

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

July 25, 1985

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

Councilors Absent: Councilors Cooper, DeJardin and Myers

Staff Present: Don Carlson, Eleanore Baxendale, Dan Durig,
Dennis Mulvihill, Wayne Rifer, Randi Wexler,
Doug Drennen, Rich McConaghy, Debbie Gorham,
Jill Hinckley, Steve Siegel, Vickie Rocker,
Phillip Fell, Ray Barker

Presiding Officer Bonner called the meeting to order at 5:30 p.m.

1. INTRODUCTIONS

None.

2. COUNCILOR COMMUNICATIONS

The Presiding Officer announced that Item 9.3, the consideration of a proposed waste reduction plan process, would be discussed at this time. He explained that he and Councilors Kelley and Gardner had worked with staff to develop the proposed process. Wayne Rifer and Vickie Rocker then reviewed the proposal.

Mr. Rifer circulated copies of a "Waste Reduction Program Timeline" which contained three elements: 1) Define the options and issues; 2) Evaluate the options; and 3) Prepare final Waste Reduction Program. He discussed the differences between this proposal and the one presented to the Council before the passage of SB 662.

Ms. Rocker explained the public involvement program in more detail. The goal was to propose a realistic program that could be accomplished by the January 1, 1986 deadline, she said. Public involvement activities included a professional public opinion poll of 600 random individuals; opinion leader interviews with business, industry and local government leaders; an information piece distributed to the general public; a speakers' bureau to address civic groups; and a general public meeting. Proposed dates for each activity were listed on the "Waste Reduction Program Timeline" document. Also, she said, the August 1 and 2 Alternatives Technologies Symposium was a planned public involvement activity.

Metro Council
July 25, 1985
Page 2

Councilors Kelley and Gardner expressed support of staff's proposal saying it was a good plan that would reach a broad spectrum of the public within a short period of time.

Presiding Officer Bonner announced he would ask five Councilors to join four members of the Solid Waste Policy Advisory Committee to form a Solid Waste Task Force. The Task Force would recommend a Waste Reduction Plan for Council adoption in early November, he said.

In response to Councilor Van Bergen's question, Ms. Rocker said the total cost of the proposed public information program would be \$15,000 to \$20,000, not including staff time. Other budgeted programs would not be deleted as a result of these expenses, she said. Exact expenses would be known as plans became more specific.

Motion: Councilor Kelley moved the Council adopt the Waste Reduction Program Timeline and Councilor Gardner seconded the motion.

Councilor Kirkpatrick requested the Council approve the mass mailing portion of the public involvement program before it was implemented.

Vote: A vote on the motion resulted in:

Ayes: Councilors Gardner, Kirkpatrick, Kafoury, Kelley, Oleson, Waker and Bonner

Nay: Councilor Van Bergen

Absent: Councilors Cooper, DeJardin, Hansen and Myers

The motion carried. Presiding Officer Bonner said the Council would receive a monthly report on the progress of the Waste Reduction Plan. He thanked the Solid Waste staff for developing the Plan timeline in a short period of time.

3. EXECUTIVE OFFICER COMMUNICATIONS

Don Carlson explained the Executive Officer could not attend the Council meeting because he was meeting with the Chinese delegation to negotiate obtaining pandas for possible temporary exhibition at the Washington Park Zoo.

Year End Report. Mr. Carlson reviewed the document entitled "1984-85 Program Progress Report, Year-End, July 1984-June 1985." Highlights of the report included review of progress on the following priorities previously adopted by the Council:

- * Establish and maintain adequate and firm financial support for all services. The Legislature voted to continue local government dues; excise taxing authority legislation passed the Legislature but was vetoed by the Governor; Metro's cigarette tax bill was not acted on by the Legislature; another cigarette tax bill that would add 1¢ per pack for cities and counties was amended to include \$200,000 for Metro's general government activities but the amendment was dropped by the Conference Committee; and a bill uncoupling a Zoo tax base from Metro's service provision authority passed the Legislature and was signed by the Governor.
- * Ensure that the region will have an environmentally safe and financially sound solid waste disposal site. Multnomah County's landfill siting ordinance excluded the Wildwood site and Metro lost an appeal of this action. SB 662, granting new authority and responsibility for siting to the Department of Environmental Quality (DEQ), was passed by the Legislature. Metro is required to submit a Waste Reduction Program to DEQ in January 1986.
- * Use the Intergovernmental Resource Center (IRC) consensus building model to establish a long-range partnership for identifying and resolving issues of regional and mutual interest. The IRC was established and the IRC Committee is successfully working with local governments to address regional service issues. A Regional Adult Corrections Task Force was established and the State requested the IRC's assistance in distributing Criminal Justice Block Grant funds. The IRC provided major staff support to the Regional Convention, Trade, and Spectator Facilities Task Force. Funds are being raised to finance a regional parks study.
- * Increase public awareness of Metro's role in the region and assure the opportunity for public involvement in Metro's important decision-making processes. Metro's Public Affairs Department distributed approximately 6,000 copies of the Annual Report. An extensive yard debris campaign was conducted this Spring. Public involvement played a major role in the process of siting the Washington County transfer and recycling center. Councilors have served on the Multnomah County Solid Waste Task Force, the Tri-Met Blue Ribbon Task Force and the Tri-Met Special Needs Committee.
- * Effectively administer the existing services of Metro. Zoo attendance projections were exceeded by 11 percent. Solid waste volumes exceeded the projections by about 7 percent due to increased use of Metro's facilities by haulers outside the

Metro Council
July 25, 1985
Page 4

District. The proposed new contract to operate St. Johns Landfill would show a substantial reduction in operating costs. Metro exceeded its minority Affirmative Action employment goal and nearly achieved the female goal.

Councilor Kafoury expressed concern that minorities interviewed as finalists during the fourth quarter were not hired. She requested staff provide a report explaining why these minorities were not hired.

Metro fell short of meeting its Disadvantaged Business Enterprise (DBE) goal by 1 percent and its Women-owned Business Enterprise (WBE) goal by 3.2 percent. Staff were working to address this problem including working with Departments to identify DBEs and WBEs.

Resource Recovery Symposium. Debbie Gorham invited all Councilors to attend the Symposium on August 2 and 3. Mass incineration technologies would be addressed on Friday and materials processing technologies would be presented on Saturday, she said. Ms. Gorham was pleased with the good cross section of technologies represented and reported the Symposium panelists would soon make a recommendation to the Council regarding the preferred method of alternative technology Metro should consider.

Councilor Waker asked whether the panel would consider the costs of each technology. Ms. Gorham responded that presentors would provide costs on a general basis which would be considered by the panelists but because the presentors were not submitting actual proposals. The panel would be very sensitive to cost issues, she said.

Councilor Kelley requested Councilors not attending the Symposium receive packets of all printed information distributed at the meetings. Ms. Gorham said a Symposium summary would also be available to Councilors.

Washington Transfer & Recycling Center (WTRC) Update. Randi Wexler explained when staff last reported on the status of this project, the WTRC Advisory Committee has selected three sites for final consideration. Since that time, staff had worked with the Washington County business community to reevaluate the site selection criteria and to examine any new sites proposed by the public and the business community. Ms. Wexler explained staff had reevaluated 79 sites and the Advisory Committee selected 10 sites for further consideration. Five meetings were held with businesses and area residents in those site areas, she reported, and an average of 30 people attended each meeting. Ms. Wexler said attendees generally agreed a transfer station was needed to serve Washington County but most did not want the facility sited near their neighborhood.

Metro Council
July 25, 1985
Page 5

Ms. Wexler reported a county-wide public meeting was then held to discuss the 10 sites and to screen those down to three or four sites for final consideration. Among the over 200 in attendance were elected officials from Oregon City, Washington County and the city of Hillsboro. Many of the same concerns voiced at the smaller area meetings were raised at the County meeting, she said.

Ms. Wexler distributed maps of the 10 sites and discussed the advantages and disadvantages of each site based on criteria established by the WTRC Advisory Committee. She said the Advisory Committee would meet August 14 to recommend a site to the Council for consideration. The Council would decide on a site for the WTRC on September 12, she explained.

Councilor Van Bergen asked how the above schedule related to the criticism from Clackamas County regarding excessive use of Clackamas Transfer & Recycling Center (CTRC). Ms. Wexler explained Clackamas County officials were at the Washington County area meeting and expressed concern that Metro move ahead with siting WTRC. No ultimatum was issued on CTRC use, she reported.

In response to Councilor Oleson's question, Ms. Wexler said condemnation of property for the WTRC facility was a very real possibility.

1000 Friends of Oregon v. LCDC and Metro (Urban Growth Boundary case). Eleanore Baxendale reported she had circulated copies of Judge Carson's decision to Councilors for their review. She explained Metro adopted the Urban Growth Boundary (UGB) five years ago and 1000 Friends of Oregon appealed LCDC's acknowledgment of that adoption. The court remanded the decision to LCDC for a clearer statement of findings to support the conclusion that the growth management strategies devised by Metro were in conformance with Goal 14, she explained. Judge Carson did not rule on the growth management factor question. Ms. Baxendale said no date had been set for when LCDC would consider the remand, it was unknown whether 1000 Friends of Oregon would appeal, and staff had not determined whether the Council should appeal the decision. Staff would make a recommendation to the Council on August 6, she said. She explained staff did not think this decision would effect the process for considering adoption of Ordinance No. 85-189, an ordinance to establish temporary procedures for hearing petitions for major amendments to the UGB. She did request a second public hearing be scheduled for the second reading of Ordinance No. 85-189 in order to give staff time to determine whether Judge Carson's decision would effect that process.

Ms. Baxendale reported Judge Carson had requested an interlocutory order to preserve the interest of the parties and the public. She

Metro Council
July 25, 1985
Page 6

explained she had a few concerns with the order prepared by the 1000 Friends. These concerns would be discussed before Judge Carson next week, she said.

A discussion followed in which Ms. Baxendale further clarified the case.

Application to File Amicus in Curry County Case. Ms. Baxendale explained 1000 Friends of Oregon has requested Metro file an amicus brief in order to encourage the Supreme Court to consider the decision made by the Court of Appeals in the Curry County comprehensive plan acknowledgment.

In response to Councilor Van Bergen's question, Ms. Baxendale explained this case was important because it called into question the meaning of the UGB. Jill Hinckley added that 1000 Friends would be doing most of the lead legal work and the case would not consume much of staff's time.

Being no objections from the Council, Presiding Officer Bonner declared staff had the Council's permission to file an amicus brief to clarify the Court of Appeals ruling of the decision.

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 Kelley moved the Consent Agenda be approved and Councilor Kirkpatrick seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilors Cooper, DeJardin and Myers

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

6.1 Council Meeting Minutes of June 27, 1985

- 6.2 Resolution No. 85-582, Amending the FY 1985 Transportation Improvement Program to Include an Updated Program of Projects Using Section 9 Funds
- 6.3 Resolution No. 85-583, Amending the Transportation Improvement Program to Add Five New Preliminary Engineering Projects in Clackamas County
- 6.4 Resolution No. 85-584, Amending the Regional Transportation Plan and the FY 1985 Transportation Improvement Program to Include the Multnomah County 242nd Avenue Widening Project

7. ORDINANCES

7.1 Consideration of Ordinance No. 85-189, for the Purpose of Establishing Temporary Procedures for Hearing Petitions for Major Amendments to the Urban Growth Boundary (First Reading)

The clerk read the Ordinance by title only.

Motion: Councilor Kafoury moved adoption of the Ordinance and Councilor Kirkpatrick seconded the motion.

Presiding Officer Bonner opened the public hearing on the Ordinance and announced staff would give its presentation after the public hearing.

Bob Stacey, staff attorney for the 1000 Friends of Oregon, 300 Willamette Building, 534 S.W. 3rd Avenue, Portland, testified staff had initially recommended a more coordinated process of considering amendments to the Urban Growth Boundary (UGB). That process would have contemplated consolidation of cases, perhaps under one hearings officer, and perhaps under a unified recommendation for certain aspects of amendments. Mr. Stacey said he favored that process and was dismayed that staff recommended a process to consider each case as an independent event. Although Mr. Stacey did not want to cause delays in the process, the four applicants appealing to amend the UGB were requesting a significant change to the most fundamental provision of the region's Comprehensive Plan, he explained. Mr. Stacey urged each case be considered in relation to the others in order to protect the integrity of the UGB. Finally, he recommended the Council accelerate the periodic review process, accept applications for amending the UGB during that process and solve the remand problem by developing a new factual basis for the UGB in the course of performing the periodic review.

Jack Orchard, 1100 One Main Place, Portland, representing a potential applicant, testified he and his client were comfortable with

Metro Council
July 25, 1985
Page 8

the process recommended by staff. Each applicant would be subject to the same set of rules, he said, and the possibility of creating individual hardships by imposing meritorious applications would not exist. If applications were considered on a case-by-case basis, it would be the applicant's burden to demonstrate compliance with the statewide planning goals, he explained.

Tom VanderZanden, Planning & Economic Development Director of Clackamas County, 902 Abernethy Road, Oregon City, Oregon, said his letter to the Council dated July 25, 1985, summarized his comments. He questioned whether the proposed case-by-case process for hearing petitions for major UGB amendments would jeopardize Clackamas County's efforts to become more economically diversified. The County was currently conducting an industrial property inventory and a Comprehensive Plan update, he said, along with an economic development plan. These studies were likely to show a significant lack of quality industrial inventory to meet long-range economic aspirations. Therefore, he said, it was likely the County would request an amendment to the UGB. He suggested that if the Council wanted to adopt Ordinance No. 85-189, some latitude be included in the procedures to examine subregional needs and that the County's application not be jeopardized because it was submitted after others.

Gordon Davis, representing BenjFran Development, Inc., a potential petitioner, 1020 S.W. Taylor, #555, Portland, Oregon, referred the Council to a letter from the organization's President Dale Johnson dated July 3, 1985. The letter stated support for the Ordinance. Mr. Gordon said a consolidated process would imply that if an amendment to the UGB were needed, it would be needed in one location or for one increment of change. He did not think that assumption was supported by factual conclusions. He affirmed that each applicant's case was meritorious and could be justified. To proceed on a case-by-case basis would eliminate any assumption for one amendment, he explained, and each case could be evaluated according to actual fact.

In response to Presiding Officer Bonner's question, Jill Hinckley explained the first applicant's petition would be reviewed shortly. She expected subsequent applicants' petitions to be submitted at about the same time with the exception of Clackamas County who would probably submit theirs a year later.

Ms. Hinckley referred the Council to a letter from James Ross, Director, Department of Land Conservation and Development (DLCD), dated July 25, 1985. In response to the DLCD letter, she recommended the Council amend Definition (i) of the Ordinance to read:
"Irrevocably committed to non-farm use' means in the case of a plan acknowledged by LCDC, any land for which a Goal No. 3 exception has

been approved by LCDC, or in the case of a plan that has not yet been acknowledged by LCDC, land that is impractical (not possible) to preserve for farm use, within the meaning of Goal No. 2, Part II." This, she said, would be consistent with current law. (Note: new language is underlined and deleted language is in parenthesis.)

Regarding Clackamas County's concerns, Ms. Hinckley said LCDC had adopted policy to examine a petition on a county-wide level.

Motion: Councilor Kirkpatrick moved to amend Definition (i), line 4, of the Ordinance by replacing with word "not possible" with the word "impractical." Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilors Cooper, DeJardin and Myers

The motion carried and the Ordinance was amended.

There being no further public comment, Presiding Officer Bonner closed the public hearing and announced a second public hearing would take place at the Council meeting of August 6, 1985.

Councilor Gardner said DLCD's letter also suggested the Ordinance be amended to apply only in exceptional or emergency situations. He asked Ms. Hinckley to comment on the suggestion. Ms. Hinckley responded she had received the letter that evening but assumed they were addressing the differences between petitions for specific locations and single purposes versus more general petitions addressing regional needs reviewed as part of the periodic review process. In response to Councilor Waker's question, Ms. Hinckley said the proposed Ordinance would apply until it was superceded by permanent procedures to be established by the Legislature.

Ms. Baxendale said she had talked with Jim Sitzman, co-author of the DLCD letter, and said he understood the petitions currently before Metro were emergency situations and that the periodic review process would be defined as the non-emergency situation.

Councilor Kafoury requested staff prepare an amended version of the Ordinance for consideration if the Council chose to hear petitions on a consolidated basis.

The Presiding Officer suggested that if petitions were heard on a case-by-case basis, staff prepare background information that would include a regional perspective of land use. Ms. Hinckley said staff was preparing an industrial land inventory which would be entered into the record.

In response to Councilor Kafoury's question, Ms. Hinckley said the examination of Clackamas County's subregional needs would be considered in the petition process. She said she would suggest an amendment to the Ordinance on August 6 to clarify how and when this should be considered.

7.2 Consideration of Ordinance No. 85-190, for the Purpose of Amending Metro Code Section 2.05.045, Final Orders in Contested Cases (First Reading)

The Clerk read the Ordinance by title only.

Motion: Councilor Kirkpatrick moved the Ordinance be adopted and Councilor Waker seconded the motion.

There was no public or Council comment on the Ordinance. Presiding Officer Bonner announced a second public hearing would occur on August 6.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 85-585, for the Purpose of Transferring Solid Waste Disposal Franchise Permit No. 1 from Marine Drop Box Corporation to Marine Drop Box Service and Granting a Variance from User Fee and Regional Transfer Charge Collection Requirements

Rich McConaghy reported the Resolution would transfer the franchise from a former owner to a new owner. He then explained the disposal site operation as discussed in the staff report. He said the new owner had requested a fee variance because a large portion of the materials handled were recycled or reused. The owner would continue to pay user fees for materials landfilled, he said. In response to Councilor Gardner's question, he explained the original owner did not request a user fee variance but a similar variance was granted to another franchisee in January.

In response to Councilor Van Bergen's question, Mr. McConaghy said Metro did not limit the number of franchises granted. The new owner requested a transfer of the franchise and the transfer process required compliance with strict application, bonding and insurance requirements.

A discussion followed about the regional effects of granting user fee variances. Dan Durig explained variances had been granted to recyclers to encourage recycling. The current financial impact would be slight, he said, because few variances had been granted. However, he said, if more variances were granted and significant quantities of material were removed from the waste stream, substantial user fee revenues could be lost. If that were to occur, Metro would re-examine its policies, he explained.

Councilor Gardner's said he was confused about Metro's official policy regarding user fees for recycling. Mr. Durig explained the Metro Code did not grant exemptions for recyclables. However, Metro granted its first variance to Oregon Waste Management to evaluate the impact of the waiver. Staff were currently reviewing Metro's Solid Waste rate policies to determine whether a Code amendment should be considered, he said. In response to the Presiding Officer's concerns, Mr. Durig said the Solid Waste Policy Advisory Committee would review these matters and make a recommendation to the Council.

Motion: Councilor Kirkpatrick moved the Resolution be adopted and Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

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

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

The motion carried and the Resolution was adopted.

8.2 Consideration of Resolution No. 85-581, for the Purpose of Naming the Zoo Elephant Museum in Honor of Lillah Callen Holden

Note: Agenda Item No. 9.1, Consideration of Criteria and Guidelines for Naming Zoo Exhibits and Public Spaces in Honor of Individuals, was considered before Item No. 8.2. For recording purposes, however, Item 9.1 is discussed after Item No. 8.2.

Presiding Officer Bonner said Ms. Holden's contributions to the Zoo had been outstanding and supported adoption of the Resolution.

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

Vote: A vote on the motion resulted in:

Metro Council
July 25, 1985
Page 12

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

Absent: Councilors Cooper, DeJardin and Myers

The motion carried and the Resolution was adopted.

8.3 Resolution No. 85-586, for the Purpose of Supporting the
Preservation of Federal Tax Legislation Which Encourages
Resource Recovery Development and Urges the United States
Congress to Maintain Appropriate Tax Provisions as Public
Policy

Councilor Kirkpatrick explained she had recently visited Washington, D.C. and had investigated proposed tax reforms. She had prepared the Resolution in an effort to preserve this current tax incentive in the event Metro should accept resource recovery as an option to solid waste disposal. If the Resolution were adopted this evening, it could be presented to Oregon's Congressional Delegation while they were at home on recess, she said.

Motion: Councilor Kirkpatrick moved adoption of the Resolution and Councilor Van Bergen seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilors Cooper, DeJardin and Myers

The motion carried and the Resolution was adopted.

9. OTHER BUSINESS

9.1 Consideration of Criteria and Guidelines for Naming Zoo
Exhibits and Public Spaces in Honor of Individuals

Kay Rich reviewed the criteria and guidelines as outlined in the staff report. Presiding Officer Bonner explained that if there were no objections, these criteria and guidelines would be used as a basis for a Resolution that would be considered by the Council on August 22.

Councilor Kirkpatrick agreed with the criteria and guidelines but requested they not be limited to the Zoo and the word "Metro" replace the word "Zoo." She also requested Don Carlson present the Resolution and staff report on August 22. The Council agreed with this request.

Metro Council
July 25, 1985
Page 13

9.2 Consideration of Order No. 85-3, Declaring Certain Property Surplus and Authorizing the Execution of a Sublease

Don Carlson requested the item be removed from the agenda because staff were continuing to negotiate the sublease.

9.3 Consideration of Alternatives for Developing Metro's Solid Waste Management Plan Subsequent to the Passage of SB 662

This item was considered earlier in the meeting under "Councilor Communications."

10. COMMITTEE REPORTS

Council Management Committee. Councilor Van Bergen announced the July 25 special meeting scheduled for 5:00 p.m. had been cancelled due to lack of an agenda item.

Tri-Met Special Needs Committee. Councilor Kelley reported she had testified before the Tri-Met Board regarding the proposed 50¢ fare increase special needs citizens. She also reported Tri-Met received 1¢ per pack cigarette tax (approximately \$1.2 million) from the State Legislature.

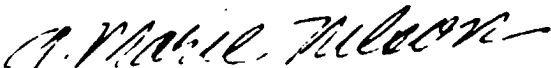
Friends of the Zoo. Councilor Kirkpatrick invited Councilors to attend the August 17 "Grand WaZoo" fund-raising event and encouraged the sale of tickets.

EXECUTIVE SESSION

The meeting was called into executive session at 7:40 p.m. under the authority of ORS 192.660(1)(d). All Councilors attending the regular session were at the executive session.

Presiding Officer Bonner called the meeting back into regular session at 8:10 p.m. There being no further business, the meeting was adjourned.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

amn
4050C/313-2
08/02/85