

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

August 6, 1985

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

Staff Present: Don Carlson, Eleanore Baxendale, Dan Durig, Norm Wietting, Randi Wexler, Chuck Geyer, Ed Stuhr, Jill Hinckley, Steve Siegel, Jane Hartline

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

1. INTRODUCTIONS

Councilor Kelley introduced two young women visiting from Kyoto, Japan.

2. COUNCILOR COMMUNICATIONS

Councilor Van Bergen expressed concerned about the lack of action in siting the Washington Transfer & Recycling Center (WTRC). He said he had received many letters on the subject and requested a thorough report from staff regarding current progress. Because WTRC had not been sited, Clackamas Transfer & Recycling Center was being unfairly burdened, he said.

3. EXECUTIVE OFFICER COMMUNICATIONS

Don Carlson announced the Executive Officer was in San Francisco attending a meeting of the National Association of Regional Councils. He referred Councilors to the Executive Officer's monthly report which provided information about Metro's progress on priority projects.

In response to Councilor Van Bergen's earlier concerns about siting on the WTRC, Mr. Carlson explained a deliberate process had been followed due to the sensitive nature of the facility. The process would soon be concluded on September 12 when the Council would recommend a site for the WTRC, he said, based on the WTRC Advisory Group's recommendation. The Council would receive information regarding the Advisory Group's recommendation no later than September 5.

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

6. APPROVAL OF MINUTES

Motion: Councilor Gardner moved the approval of the Council Meeting minutes of July 11, 1985. Councilor Kafoury seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilor Hansen

The motion carried and the minutes were approved.

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 (Second Reading and Public Hearing)

Motion: A motion to adopt the Ordinance was made by Councilors Kafoury and Kirkpatrick at the Council meeting of July 25, 1985.

The Clerk read the Ordinance by title only. Presiding Officer Bonner opened a public hearing on the Ordinance.

Councilor Kafoury explained at the meeting of July 25, she had asked staff to prepare language for two possible amendments to the Ordinance which would address two issues of concern. The first issue was on what basis would potential additions to the Urban Growth Boundary (UGB) be analyzed. She said language for an amendment on page 1 of the memo to the Council from Jill Hinckley dated August 2, 1985, was proposed. However, Councilor Kafoury did not recommend adoption of that language because it did not address her specific concern. The second concern she had raised on July 25 was that the Ordinance should allow consolidation of petitions for amendments to the UGB. The existing language would provide for review on a case-by-case basis. Councilor Kafoury then proposed the following amendment that would allow consolidation of petitions:

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Motion: Councilor Kafoury moved to amend the Ordinance by adding subsection (b) back into Section 3.01.060 and to add Sections 4 and 5 to the Ordinance as proposed on page 2 of Ms. Hinckley's memo to the Council dated August 2, 1985. Councilor Kirkpatrick seconded the motion.

Councilor Kelley said she was concerned the proposed amendment did not appear to state when, where and how consolidation would occur. Councilor Kafoury explained the deadline for submitting petitions was October 7 and petitions received before that deadline would be reviewed at a hearing after the deadline. Petitions received after the deadline would be heard following July 1, 1986. Therefore, she said, the proposed amendment established a cutoff point by which all petitions to be heard by the Hearings Officer must be received by Metro.

Councilor Kelley questioned whether the proposed amendment would delay the UGB review process, as stated by some parties testifying at the July 25 Council meeting. Ms. Hinckley explained the intent of the deadline was to eliminate the possibility of delaying the hearings process for applicants. It was her understanding the current petitioners would be able to meet the October 7 deadline. She also clarified that the proposed amendment language did not automatically assume all cases would be consolidated. Rather, it empowered the Hearings Officer to consolidate if he/she deemed it appropriate.

Presiding Officer Bonner said he supported the proposed amendment because some cases could be considered in connection with the five-year review process.

Councilor Kelley remained concerned that the proposed amendment did not clearly state under what conditions consolidation of cases would occur. Ms. Hinckley explained the last sentence of Section 5 of the amendment defined the standards by which petitions could be consolidated. Councilor Kafoury suggested the Hearings Officer's specific criteria could be approved by the Council before cases were heard. Ms. Hinckley thought that plan would make it difficult for petitioners to respond to specific, Council-adopted criteria by the October 7 deadline.

A discussion followed regarding whether a case-by-case or consolidated review process was more fair. Councilor Kafoury said after meeting with the Executive Officer, she was not persuaded that the case-by-case process was more advantageous than a consolidated. She maintained the case-by-case process gave an unfair and irrevocable advantage to the first petitioner. Councilor Waker was concerned a

consolidated process would put the Council in a position of substituting their judgment for that of the market place.

Susan Quick, representing the Kaiser Development Company, testified she had understood the Council would be reviewing petitions for major UGB amendments on a case-by-case basis. Considerable time and effort had been spent in preparing Kaiser's petition, she said, and to change the rules now would be an unfair disadvantage to petitioners. She thought the questions asked each petitioner were specific enough in nature to satisfy the Council's concern that no one petitioner be favored. Ms. Quick also thought the periodic review process would allow the Council to review amendments on a regional basis.

There being no further public comment, Presiding Officer Bonner closed the public hearing.

In an effort to address concerns about the timing of hearing consolidated petitions, Councilor Oleson proposed to change the last sentence of Section 4 of the proposed amendment to read: "It is our intent to consolidate the hearings on petitions received after October 7." Ms. Hinckley suggested alternate language for Section 4 of the proposed amendment: "Petitions received after October 7, 1985, shall not be heard until after those presented before October 7, 1985, have been decided by the Council." Councilor Oleson said he was still having problems with the language in Section 4 of the proposed amendment. He wanted to accommodate Councilor Kafoury's request for a amendment without imposing unnecessary hardships on the applicants.

Councilor Kirkpatrick said she and others who previously worked to adopt the UGB perceived it as a serious intent to protect agricultural space and to prevent ungainly urban growth. Therefore, she said, the standards were purposefully onerous and she did not think it improper to require applicants to wait until the Council conducted its five-year periodic review. She offered this as an alternate amendment if Councilor Kafoury's amendment was not adopted.

Motion: Councilor Gardner moved the amend Section 4 of the main amendment to read: "Petitions received after October 7, 1985, shall not be heard until after those presented before October 7, 1985, have been decided by the Council."

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

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

The motion carried and the proposed amendment was amended.

Presiding Officer Bonner called for a vote on the main amendment, as amended.

Councilor Kelley, referring to proposed Section 5 of the main amendment, asked whether the Council should approve the rules issued by the Hearings Officer for the consolidation of related cases. Councilor Kirkpatrick suggested the Presiding Officer appoint three Councilors to approve the rules in order to expedite the process. If necessary, the three Councilors could have the option of referring the rules to the Council for final approval, she said.

Steve Siegel explained the Council was now debating the same issue discussed by staff. He urged adoption of the Ordinance as recommended by the Executive Officer rather than revising an established procedure that worked reasonably well. Councilor Kafoury stated the argument of maintaining a safe and comfortable procedure in face of potential major changes to the UGB was not convincing.

Vote: A vote was taken on the main motion, as amended, to amend the Ordinance. The main motion now provided for adding Section 3.01.060(b) back into the Ordinance; adding a Section 4 which was amended by the previous motion; and adding a Section 5 as proposed in Ms. Hinckley's memo to the Council dated August 2. The vote resulted in:

Ayes: Councilors Gardner, Hansen, Kirkpatrick, Kafoury, Myers, Oleson and Bonner

Nay: Councilors Cooper, Dejardin, Kelley, Van Bergen and Waker

The motion carried and the proposed Ordinance was amended.

Ms. Hinckley proposed that Section 3.01.070(a) of the Ordinance be amended to read: ". . .consistent with the (applicable) standards in Sections (3.01.040 through 3.01.050) Section 3 of this (chapter) ordinance." (Note: deleted language is in parenthesis and proposed, new language is underlined.) She explained the proposed language would be consistent with procedures for major UGB amendments.

Motion: Councilor Kafoury moved the Ordinance be amended to include the changes in Section 3.01.070(a) of the Ordinance discussed by Ms. Hinckley.

Vote: A vote on the motion resulted in:

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

The motion carried and the Ordinance was amended.

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

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

Ordinance No. 85-189 was adopted as amended.

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

Motion: The motion to adopt the Ordinance was made by Councilors Kirkpatrick and Waker on July 25, 1985.

The Clerk read the Ordinance by title only. Presiding Officer Bonner opened the public hearing. There was no comment.

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

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

The motion carried and the Ordinance was adopted.

8. OTHER BUSINESS

8.1 Consideration of a Contract with The Hallock Agency for Zoo Advertising Agency Services

At the request of the Presiding Officer, this item was considered before Item 7.1. In the absence of Jane Hartline, Councilor Kirkpatrick presented information about the contractor selection

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process. She reported she had served on the committee which interviewed agencies submitting proposals and The Hallock Agency clearly rated highest.

Motion: Councilor Kirkpatrick moved the contract be approved. Councilor Kafoury seconded the motion.

Councilor Gardner requested staff provide information regarding proposed costs submitted by agencies not recommended for the contract award. Councilor Kirkpatrick explained staff had established a set fee to be paid for advertising services and had invited agencies to propose specific services they could provide for that fee. Factors of personnel, service hours and products to be provided were then evaluated and The Hallock Agency proposed the highest quality service for the set fee, she said.

Presiding Officer Bonner asked if, in the process of contract negotiations, the topic of a closer association between the Zoo and Metro was discussed. Councilor Kirkpatrick said the topic was discussed extensively: she had the Executive Officer's assurance that Jane Hartline would be responsible for making sure everything produced by the Zoo would reference Metro.

Councilor Van Bergen said he could not support approving the contract due to personal problems with the contractor although he thought the agency was qualified to perform the work.

Vote: A vote on the motion resulted in:

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

Abstain: Councilor Van Bergen

Absent: Councilor Hansen

The motion carried and the contract was approved.

8.2 Consideration of a Contract with Browning-Ferris Industries of Oregon, Inc. for the Operation of the St. Johns Landfill

Dan Durig explained because of the significant amount of the contract award, the following documents were included in the agenda packet: a memo from Metro's Grants & Contracts Specialist regarding Disadvantaged (DBE) and Women-owned Business Enterprise (WBE) status; a reprint from the May 1985 issue of Waste Age Magazine discussing major waste management firms, including Browning-Ferris; and a 1985 Browning-Ferris annual report. Mr. Durig commended

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Norm Wietting and Chuck Geyer for their fine work on the project. He said staff had received letters and verbal comments from bidders commending staff on the quality of bid and contract documents.

Chuck Geyer, project manager, reviewed the staff report and bid process for the St. Johns Landfill Operations Contract.

Mr. Durig reported staff were confident Browning-Ferris were more than qualified to perform the work. He said the company currently operated 85 landfills around the country. A series of meetings would soon be conducted with the contractor's regional and site managers to tour the landfill and commence transition activities. Mr. Durig said Genstar and Browning-Ferris were committed to a cooperative changeover effort. He then introduced Dirk Dudgeon, civil engineer, lead marketing person on the St. Johns Landfill project, and Browning-Ferris Waste Systems Manager.

Mr. Dudgeon assured the Council Browning-Ferris' bid was an accurate reflection of the cost of the project and that his firm could perform according to Metro's high standards.

Mr. Durig then praised Genstar Waste Management for conducting a quality operation and for their cooperative attitude in closing out the project. They had set a high standard for future contractors and Metro, the City of Portland and the community of North Portland expected to see that kind of quality operation continue, he said.

Presiding Officer Bonner agreed with Mr. Durig and added Genstar's performance was outstanding. He also said Alex Cross was a tremendous individual who contributed much to his industry and to the region. He challenged Browning-Ferris to perform according to the standard of excellence established by Genstar.

Councilor Gardner said he was slightly disappointed that Browning-Ferris, in spite of good faith efforts, fell far short of meeting DBE and WBE goals. He requested the company continue to actively seek DBE and WBE subcontractors.

Councilor Kafoury said she had to leave the session to attend a Friends of the Zoo meeting but supported awarding the contract to Browning-Ferris.

Vote: The Presiding Officer called for the question on approving the Browning-Ferris contract award. A vote on the question resulted in:

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

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Absent: Councilor Kafoury

The award of the contract to Browning-Ferring Industries of Oregon, Inc. was approved.

9. COMMITTEE REPORTS

Solid Waste Reduction Plan Task Force. Presiding Officer Bonner appointed Councilors Waker (Chairman), Kelley, Gardner, Myers and Hansen to serve on the Task Force. In addition, four members of the Solid Waste Policy Advisory Committee would be appointed to serve on the Task Force. He explained the Task Force would be responsible for following the Solid Waste Reduction Plan process and for making a recommendation to the Council.

Resource Recovery Symposium. Councilor Myers reported the Symposium, conducted on August 2 and 3, generated much enthusiasm from its participants. He said the panel that judged presentations from various technologies was meeting that evening to organize findings and develop a recommendation for Council consideration.

Councilor Hansen said the Symposium was well conducted and he found it very interesting. He commended staff for its success and said the event was important because it brought together industry representatives from around the country and gave them an excellent forum.

Building Move. At Councilor Kirkpatrick's request, Mr. Carlson brought the Council up-to-date on the status of Metro's office relocation and sublease of surplus space in the new building. He reported one sublease had been signed with two attorneys and staff were negotiating a second sublease. Staff were also managing improvements for the first sublease. A contract for building improvements for Metro's move would be before the Council in September, he said, and the building would be ready to be occupied in November.

EXECUTIVE SESSION

Mr. Carlson reported there would be no executive session. There being no further business, Presiding Officer adjourned the meeting at 7:00 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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08/19/85