 85-564. The Presiding Officer said Councilor Cooper's comments would be read when each of those items were considered later in the meeting.

3. EXECUTIVE OFFICER COMMUNICATIONS

Don Carlson explained the Executive Officer was out of town. He then reviewed highlights of the document entitled "1984-85 Program Progress Reports, Third Quarter, January-March 1985." He reported Zoo attendance for the first three quarters was 14,000 greater than projected. The volume of solid waste received at St. Johns Landfill was greater than projected due to Clark County and southern Oregon haulers using the facility. Regarding Affirmative Action, at March 31, 1985, the Metro work force was 48.3 percent female and 5.6 percent minority. Projections were 56.9 percent and 6.4 percent respectively. Two women were recently hired for professional and supervisory positions which would increase the percentage of female employment for the fourth quarter, he reported. Disadvantaged Business Enterprise (DBE) participation for the third quarter was 5.4 percent lower than projected, but the forthcoming Bear Grotto construction contract award would increase DBE participation to meet anticipated goals. Finally, Mr. Carlson summarized the progress of several priority projects as reported on the last page of the Third Quarter Report.

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Presiding Officer Bonner said representatives from Todd Building Company wished to address the Council about the recent contract award for the Zoo's West Bear Grotto Remodel to Bishop Contractors, Inc. Councilor Myers announced his law firm was general counsel to Todd Building Company and, as such, asked to be excused from participation in this matter. He then left the Council Chamber.

Arnold Gray of Stoel, Rives, Boley, Fraser & Wyse, Attorneys at Law, 900 S.W. 5th Avenue, Portland, Oregon, representing Todd Building Company, said he wished to present Todd's position regarding public bid procedures for the project and reviewed the series of events leading up to Todd Building Company's dispute with the recent bid award to Bishop Contractors. Mr. Gray said at a pre-bid meeting with the qualified contractors, staff and architects suggested cost savings proposals and value engineering would be an element to be submitted with the lump sum bid. A request for cost savings proposals was also included in the bid advertisement and published in a local newspaper. He said it was very clear, based on the bid advertisement and instructions received at the meeting, that cost savings proposals were to be submitted with the sealed, lump sum bids. The bid would then be awarded on the basis of original, acceptable cost savings ideas and the lump sum bid, he said. Metro could, however, reserve the right to use cost savings ideas submitted by higher bidders via deductive change orders once the contract had been awarded.

Mr. Gray explained after the initial, above-mentioned communications with the five finalists, the actual bid documents were distributed to the bidders and these documents contained no information or instructions about cost savings proposals or value engineering. The documents contained the standard public contracting provisions and explained the contract would be awarded to the lowest, responsible bidder and that Metro could reject bids if in the public interest.

Mr. Gray explained a key point he wanted to make was that the bid documents controlled the bid process even though all of the five bidders were told the Zoo had intended to pursue a different process, according to the terms of Resolution No. 85-513. Based on instructions in the bid documents, Todd Building Company speculated Metro had changed their original approach in soliciting cost savings proposals, he said. Mr. Gray presumed all the bidders reached the same conclusion because Metro received no lump sum bids with cost savings proposals. This, he said, was the flaw in the system.

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Because Metro did want cost savings proposals submitted with the lump sum bids, Mr. Gray said staff asked the three companies submitting bids if they could provide those proposals after the lump sum bids were received. Mr. Gray said he learned at least one phone call was made to Todd's bid estimator from Metro requesting such participation. The estimator expressed concern about participating in that process but was apparently advised there would be a meeting to evaluate cost savings proposals and if Todd didn't show, they "didn't show." Todd, however, did acquiesce to the procedure and submitted cost savings proposals. Mr. Gray said Todd should have, at that point, objected to the change in procedure but proceeded in good faith. Based on evaluation of cost savings proposals, Bishop Contractors, the second lowest bidder based on lump sum bids, was ultimately found to be the low bidder, Mr. Gray explained.

Mr. Gray reported when Todd Building Company realized the outcome of the process, Doug Winn of Todd's Construction Management Division, communicated his concerns with the process in a letter to Mr. Rich dated April 8, 1985. Before the letter was prepared, Mr. Gray said he advised Mr. Winn the letter would constitute a bid protest. However, he explained, because the letter was of a politic and polite nature, it was not fully understood by staff the letter was a bid protest. Therefore, the Council awarded the construction bid to Bishop Contractors, Inc. and the Council was advised staff would meet with Todd to resolve their concerns. Mr. Gray said he assumed the letter would cause staff to postpone the bid award until Todd's concerns had been addressed.

Mr. Gray then explained the different nature of the cost savings proposals submitted by Bishop and Todd construction companies. Todd assumed, based on knowledge of Oregon public bid laws and common law relating to public bid laws, that cost savings proposals must conform to value engineering standards, i.e., specifications could not be altered.

In summary, Mr. Gray explained the legal basis of Todd's position was the bid instructions stated the contract would be awarded to the company submitting the lowest lump sum bid and this was not done. If the bid award was not made to Todd Building Company, Mr. Gray said he had been instructed to file proceedings to mandate the award be made to Todd as the lowest responsive bidder on bid opening day. Todd felt the bidding system was subject to either actual abuse or, more importantly, the potential for abuse. After the lump sum bids were known, Bishop Contractors, who submitted a higher lump sum bid than Todd, had the opportunity to find ways of saving value but also were given the opportunity to delete items from the project and forced a subcontractor to reevaluate its bid price, he reported. Mr. Gray said Metro should not allow the public bidding system to be

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subject even to the appearance of impropriety. He asked the Council to reconsider the matter and to award the contract to Todd Building Company at the bid price submitted by Todd.

Councilor Van Bergen asked if Bishop Contractors had received a copy of staff's memo to the Council summarizing the Bear Grotto contract award problem dated April 25, 1985. Mr. Gray said Todd had received a copy of the memo.

Councilor Waker asked why the Council had not received copies of Todd's letter to Mr. Rich dated April 8, 1985. Ms. Baxendale explained the letter was addressed to staff. Councilor Waker recalled at the April 11 Council meeting he asked staff if anyone had protested the recommended award to Bishop and staff had responded no one had protested. Mr. Gray said although the letter did not contain the actual words "bid protest," the content of the letter stated Todd thought the bid laws had been violated and a meeting was requested to discuss the matter.

Councilor Hansen asked if Todd had received any written instructions for submitting cost savings proposals prior to submitting those proposals. Mr. Gray said no written instructions were received. However, the low three bidders were advised via telephone of the same submittal procedures. Letters from the architect confirming the phone calls were sent to the three bidders the day after calls were made. The letter, he said, requested cost savings proposals be submitted but it did not explain how the proposals would be evaluated. Had the phone calls been made and the letters sent prior to bid opening day, Todd would have no problem with the process, Mr. Gray said.

Ms. Baxendale recalled Mr. Gray had referred to Todd receiving a phone call advising them of a meeting on cost savings proposals after the bids had been opened and if Todd did not show up for the meeting, that would be "too bad" (loosely quoting Mr. Gray's previous statement). She asked who made the call and who received it.

Mr. J. R. Todd of Todd Building Company, 2155 West Military, Roseberg, Oregon, explained his project estimator, Mr. Dothy, had received a call after the project was bid from the architect about a meeting to explain cost savings proposals. Mr. Todd said Mr. Dothy initially rejected the idea of a meeting on the basis the bid should have been awarded to the lowest, responsive bidder. He said Mr. Dothy received another phone call advising Todd of the date cost savings proposals should be submitted. At that point, Todd decided to proceed with submitting proposals, he explained.

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Paul Meyer of Cogan & Meyer, Attorneys at Law, 610 S.W. Alder, Portland, Oregon, representing Bishop Contractors, Inc., said he did not think there was anything improper in Metro's method and manner of contracting for the project. In the original bid proposal, Metro listed a number of alternates. He explained it was well within Metro's powers to accept the base bid plus certain alternates that would have made Bishop the low bidder. The original notice to bidders clearly indicated cost savings proposals would be evaluated after the contract award, he explained. At the worst, one could say there was possible ambiguity in the bid instructions, he said. However, none of the bidders included cost savings with their lump sum bids which led Bishop to conclude the bidders understood the cost savings proposals would be evaluated post-bid. A letter from Jones & Jones, project architect, dated March 7, 1985, was sent to each of the bidders confirming oral communications and describing the procedure to be used, he explained.

Mr. Meyer emphasized Todd participated in each step of the process Metro had established for determining a contract award. Todd's cost savings proposals, however, were extremely modest compared to those submitted by Bishop. Todd only decided to complain about the process after it was known Metro intended to award the bid to Bishop, he said. Mr. Meyer explained Todd's letter to staff dated April 8 did not criticize the concerns raised by Mr. Gray at this meeting. The letter actually criticized what Todd considered to be an inappropriate process for evaluating cost savings proposals and objected to acceptance of proposals that were not value engineering in nature, he said. Mr. Meyer stated this criticism was inappropriate since Todd also proposed cost savings ideas which were not value engineering.

Mr. Meyer, in summary, stated Todd and Bishop had bid the contract according to the same set of instructions, and on April 11 the Council awarded the contract to Bishop, the low bidder. He said the contract had been signed and returned along with a performance and payment bond, constituting a binding contract. Bishop had already entered into agreements with subcontractors and if Metro decided not to award the contract to Bishop, a suit could result, he said.

Councilor Waker asked Mr. Meyer if he agreed the intent of the language of the bid invitation was that cost savings proposals would be received with the lump sum bids and evaluated after the bid opening. Mr. Meyer responded he did not agree that was the intent because no forms for cost savings proposals were furnished at that time. In response to Councilor Waker's question, Mr. Meyer said it was clear there would be a post-bid negotiation of cost savings and no language in the bid invitation precluded submission of cost savings ideas at the post-bid stage. This was the procedure explained to the three eligible finalists, he said.

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Councilor Van Bergen asked if Bishop Contractors had received a copy of staff's memo to the Council summarizing the Bear Grotto contract award problem dated April 25, 1985. Mr. Meyer said he had received a copy of the memo but had not seen any written materials submitted by Todd other than the April 8 letter to staff.

Presiding Officer Bonner then invited staff to address the Council. Ms. Baxendale explained she had learned on April 24 of Todd Builder's intent to address the Council. She asked Mr. Rich to explain his response upon receiving Todd's letter dated April 8. Mr. Rich said he received the letter on April 11. The letter reiterated matters previously discussed with the architects and himself. He said he interpreted the letter as concern over two cost savings items presented by Bishop. On the afternoon of April 11, Mr. Rich questioned the architect to determine if one of the items in question was a reasonable submission. Mr. Rich determined the item was reasonable. In summary, he thought these concerns were technical in nature and if the architect, staff and Todd could meet to discuss these items in question, Todd's concerns would be satisfactorily addressed. He said he was unaware he should have submitted Todd's letter to legal counsel or to the Council.

Ms. Baxendale summarized the issues before the Council, referring to the staff report. First, did Metro abandon the cost savings idea by not including the appropriate bid sheet in the bid document? In response to Presiding Officer Bonner's question, Ms. Baxendale reported the term "cost savings proposals" was not used in the bid document. However, the term did appear in the invitation to bid, in letters to potential bidders, and cost savings proposals were discussed in interviews with construction companies, she said.

The second issue before the Council was whether Metro could use cost savings ideas after the proposals had been opened and still be consistent with the established bid exemption process.

The third issue before the Council was the definition of cost savings. Todd claimed the definition of this term was so unclear and open to such divergent interpretations that the process would be unfair. Ms. Baxendale then asked the project architect, Keith Larson, to discuss his communications with the bidders as it related to this issue.

Mr. Larson reported he phoned Doug Winn of Todd Building Company on March 6, 1985, working from prepared notes and he was looking for any ideas on cost savings proposals. He also talked to Bishop Contractors and relayed the same information. Bishop requested additional clarification. He then called Todd back to make sure they received exactly the same information as Bishop. He said his notes because the basis for a letter, drafted immediately after the calls were placed, and mailed the following day.

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Finally, Ms. Baxendale responded to a statement made by Mr. Meyer about the contract already being awarded to Bishop Contractors and the only option available to the Council was to sign the contract. She explained that although staff was recommending the Council proceed with awarding the contract to Bishop, all the required documents had not been received from Bishop to proceed with executing the contract. The most important issue, however, was the propriety of the process, she said.

In response to Councilor Waker's question, Ms. Baxendale explained the Council could reject all bids only if it were in the public interest to do so. In this case, it must be determined the public bidding process and the exemption from same had not be carried out as intended by the Council, she said.

In response to Presiding Officer Bonner's question, Ms. Baxendale said she believed only two options were available to the Council: rejecting all bids or upholding the decision to award the contract to Bishop. She did not think awarding the contract to Todd was an option because the low bid was clearly defined in several documents and in conversations with bidders as the lump sum bid minus cost savings proposals.

A discussion followed about the definitions of cost savings proposals and value engineering. Mr. Larson and Mr. Rich said it had been made very clear, both in written documents and in conversations with bidders, that Metro was soliciting cost savings proposals which might include value engineering. In no way could instructions to bidders be interpreted as limited to value engineering, they stated.

Motion: Councilor Waker moved the meeting adjourn into an Executive Session to discuss the matter further. Councilor Gardner seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kelley, Oleson, Van Bergen, Waker and Bonner

Abstain: Councilor Myers

Absent: Councilors Cooper, Kirkpatrick and Kafoury

At 6:40 p.m., the Presiding Officer called the meeting into executive session under the provisions of ORS 192.660(1)(h). The regular session of the Council reconvened at 7:10 p.m.

Motion: Councilor Hansen moved the Council affirm awarding the bid for the West Bear Grotto project to Bishop Contractors, Inc. Councilor Gardner seconded the motion.

Councilor Waker said he could not support the motion because he did not believe the bid process followed was the process established by the Council and he did not believe the contractors submitted bids responsive to the advertisement for bids.

Councilor DeJardin said he believed the bid process was fair but he did not think the process was consistent with the Council's direction. Therefore, he could not support the motion.

Councilor Gardner agreed with Councilor Waker's statement and added it was everyone's expectation that the cost savings proposals would be included with the lump sum bid. When this did not occur, deviation from the process occurred, he said, even though Todd and Bishop agreed to participate in the final portion of the bid process.

Councilor Kelley agreed with the positions stated by Councilor Waker, DeJardin and Gardner.

Presiding Officer Bonner thought the fundamental error in the process was that no clear instructions for submitting cost savings proposals were contained in the bid document. Because the process was in error, he said he would not support the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Gardner, Hansen and Oleson

Nays: Councilors DeJardin, Kelley, Van Bergen, Waker and Bonner

Abstain: Councilor Myers

Absent: Councilors Cooper, Kirkpatrick and Kafoury

The motion failed.

Motion: Councilor Waker moved to reject all bids on the basis they were not responsive to the call for bids which had instructed bidders to include cost savings proposals in the basic bid for further evaluation. Councilor Oleson seconded the motion.

Councilor Waker explained Resolution No. 85-513 clearly outlined the bid process the Council expected would be followed and that process was not followed. If his motion were sustained, he expected staff to revise bid documents accordingly.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Kelley, Oleson,
Van Bergen, Waker and Bonner

Nay: Councilor Hansen

Abstain: Councilor Myers

Absent: Councilors Cooper, Kirkpatrick and Kafoury

The motion carried.

Presiding Officer Bonner proposed the Council consider adopting a resolution prepared by staff in the event the Council chose to reject all bids. The resolution would amend Resolution No. 85-513, give direction to staff and clarify the new bidding process.

(Note: this resolution was later identified as Resolution No. 85-565 and will be referred to by that number in this record.)

Ms. Baxendale requested the Council carefully examine the draft resolution to ensure it contained all provisions deemed necessary by the Council.

Motion: Councilor Waker moved adoption of Resolution No. 85-565 to include the following amendment under the first "BE IT RESOLVED" paragraph, the language: "That the bids received under the exemption granted in Resolution No. 85-513 be rejected because of the detriment to competition caused by the unintended method of obtaining cost savings proposals and because of failure of all bids to be response to the call for bids."

Motion: Councilor Hansen moved the third "WHEREAS" paragraph and the "BE IT FURTHER RESOLVED" paragraph of the Resolution be amended to restrict the bidding activity to the five bidders previously selected under the exemption process. Councilor Waker seconded the motion.

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

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Ayes: Councilors DeJardin, Gardner, Hansen, Kelley, Oleson,
Van Bergen, Waker and Bonner

Abstain: Councilor Myers

Absent: Councilors Cooper, Kirkpatrick and Kafoury

The motion carried and the Resolution was amended.

Motion: Councilor Gardner moved to amend the last portion of the third "WHEREAS" paragraph of the Resolution to read: "...and award the bid to the low bidder on the basis of a lump sum bid to the lowest bidder on the basis of a lump sum bid less the amount of owner accepted, itemized cost savings proposals submitted at the time of the lump sum bid;". Councilor Hansen seconded the motion.

Mr. Gray commented the proposed amendment might not allow enough time for bidders to receive clear instructions about the process.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kelley, Oleson and Van Bergen

Nays: Councilors Waker and Bonner

Abstain: Councilor Myers

Absent: Councilors Cooper, Kirkpatrick and Kafoury

The motion to amend the Resolution carried.

Motion: Councilor Gardner moved the Resolution be adopted as amended and Councilor Kelley seconded the motion.

The Presiding Officer invited Mr. Gray and Mr. Meyers to comment on the proposed Resolution as amended. Mr. Gray said he thought the the criteria by which bids would be evaluated should be published in the bid document in order to eliminate the possibility of misunderstandings. Mr. Meyers had no comments.

Mr. Rich suggested, based on comments received from contractors, that lump sum bids be received but not opened for three days. The contractors would have three days to submit cost savings ideas. At the end of that period, all bids would be opened. He said this would allow contractors several additional days to compute cost savings ideas.

Mr. Meyers said Mr. Rich's suggestion could give prime contractors an opportunity to bid shop. He thought this would be destructive to the bidding process.

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

Ayes: Councilors DeJardin, Gardner, Hansen, Kelley, Oleson, Van Bergen, Waker and Bonner

Abstain: Councilor Myers

Absent: Councilors Cooper, Kirkpatrick and Kafoury

A discussion followed regarding whether staff should provide the Council with an amended bid package for review at the May 9 Council meeting. Presiding Officer Bonner request staff provide the Council with relevant portions of the bid package on or before May 9, 1985. Councilors should contact staff if they had concerns with the material.

Councilor Myers entered the Council Chamber.

6. CONSENT AGENDA

Motion: Councilor Waker moved to approve the Consent Agenda and Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kelley, Myers, Oleson, Van Bergen, Waker and Bonner

Absent: Councilors Cooper, Kirkpatrick and Kafoury

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

6.1 Minutes of the Meeting of March 28, 1985

6.2 Resolution No. 85-561, for the Purpose of Amending the Transportation Improvement Program to Include a Fremont Bridge Debris Control Fencing Project

7. RESOLUTIONS

7.1 Consideration of Resolution No. 85-564, for the Purpose of Requiring Mandatory Prequalification for the Contract for Operating the St. Johns Landfill

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Mr. Wietting explained the current contract to operate the St. Johns Landfill expired on October 1, 1985. To prepare for rebidding the operations contract, staff considered three alternatives: 1) awarding the contract to the lowest, qualified bidder with qualifications to be reviewed post-bid; 2) requiring a prequalification process before issuing bid documents; and 3) Metro would operate the landfill. Staff recommended pursuing alternative 2 and concentrating efforts on developing a solid waste management system rather than becoming landfill operators.

Mr. Wietting explained the difference between alternatives 1 and 2 were whether bidders qualifications would be examined with or without knowledge of the amount bid for the contract. If alternative 2 was approved, staff would prequalify bidders according to state-adopted criteria and once bidders were approved, staff would recommend awarding the contract to the lowest bidder. Potential bidders deemed not qualified by staff could appeal their status before the Metro Council and appeals would be settled before receiving bids, Mr. Wietting explained. He emphasized staff would rely on a well written contract and good contract management to ensure operations proceed according to standards.

In response to Councilor Waker's question, Mr. Wietting said staff would not limit the number of contractors deemed qualified to bid the project. He further explained the prequalification criteria, based on state law, included experience of personnel and equipment available for performing the work. Once the contract was awarded, staff would assume the low bidder would be financially capable of performing the scope of work if the contractor were able to secure the appropriate bonds, Mr. Wietting said.

Mr. Wietting explained, in response to Councilor Kelley's question, that Metro's prequalification criteria would be published as part of the request for bids. These criteria would be stated in general terms and would read the same as current state law. The evaluation committee would use a more specialized set of criteria also based on the state law. Mr. Wietting explained although the evaluation committee had not been selected, he assumed it would be comprised of Metro staff, possibly one or two people from other agencies (such as the City of Portland), and a Metro Councilor.

Councilor Hansen was concerned the Council could be hearing appeals from contractors deemed unqualified without reviewing the selection committee's criteria. He requested the Council review the committee's criteria in writing before adopting Resolution No. 85-564.

Councilor Myers asked who would appoint the selection committee. Mr. Wietting said in the past the Solid Waste Manager had recommended committee members which were approved by the Executive Officer.

Councilor Van Bergen said he did not think prequalification was necessary for this type of contract. He explained he had supported an exemption from regular procedures for the Zoo project because of unique and specialized construction requirements. He did not think operating a landfill was unique and specialized and thought the work could be performed by most general contractors. Mr. Wietting responded that landfill operation experience would be important in dealing with special and hazardous wastes and because the landfill was a full-time, year-around operation. Councilor Van Bergen thought good contract management would ensure a safe operation without prequalification. Mr. Wietting said good contract management was very important regardless of which contracting process the Council recommended.

Presiding Officer Bonner requested staff return to the Council on May 9, 1985, with written criteria by which potential bidders would be evaluated and a list of the proposed evaluation committee members. Resolution No. 85-564 would be considered by adoption at that time, he explained.

The Presiding Officer read a portion of a letter from Councilor Cooper, who could not attend the meeting, regarding the Resolution: "...because of the technical nature of operating a landfill (I know from firsthand experience), the only alternative that makes any sense at all is #2."

At the end of the meeting, Councilor Van Bergen requested that other jurisdictions, in addition to the City of Portland, be represented on the criteria evaluation committee.

7.2 Consideration of Resolution No. 85-560, for the Purpose of Approving the FY 1985 Highway Allocation Plan for the Interstate Transfer Program and Amending the Transportation Improvement Program Accordingly

In response to Councilor Hansen's question, Councilor Waker reported JPACT unanimously approved this action with all jurisdictions represented.

Motion: Councilor Van Bergen moved the Resolution be adopted and Councilor Hansen seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kelley, Myers, Oleson, Van Bergen, Waker and Bonner

Absent: Councilors Cooper, Kirkpatrick and Kafoury

The motion carried and the Resolution was adopted.

7.3 Consideration of Resolution No. 85-562, for the Purpose of Adopting the Annual Budget of the Metropolitan Service District for FY 1985-86, Making Appropriations from Funds of the District in Accordance with Said Annual Budget, Creating a St. Johns Methane Recovery Fund and a Building Management Fund, and Levying Ad Valorem Taxes

7.4 Consideration of Resolution No. 85-563, for the Purpose of Approving the FY 1985-86 Budget and Transmitting the Approved Budget to the Tax Supervising and Conservation Commission (TSCC)

Presiding Officer Bonner explained the above named Resolutions would be considered together. Resolution No. 85-563 would be considered for adoption on May 9. Resolution No. 85-562 would be considered for adoption on June 27, after the budget was returned by the TSCC, he said. He asked Mr. Carlson to review highlights of the budget after which Councilor Hansen would present recommendations made by the Metro Budget Committee.

Mr. Carlson said the official budget considered for adoption was the document marked "Budget Committee Recommendations." He requested the Council also refer to the "Budget Overview" and the notebook containing backup information for more detailed descriptions of the budget. He then explained the total FY 1985-86 budget was about \$.5 million less than last year's budget. Operating costs had increased by about 14.7 percent and referred the Council to a written explanation for this increase requested to be prepared for Councilors by the Budget Committee. Reasons for the increase included startup of the Washington Transfer & Recycling Center, higher projected solid waste flow to St. Johns Landfill and more interfund transfers. The transfers tended to inflate the operations' budget, he explained. He suggested Councilors refer to each department summary in the "Budget Overview" document for a good description of special budget issues.

Mr. Carlson reported the budget provided for a 2 percent salary increase for non-Zoo employees to make up part of the pay differential between Zoo and non-Zoo employees. Potential changes from the current recommended budget could include the possibility of

an cost of living salary adjustment for all employees. Salary recommendations would be reviewed by the Council on June 27, 1985, he said. Also, the IRC budget could be proposed to increase to allow for convention center planning. Funds to offset these expenses would be coming from outside sources, Mr. Carlson explained.

Councilor Hansen, Chairman of the Budget Committee, reviewed changes proposed by the Committee as outlined in a memorandum to the Council from Councilor Hansen and Jennifer Sims dated April 25, 1985.

Presiding Officer Bonner opened the public hearing on the FY 1985-86 budget. There being no public comment, he closed the public hearing. He announced there would be a second public hearing at the May 9, 1985, Council meeting and the Council should be prepared to adopt Resolution No. 85-563 at that meeting.

8. OTHER BUSINESS

8.1 Consideration of a Waiver of the Personnel Rules, Section 54(C)

There was no discussion on this Resolution.

Motion: Councilor Waker moved the variance of the Personnel Rules be ratified. Councilor Van Bergen seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kelley, Oleson, Van Bergen, Waker and Bonner

Absent: Councilors Cooper, Kirkpatrick, Kafoury and Myers

The motion carried.

8.2 Consideration of Resolution No. 85-569, for the Purpose of Amending the Transportation Improvement Program to Include a Project to Implement Immediate Emergency Repairs on the Hawthorne Bridge

Mr. Cotugno explained Metro customarily approved the use of federal funds for various transportation projects by adopting resolutions amending the Transportation Improvement Program. He had received notice earlier in the day that Multnomah County would be seeking funds to repair the Hawthorne Bridge. Although an application for the funds had not been received, he requested the Council approve this action due to the emergency nature of the bridge repairs, pending receipt of the application.

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In response to Presiding Officer Bonner's question, Mr. Cotugno said the repairs would probably cost under \$1 million and funding this project would not jeopardize other transportation projects. The proposal would be reviewed by JPACT and TPAC in the near future, he reported.

Motion: Councilor Waker moved the Resolution be adopted and Councilor Van Bergen seconded the motion.

Vote: A vote on the motion resulted in:


Ayes: Councilors DeJardin, Gardner, Hansen, Kelley, Oleson, Van Bergen, Waker and Bonner

Absent: Councilors Cooper, Kirkpatrick, Kafoury and Myers

The motion carried and the Resolution was adopted.

There being no further discussion, Presiding Officer Bonner adjourned the meeting at 8:25 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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