

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

May 23, 1985

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

Councilors Absent: Councilors Cooper, Kafoury, Myers and Oleson

Also Present: Rick Gustafson, Executive Officer

Staff Present: Don Carlson, Eleanore Baxendale, Vickie Rocker,
Leigh Zimmerman, Phillip Fell, Peg Henwood, Kay
Rich, Gene Leo, Norm Wietting, Doug Drennen,
Mary Jane Aman, Andy Cotugno, Keith Lawson, Ed
Stuhr, Ray Barker

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

1. INTRODUCTIONS

None.

2. COUNCILOR COMMUNICATIONS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Tax Supervising & Conservation Commission's (TSCC) Hearing on the
FY 1984-85 Supplemental Budget. Executive Officer Gustafson report-
ed questions at the May 22 hearing centered on two issues. First,
the TSCC recommended the appropriation of the Solid Waste Fund
Balance to Contingency be instead placed in an Unappropriated
Balance line item. Second, the TSCC raised questions about the
Building Management Fund and the related five-year plan, but Execu-
tive Officer Gustafson did not expect the TSCC to recommend changes
to the existing plan.

Alternative Chapter of the Solid Waste Management Plan. The Execu-
tive Officer announced the Council had been sent draft copies of the
chapter and the draft would be discussed on June 13. A public
review process would then take place and the Council would be asked
to adopt the final version of the chapter late in July, he said.

Ladybug Theater. Executive Officer Gustafson said Gene Leo would be
late in arriving at the meeting and he wanted to return to a discus-
sion about the theater when Mr. Leo arrived.

Legislative Update. Phillip Fell reported on the status of legislation of interest to Metro. House Bills 2036 (regarding the Zoo uncoupling) and 2037 (local government dues) passed unamended from committees to the Senate floor. House Bill 2275 (excise taxes) passed to the House floor with two amendments: the first would sunset Metro's excise tax authority effective June 30, 1989, unless a general property tax base were submitted to Metro voters; the second would substantially decrease the number of signatures required to initiate a petition or to refer a measure. Mr. Fell expected the bill would pass on the House floor.

House Bill 2558 (regarding Metro having the power to appoint commissions) passed the House floor last week 42 to 7 and was assigned to the Senate Government Operations Committee, Mr. Fell reported.

Mr. Fell reported Senate Bill 662 (regarding state landfill siting authority) had undergone numerous amendments. The current draft establishes three landfill siting process: 1) a local official process; 2) an interim Environmental Quality Commission (EQC) process; and 3) a final EQC process. Mr. Fell then elaborated on provisions of the three processes. He said the bill would pass out of the Senate Government Operations Committee to the Senate floor within a week. Senator Otto would carry the bill.

Mr. Fell explained Senate Bill 801 was intended to expand the bottle bill to include wine cooler bottles. He said the bill passed out of committee on a 4 to 3 vote. A minority report requiring an interim study of the bill was filed by Senators Day, Breneman and Hamby and that report carried by a vote of 16 to 14. The amended bill then passed to the House floor by a vote of 25 to 5, he reported. The interim study would focus on the equity between the fillers and retailers and the feasibility of expanding the bottle bill.

Councilor DeJardin pointed out Metro's legislative consultant, who also represented a major grocery store chain, could be in a difficult position in representing Metro on this issue. Executive Officer Gustafson responded that while Metro had no official position on SB 801, he would continue to advocate for recycling legislation and would assume the Council was pro-recycling. He said he expected Mr. Martin could continue to effectively serve Metro as a legislative consultant in this area and to improve Metro's effectiveness, he could use Phillip Fell or Dennis Mulvihill as legislative liaisons if necessary.

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Presiding Officer Bonner said all Councilors had received letters from the Ladybug Theater which would be discussed later in the meeting.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Lyle Stanley, 3950 S.W. 102nd Avenue, Apartment 44, Beaverton, Oregon, addressed the Council regarding alternative technology for solid waste disposal. He said he had previously addressed the Council regarding celluloid hydrolysis as a means of waste disposal. He then described the technology and its advantages to Metro. Presiding Officer Bonner invited Mr. Stanley to address the Council regarding the Alternative Technology Chapter of the Solid Waste Management Plan when the Council met to review the document on June 13.

Mr. Stanley asked the Council why it supported Senate Bill 662 (state landfill siting authority legislation) when it would negate staff's process for reviewing alternative modes of solid waste disposal. Councilor Gardner responded that the current, amended SB 662 differed substantially from the initial legislation originally supported by the Council. He also urged Councilors to attend the June 5 Multnomah County Solid Waste Task Force meeting to learn more about the celluloid hydrolysis alternative.

In response to Presiding Officer Bonner's question, Executive Officer Gustafson said the Council would have a chance to examine modes of alternative technologies at a "technology fair" to be held in the near future.

Judy Dehen, 2965 S.W. Verde Vista, Portland, Oregon, representing the Columbia Group of the Sierra Club, said that Metro's failure to build an energy recovery facility in Oregon City could be considered a positive because if the facility were now in place, problems would have resulted. She stated that because the facility was not built, Metro was now considering other safer and more beneficial modes of disposal technology. Ms. Dehen said the Sierra Club would be supportive of good alternative and urged the Council not to become locked into any form of technology that would cause long-term problems.

6. CONSENT AGENDA

Presiding Officer Bonner announced item 6.6, consideration of Resolution No. 85-573, would be removed from this meeting's Consent Agenda but would appear on the June 13 Consent Agenda pending a recommendation from the Management Committee.

Motion: Councilor Waker moved approval of the Consent Agenda and Councilor Kirkpatrick seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilors Cooper, Hansen, Kafoury, Myers and Oleson

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

- 6.1 Approval of the Minutes of the Meeting of April 25, 1985
- 6.2 Resolution No. 85-566, Authorizing Federal Funds for Eight 16(b)(2) Special Transportation Projects and Amending the Transportation Improvement Program
- 6.3 Resolution No. 85-567, Amending the Transportation Improvement Program to Incorporate Urban Mass Transportation Administration Grant Applications for 20 Accessible Vans
- 6.4 Resolution No. 85-568, Amending the Transportation Improvement Program to Include an I-5 Pavement Subsidence Geological Investigation Project
- 6.5 Resolution No. 85-570, Amending the Transportation Improvement Program to Expand the Scope of the Multnomah County S.E. Stark Street Project

7. RESOLUTIONS

- 7.1 Consideration of Resolution No. 85-572, for the Purpose of Approving the Transfer of Franchise Permit No. 5 from Oregon Waste Management, Inc. and Genstar Conservation Systems, Inc. to Genstar Waste Transfer, Inc.

Mary Jane Aman explained the purpose of the Resolution was to transfer the franchise permit to Genstar Waste Transfer, Inc. She reported the company had met all requirements for receiving a permit.

In response to Councilor Van Bergen's questions, Merle Irvine, Manager, Oregon Process & Recovery Center, P. O. Box 17561, Portland, explained that Genstar Waste Transfer, Inc. was wholly owned by Genstar Conservation Systems, Inc. and was the operating arm for all United States based solid waste facilities owned by Genstar Conservation. The corporation was publically held, he said. Mr. Irvine explained Genstar Waste Transfer was a California corporation licensed and registered to do business in the state of Oregon. Oregon assets included Genstar Waste Transfer's equipment at the St. Johns Landfill and the land, building and equipment at the Oregon Process & Recovery Center, he reported.

Councilor Van Bergen asked about the bonding requirements for the franchise. Ms. Aman replied \$500,000 general liability insurance coverage and a \$25,000 performance bond - the same bond amount recommended for the original franchise application - had been received from Genstar Waste Transfer, Inc.

Councilor Van Bergen recalled the Council previously adopted a Resolution granting special disposal rates to Oregon Waste Management, the original franchisee. He asked if the special disposal rates would apply to Genstar Waste Transfer. Ms. Aman said the fee variance would transfer to Genstar Waste Transfer. Eleanore Baxendale further explained the initial variance was granted to the original franchisee. The franchise transfer to a different entity, if approved, would not effect the variance, she said, unless the franchisee decided to engage in work different from that for which the variance was granted. After discussion on the matter, Councilor Van Bergen said he would accept Counsel's opinion, but preferred the two matters - granting a franchise permit and a rate variance - should be decided separately.

Motion: Councilor Kirkpatrick moved to approve Resolution No. 85-572 and Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilors Cooper, Hansen, Kafoury, Myers and Oleson

The motion carried and Resolution No. 85-572 was adopted.

7.2 Consideration of Resolution No. 85-574, for the Purpose of Granting an Exemption from the Public Contracting Procedure for the Purchase of Computer Equipment for Transportation Purposes

Ms. Baxendale explained she had reviewed a request for proposals (RFP) for computer equipment and authorized staff to distribute the document to qualified computer vendors. After the RFP was distributed, she became aware that Metro's Contract Procedures did not provide for use of an RFP for special equipment purchases unless an exemption to the Procedures were granted by the Council. She requested the exemption be granted due to the specialized requirements of the equipment.

Motion: Councilor Waker moved Resolution No. 85-574 be approved. Councilor Kirkpatrick seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilors Cooper, Hansen, Kafoury, Myers and Oleson

The motion carried and Resolution No. 85-574 was adopted.

Don Carlson announced a special Management Committee Meeting had been scheduled for 5:00 p.m., June 13, 1985, to approve the contract for purchasing a computer.

EXECUTIVE SESSION

At 6:30 p.m., Presiding Officer Bonner called an Executive Session of the Council under the authority of ORS 192.660(1)(d). Councilors attending the session were Councilors DeJardin, Gardner, Hansen, Kirkpatrick, Kelley, Van Bergen, Waker and Bonner. The regular session of the Council reconvened at 7:15 p.m.

8. COMMITTEE REPORTS

Councilor Kelley reported Jane Cease sponsored a bill to dedicate two cents of the cigarette tax for handicapped transportation needs.

Presiding Officer Bonner reported the Convention, Trade & Spectator Facilities Task Force, together with three subcommittees, met to review proposals for a combined domed stadium and convention center and the Clackamas Dome.

LADYBUG THEATER

Executive Officer Gustafson reported the Council had received various correspondence regarding the Ladybug Theater and its future at the Zoo. In response to specific concerns, he explained the Master Plan did provide for a new performing auditorium but the Plan did not conclude the Ladybug Theater would have total management and operation rights of this auditorium. The existing Ladybug Theater was not planned to be demolished until the new Zoo entrance was scheduled to be built, he said. However, he explained, the current issue before the Council was the unsafe condition of the existing theater building. He said consultants were inspecting the building on a weekly basis to insure its safety and the theater group had been notified they might have to vacate the building immediately if the building was deemed unsafe for occupancy. Further, he said, staff were preparing to notify the theater it could not occupy the building after September 1, 1985, due to the building's unsafe

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condition and because it would not be cost effective to expend funds to repair structural damage to the Ladybug Theater. He then reviewed the three-year history of staff negotiations with the theater about their future in the building.

The Executive Officer explained Gene Leo had sent a response to Ladybug's letter to its supporters and to the Council. He requested that if Councilors received inquiries about the status of the theater, a suitable reply would be a copy of Mr. Leo's letter.

In response to Councilor's questions about the safety of the Ladybug Theater building, Kay Rich said the building had not been inspected by a city code inspector and no official notice had been issued to close the building. However, the Zoo's architectural consultants had been examining the building on a weekly basis and had determined the building was structurally unsound and that it should not be used during periods of heavy snow or high winds. These architects had estimated it would cost approximately \$75,000-\$100,000 to make structural repairs, he reported. Staff were committed to continuing the weekly inspection schedule through the current performance season which would end in August. Mr. Rich stated the Zoo Buildings & Grounds Manager had speculated the city of Portland would close the building immediately if it were inspected by City officials.

Staff explained the importance of making a decision that would be effective on or before September 1, 1985, the start of the Ladybug Theater's new performance season. The group would need time to schedule performances, establish admission rates and notify its patrons of any changes from the current location.

In response to Councilor Gardner's question, Executive Officer Gustafson said the new performance auditorium, as called for in the Master Plan, could be build anytime from 1988 to 2001.

Gene Leo arrived at the meeting having just met with Jan Kasameyer, President of the Ladybug Theater. He said he had spent considerable time talking to Portland Parks officials and others trying to locate alternative space for the theater group. He was hopeful another space could be found and said it was his goal to keep the theater in the Portland community.

When asked about whether alternative space were available at the Zoo, Mr. Leo explained the Zoo Meeting Center was scheduled for Zoo education classes and meetings. The new Education Office would not be built for another 18 months and no space would be available for the theater when the building opened for staff occupancy, he said.

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Motion: Councilor Van Bergen moved the Ladybug Theater Building be immediately closed due to its unsafe condition.

The motion died for lack of a second.

Councilor Kirkpatrick suggested staff investigate whether the theater group could conduct performances under an outdoor tent on the Zoo grounds. Mr. Leo said he would look into this possibility.

Motion: Councilor Hansen moved staff continue to negotiate with the Ladybug Theater Board to determine whether funds could be raised to make structural repairs to the theater building. Safety of the existing building should be the highest consideration.

The motion died for a lack of a second.

Motion: Councilor Kirkpatrick moved to instruct Zoo staff to explore all alternative space available for the Ladybug Theater on the Zoo grounds by June 1, 1985. If no alternative space is available, staff is authorized to terminate the contract with the Ladybug Theater to be effective September 1, 1985. If at any time the Ladybug Theater Building is deemed unsafe for occupancy, the building shall be immediately closed. Councilor Hansen seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors DeJardin, Gardner, Hansen, Kirkpatrick and Bonner

Nays: Councilors Kelley and Van Bergen

Absent: Councilors Cooper, Kafoury, Myers and Oleson

The motion carried.

There being no further business, Presiding Officer Bonner adjourned the meeting at 7:55 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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