

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

April 22, 1986

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

Also Present: Rick Gustafson, Executive Officer

Staff Present: Don Carlson, Sonnie Russill, Gene Leo, Kay
Rich, Bob Porter, Dan Durig, Dennis
Mulvihill, Doug Drennen, Debbie Allmeyer,
Becky Crockett, Wayne Rifer, Jennifer Sims,
Don Cox, Vickie Rocker, Janet Schaeffer,
Andy Cotugno, Keith Lawton, Ed Stuhr, Ray
Barker, Phillip Fell, Mary Jane Aman, Norm
Wietting

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

1. INTRODUCTIONS

None.

2. COUNCILOR COMMUNICATIONS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Report for Quarter Ending March 31, 1986. The Executive Officer presented a brief overview of the written quarterly report. Zoo attendance continued to increase, March attendance being the highest for any previous March. Solid waste volumes accepted at the St. Johns Landfill were higher than projected. The Ordinance recently adopted by the Council to restrict waste from outside the region was beginning to have an effect on reducing disposal volumes, the Executive Officer reported. Regarding affirmative action efforts, the Executive Officer said more minorities had been hired due to ambitious recruiting efforts. Also, spring and summer construction projects would help increase Disadvantaged and Women-Owned Business Enterprise participation in major contracts.

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 Kirkpatrick moved to approve the Consent Agenda and Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in:

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

The motion carried and the following items were adopted:

- 6.1 Resolution No. 86-638, Approving the FY 1987 Unified Work Program (UWP) and Five-Year "Prospectus"
- 6.2 Resolution No. 86-639, Authorizing Federal Funds for Eight 16(b)(2) Special Transportation Projects and Amending the Transportation Improvement Program
- 6.3 Resolution No. 86-640, Allocating Funds from the Federal-Aid Urban Regional Reserve
- 6.4 Resolution No. 86-641, Amending the Transportation Improvement Program to Include an Updated Program of Projects Using Section 3 "Letter of Agreement" Funds
7. Consideration of Resolution No. 86-642, for the Purpose of Approving the FY 1986-87 Budget and Transmitting to the Tax Supervising and Conservation Commission (Public Hearing)

The Executive Officer presented the \$52.4 million, 229 FTE recommended budget to the Council. This presentation included an overview of the organization's structure and a discussion of major goals and emphasis for the new fiscal year. Executive Officer Gustafson explained the District would emphasize resolving issues of regional interest, increase public relations efforts, establishing a firm financial structure and administer existing services.

Jennifer Sims, Director of Management Services, reviewed recommendations proposed by the FY 1986-87 Budget Committee:

1. Zoo Operating Fund: a) delete \$10,000 from Contractual Services in the Administration Division and instead place

those funds in Contingency (this amount was requested for legislative liaison position which will be provided by in-house staff in the Executive Management Department); and b) revise the FTE's for the Building and Grounds Division.

2. IRC Fund: adopt a budget note to read "The IRC Budget preparation process shall include notification to Council members of Committee meetings and forwarding of relevant materials including meeting agendas and minutes."
3. General Fund: a) adopt a budget note to read "Include an analysis of system compatibility with other governments in the Data Processing Plan."; and b) adopt a budget note to read "The Data Processing Plan shall be reviewed and approved by the Council Management Committee prior to the purchase of microcomputers budgeted in FY 1986-87. Purchases will remain subject to approval by the Deputy Executive Officer."

The Budget Committee recommended adoption of all other funds as proposed.

The Presiding Officer opened the public hearing on the budget.

Fern Alexander testified she was pleased the Zoo was spending \$250,000 less than anticipated for the current fiscal year. She asked if this surplus would remain in the Zoo budget. The Presiding Officer said it would be incorporated into FY 1986-87 budget as soon as the exact amount of the carryover was known.

There was no further public testimony and the Presiding Officer closed the hearing. He announced the Resolution would again be considered May 1, 1986, before it was forwarded to the Tax Supervising & Conservation Commission.

Because Councilor Kelley expressed concern about Solid Waste revenue and transfers, Presiding Officer Waker invited her to discuss those matters with staff before the May 1 meeting.

8. ORDINANCES

8.1 Consideration of a Request for Reconsideration of Ordinance No. 86-196 (An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 85-2: Tualatin Hills Church)

The Presiding Officer explained it had been requested the Council reconsider its decision to adopt the Ordinance. The Council would

first decide whether to hear the testimony of William Moore, the party requesting reconsideration. It would then decide whether to reconsider the Ordinance.

Jill Hinckley, Land Use Coordinator, explained the materials in the agenda packet including Mr. Moore's request for reconsideration and the Council rules for reconsideration of ordinances. She noted the rules did not contain specific standards by which ordinances should be reconsidered and that Mr. Moore's request did not raise any legal issues that would suggest a need for reconsideration. She said it was within the Council's discretion regarding how they should handle the petition.

Presiding Officer Waker noted any motion for reconsideration must be made by a Councilor who had voted on the prevailing side when the Ordinance was adopted. This, he said, would exclude Councilor Kelley from making such a motion.

Motion: Councilor Hansen moved to reconsider the Ordinance. The motion died for a lack of second.

Motion: Councilor Frewing moved to hear William Moore's verbal testimony in support of his request for the Council to reconsider Ordinance No. 86-196 and to hear other verbal testimony on reconsideration of the Ordinance. Councilor Hansen seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Frewing, Gardner, HJansen, Kafoury, Kelley, Myers, and Oleson

Nays: Councilors Cooper, Kirkpatrick, Van Bergen and Waker

Absent: Councilor DeJardin

The motion carried.

William Moore presented his testimony to the Council regarding why the Ordinance should be reconsidered. He said the city of Tualatin had misled the church to believe they had their own fire district. He said the fire district had also given unclear information to the Hearings Officer.

A discussion followed regarding Mr. Moore's statements. Councilor Gardner noted that even if the city of Tualatin provided water to the church for fire protection, another hydrant with more water pressure had to be installed.

Mr. Wheeler, representing the Tualatin Hills Church, testified that because the church was a public building it was required to have more fire protection. He said the Fire District had recommended a fire plug be installed within 500 feet of the church versus on-site water storage. He did not understand why Mr. Moore objected to the additional hydrant when residents' insurance rates would probably decrease as a result of the hydrant.

Councilor Kelley noted when the Ordinance was originally considered, Councilors were not given letters or statements from the city of Tualatin or the Fire District stating their positions. She requested such information be provided in future cases. Ms. Hinckley said a letter from the city of Tualatin had been included in the agenda materials for Ordinance No. 86-196.

Motion: Councilor Hansen moved to reconsider Ordinance No. 86-196 and Councilor Kafoury seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Gardner, Hansen, Kafoury and Kelley

Nays: Councilors Cooper, Frewing, Kirkpatrick, Myers, Oleson, Van Bergen and Waker

Absent: Councilor DeJardin

The motion failed.

In response to Mr. Moore's question, Ms. Hinckley said that if Mr. Moore wanted to pursue the matter of reconsideration further, he should appeal to the Land Use Board of Appeals.

8.2 Consideration of Ordinance No. 86-199, for the Purpose of Adopting a Waste Reduction Program for the Metropolitan Service District (Second Reading and Public Hearing)

The Clerk read the Ordinance by title only a second time.

Main Motion: The motion to adopt the Ordinance was given by Councilors Kirkpatrick and Gardner at the meeting of March 27, 1986.

Dennis Mulvihill, Waste Reduction Manager, explained the ordinance language needed to be amended to comply with state law, Exhibits A, B and C needed to be amended to include suggested SWPAC amendments, an amendment proposed by Council Frewing and other amendments as necessary.

The Presiding Officer opened the public hearing on the Ordinance.

Cathy Cancilla, Vice President, Metro's Solid Waste Policy Advisory Committee (SWPAC), said she would be presenting SWPAC's suggested amendments as contained in a memo to Councilors dated April 21, 1986. She noted SWPAC's comments did not include alternative technology issues. Specific amendments were proposed as follows:

1. Amend the Work Plan, page 21, "Post-Collection Recycling/ Materials Recovery," to read: "3. Station a spotter at the St. Johns Landfill face to identify generation points for individual loads which qualify for acceptance at [Oregon] a processing and recovery center [(OPRC)]. Notify those loads of the lower disposal rates available [at OPRC] and direct them to dispose of those loads at [OPRC] a processing and recovery center."
2. Amend the Framework Plan, page 15, "Phase II," by adding the following paragraph at the end of the page: "SWPAC will monitor Phase I progress and make recommendations for Phase II techniques based on Phase I performance."
3. Amend the Framework Plan, page 16, "Phase III," by adding the following paragraph at the end of the page: "SWPAC will monitor Phases I and II progress and make recommendations for Phase III techniques based on Phase I and II performance."

Other concerns were outlined in the memo to Councilors.

Estle Harlan, representing the Oregon Sanitary Service Institute (OSSI), 4372 Liberty Road South, Salem, distributed a written statement to Councilors regarding her testimony. She asked the Council to consider her comments before adopting Ordinance No. 86-199. She said the solid waste collection industry had consistently objected to Metro determining which collector(s) in a wasteshed were qualified for a given level of certification. She said in order to determine the level of certification, Metro would be exceeding its authority by getting involved in collection of solid waste. She testified, however, the industry would not object to certification being determined by the local government comprising each wasteshed since local government did not have authority under the franchise system to regulate the level of collection service.

Ms. Harlan objected to Metro employing rate incentives as part of the certification program. She said that rate incentives not directly tied to a service performed by Metro were outside Metro's statutory authority.

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Finally, Ms. Harlan asked that the Tri-County Council, a solid waste industry group representing all associations in the Metro area, be formally recognized as an advisory committee to help develop standards for the certification program.

In response to Councilor Frewing's question, Wayne Rifer, Solid Waste Analyst, said the proposed composition of the Local Advisory Committee on Certification (LACOC) would include local government representatives. However, he said, two industry representatives served on SWPAC. The presiding Officer assured Ms. Harlan the Tri-County Council could be actively involved in certification matters.

Regarding the issue of Metro's authority to employ rate incentives not directly tied to services, Presiding Officer Waker pointed out the state had given Metro a mandate to reduce the volume of waste going to landfills and rate incentives were a means of accomplishing this goal. Councilor Gardner noted Metro's counsel had advised the Council Metro did have authority to employ rate incentives and to be involved in the certification program and that the question would probably not be resolved as part of this discussion. Councilor Van Bergen agreed with Councilor Gardner's statement, saying the Council could not take a position contrary to counsel's opinion.

A discussion followed about the extent rate incentives could control the flow of solid waste and how the industry could help Metro develop a responsive certification program. Councilor Frewing reminded Ms. Harlan the industry was represented on SWPAC and as such, would have a voice in setting responsive rates for solid waste disposal.

Jack Deines, 2295 S.E. Juniper Drive, Milwaukie, urged the Council to listen to the industry when developing the certification program because haulers were actually doing the recycling. He pointed out that haulers were business men and as such, would recommend reasonable and cost effective solutions for reducing waste. Mr. Deines then questioned the impact of alternative technology on the cost of waste disposal and cautioned the Council if waste reduction solutions were not economically feasible, they would not meet the criteria established in Senate Bill 662.

There was no additional testimony.

Mr. Mulvihill explained the Council would consider adoption of Ordinance No. 86-199 at this meeting along with proposed amendments. He then reviewed amendments proposed in addition to those already discussed by SWPAC representative Cathy Cancilla. Those amendments to the first "whereas" and Section 3 were included in the

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version of the Ordinance contained in the staff report (proposed additions were underlined and deletions bracketed).

First Motion to Amend: Councilor Kafoury moved the adoption of amendments to the first "whereas" and Section 3 of the Ordinance as contained in the staff report. Councilor Gardner seconded the motion.

Vote on First Motion to Amend: The vote resulted in:

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

Absent: Councilor DeJardin

The motion carried.

Mr. Mulvihill then discussed the proposed amendments included in Attachment D of the staff report which contained Exhibits A, B and C:

1. Exhibit A was Resolution No. 85-611-A previously adopted by the Council;
2. Exhibit B was the final report which was the framework of the Waste Reduction Program. It now contained staff's recommended modifications, amendments proposed by SWPAC and an amendment proposed by Councilor Frewing at the previous Council meeting.
3. Exhibit C, the Work Plans, included the same modifications as listed for Exhibit B above.

Mr. Mulvihill suggested the Council discuss amendments to the exhibits, adopt them and then propose any additional amendments the Council may wish to adopt.

Councilor Kafoury noted the word "is" should be changed to read "in" on page 3 of Exhibit A, last line of the first paragraph "b."

Councilor Hansen proposed shortening the negotiating phase for a final alternative technology vendor to complete the financial arrangement stage by February, 1988. A discussion followed about the feasibility of Councilor Hansen's proposed amendment. Dan Durig, Solid Waste Director, said the longer negotiation period had been estimated based on prior experience and the fact that vendors would be required to find a suitable site and develop markets for byproducts. Councilor Hansen then revised his proposed amendment to extend the process by two months.

Councilor Van Bergen said it would be preferable to have either DEQ, Metro or both agencies site an alternative technology facility because it would serve to keep more vendors in the process. He noted that under the new statute, Metro's ability to site the facility would be easier than the vendor's ability to do the same.

Second Motion to Amend: Referring to page 25 of the Work Plan, Exhibit C, Councilor Hansen moved the schedule for finalizing financial arrangements (item 12) be shortened and that Item 13, "Contract award", be changed to indicate it would be completed by April, 1988. Councilor Oleson seconded the motion.

Vote on Second Motion to Amend: The vote resulted in:

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

Absent: Councilor DeJardin

The motion carried.

Third Motion to Amend: Councilor Frewing moved to substitute the amended Attachment D, containing revised Exhibits A, B and C, for the exhibits previously attached to the Ordinance. These revisions contained staff's suggested amendments, SWPAC's proposed amendments and Councilor Frewing's amendment. Councilor Kelley seconded the motion.

Councilor Kafoury said the Council could not adopt the motion until Ordinance No. 86-201, addressing alternative technology, was discussed. She explained that some of the amendments proposed by Councilor Frewing's motion suggested the foundation on which an alternative technology premium would be established. Councilors Frewing and Gardner did not think adopting the amendments would pose such a problem.

Vote on the Third Motion to Amend: The vote resulted in:

Ayes: Cooper, Frewing, Gardner, Kirkpatrick, Kelley, Oleson and Waker

Nays: Councilors Hansen, Kafoury, Myers and Van Bergen

Absent: Councilor DeJardin

The motion carried.

Mr. Mulvihill then distributed a memo to the Council from himself and Wayne Rifer, dated April 18, 1986, which proposed the "Local Government Certification Advisory Committee" be changed to "Local Government Advisory Committee on Certification". The change was proposed by a party representing local governments in order to avoid the possible misinterpretation of the meaning of the committee name, namely that it was local governments which would be certified.

Fourth Motion to Amend: Councilor Myers moved that any references in the Work Plan to "Local Government Certification Advisory Committee" be changed to read "Local Government Advisory Committee on Certification". Councilor Kelley seconded the motion.

Vote on the Fourth Motion to Amend: The vote resulted in:

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

Absent: Councilor DeJardin

The motion carried.

Mr. Mulvihill then reviewed the proposed amendments outlined in the memo dated April 18, 1986, to the Metro Council from himself and Wayne Rifer regarding further modifications to the Waste Reduction Program requested by the Department of Environmental Quality (DEQ) (proposed new language is underlined and proposed deletions are in brackets):

1. Exhibit B, page 5, to be changed to read: "An additional element will be a strategy for development and introduction of a curriculum for the region's [public] school system."
2. DEQ requested the intent of the following sentence found in Exhibit B, page 12, be clarified: "Metro will set a premium above landfilling costs and develop formulas to provide a basis for proceeding with a project(s), allocating as much of 48 percent of the waste as can be processed within the premium by an adlternative technology or combination of technologies."

The Presiding Officer asked the Council to consider this request when the Alternative Technology portion of the

Waste Reduction Program was discussed as part of Agenda Item No. 8.4.

3. Exhibit C, page 4, the work plan for Promotion, Education and Public Involvement, the first sentence of "D. Specific campaigns" be amended to read: "Two [or three] major promotions will be undertaken every year."
4. Exhibit C, pages 14 and 15, the work plan for "Recycle - 405 Materials, the Summary of Tasks," be amended to be consistent with DEQ's proposed new format for the section as illustrated in the "Attachment" to the memo.

Fifth Motion to Amend: Councilor Frewing moved the format change as illustrated in "Attachment" to the memo be substituted for Exhibit C, pages 14 and 15 of the work plan for "Recycle - 405 Materials, Summary of Tasks." Councilor Kelley seconded the motion.

Vote on the Fifth Motion to Amend: The vote resulted in:

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

Absent: Councilor DeJardin

The motion carried.

5. Exhibit C, page 18, the work plan for "Recycle - Yard Debris," amend task 7 by deleting specific reference to St. Johns Landfill so that it reads: "7. Metro bans source separated yard debris from disposal at [St. Johns] the regional general purpose landfill. 1/89"

Councilor Van Bergen questioned what would happen to the debris if adequate markets for yard debris did not exist. Mr. Rifer said the material could be diverted to special purpose landfills if marketing systems did not use all available material. The Presiding Officer pointed out that if the plan did not work, the Council could reconsider better solutions.

6. Exhibit C, page 32, the work plan for "Certification for Local Collection Services," amend task 3 under "1986 Compliance Review" to read: "3. Rate incentives for certified units will take effect on January 1, 1987 or within two months of conclusion of DEQ certification

process of Metro regional wastesheds, whichever is later, and remain in effect until the next round of rate incentives begins."

Sixth Motion to Amend: Councilor Gardner moved to adopt the amendments proposed by DEQ as noted in items 1, 2, 3, 5 and 6 above. Councilor Kelley seconded the motion.

Vote on the Sixth Motion to Amend: The vote resulted in:

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

Absent: Councilor DeJardin

The motion carried.

After discussion, it was determined the Council could not vote on the motion to adopt the Ordinance as amended until after consideration of Agenda Item No. 8.4. Ordinance No. 86-199 contained some provisions relating to alternative technology which would be resolved during the discussion of Ordinance No. 86-201. (NOTE: See the end of agenda item No. 8.4 for final discussion and adoption of the Ordinance.)

The Presiding Officer called a recess at 8:10 p.m. The Council reconvened at 8:30 p.m.

8.3 Consideration of Ordinance No. 86-200, for the Purpose of Amending Ordinance No. 86-199 by Adopting a Public Education Plan for the Solid Waste Reduction Program (First Reading and Public Hearing)

The Clerk read the Ordinance a first time by title only.

Motion: Councilor Frewing moved the Ordinance be adopted and Councilor Gardner seconded the motion.

Janet Schaeffer, Publications Specialist, explained that by adopting Ordinance No. 86-200, the Council would be amending Ordinance No. 86-199 to include a specific Public Education Plan in the Waste Reduction Program. She then introduced Jeannie and Michael Coates, consultants hired to develop and Public Education Plan, who she said would be presenting specific elements of the proposed Plan to the Council.

Michael Coates reviewed basic elements of the Plan which were outlined in a document entitled "Metro Solid Waste Management Public

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Education Plan, Phase I Report," prepared by Coates Advertising, Inc. and dated April 15, 1986. The creative objectives of the overall effort would be to communicate the message quickly and clearly and to have that message be memorable. He explained Phase I of the work plan consisted of the following segments: 1) market analysis; 2) logo/positioning statement; and 3) promotional plan. He further explained the market analysis had determined the Education Plan should focus on those generating the most waste: families with parents between the ages of 25 and 44. He said those individuals were more likely to recycle because they were usually homeowners with more space to recycle, had school aged children who learned about recycling in school and they were concerned about the environment. Mr. Coates said the communications objectives would be to get people to reduce the amount of waste landfilled and to get people to understand that individual efforts would make a difference in reducing waste landfilled.

Jeannie Coates explained Phase II of the promotional plan which would commence in about one year. Mass media efforts would include airing 30-second television spot announcements, 60-second radio spot announcements and five-column, and running 16-inch newspaper advertisements in local editions of The Oregonian. Ms. Coates said some of the television public service announcements (PSA's) would paid ads to make sure the message was heard by the public at prime time. Staff hoped to reach 90 percent of tri-county residents between the ages of 25 and 49. In addition, a similar media effort would take place to promote the curbside recycling campaign.

A discussion followed about specifics of the proposed plan. Councilor Gardner suggested using local haulers to distribute information about the curbside recycling campaign.

Due to the importance of the program and the visibility it would give Metro, Councilor Kelley suggested that a committee of the Council review all advertisements to make sure the messages were consistent with Metro goals and that a broad public was being reached. Ms. Schaeffer assured the Council they would not be shut out of the process.

Councilor Kafoury proposed older people be included as an advertising target because of their willingness to recycle. Mr. Coates said older people would certainly be included in the advertising as "second recipients" of the message. He said older people would be an impact on motivating younger people to recycle.

Councilor Kirkpatrick asked if, in order to improve intergovernmental relations, newspaper ads could be placed in suburban newspapers. Ms. Coates responded that option had been considered but

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because the budget was limited, it was more economically efficient to place the ads in The Oregonian. She said it would cost about \$3,100 to reach 270,000 Oregonian readers and approximately \$3,700 to reach 120,000 readers of suburban newspapers. Ms. Schaeffer explained some aspects of the Public Education Plan would be advertised in community newspapers and that advertising would be consistent with larger ads. Councilor Kirkpatrick asked to see those ads before they were published.

Councilor Hansen expressed the concern of several other Councilors by saying it was important that television and radio advertising not identify Metro too closely with stereotypes. He said that in addition to young homeowners, renters needed to relate to Metro's recycling programs.

Presiding Officer Waker opened the public hearing on the Ordinance.

Fern Alexander, testified she agreed that older people and renters should be a necessary target of advertising.

Cathy Cancilla, representing the recycling industry, asked if funds set aside to produce media advertising were included in the contract fee paid to Coates Advertising. Presiding Officer Waker said they were included. Regarding the curbside recycling program, she cautioned staff to be careful about the message presented because of the many different programs that would be offered. She also questioned why an advertising campaign would be conducted from June through August - a time most people would be on vacation. Ms. Coates explained the campaign had to be conducted during the summer because curbside recycling would start July 1. Ms. Cancilla said staff and consultants had done a good job and she liked the positive, general scope of the Education Plan.

Chuck Stoudt, 1934 S.W. Highland Road, Portland, stated yuppies had been targeted for the campaign and as such, advertisements should be placed in the Willamette Week. He thought if the size of the ads were reduced, enough money could be saved for ads to be placed in community newspapers. He suggested publishing ads in business newspapers in order to reach commercial waste generators. Mr. Stoudt also questioned why the general campaign could not be combined with the curbside recycling advertising campaign. Finally, he asked how the Education Plan would tie into the public school curriculum.

Relating to Agenda Item No. 8.2, the Waste Reduction Plan and Ordinance No. 82-199, Mr. Stoudt testified he supported changing any reference to St. Johns Landfill to read "the regional landfill" which would accommodate the eventuality of a new landfill.

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In response to Mr. Stoudt's earlier statements, Mr. Coates said the size of newspapers ads could be reduced but staff were concerned the ads be large enough to have a strong impact on readers. Also, businesses would be targeted during year two of the campaign. During year one, curbside recycling would be targeted, he said.

There being no further testimony, Presiding Officer Waker closed the public hearing. He said the Ordinance would continue to a second reading and public hearing on May 1, 1986.

5.1 Consideration of a Contract with Tri-Lett Industries to Construct the Lilah Callen Holden Elephant Museum

Motion: Councilor Van Bergen moved the contract be approved and Councilor Kelley seconded the motion.

Bob Porter, Zoo Construction Manager, reviewed the project's history and the process for selecting the contractor. Tri-Lett was the lowest of three bidders, he explained, at an amount of \$250,000. Gene Leo added that \$355,000 had been pledged for the project. About \$20,000 of those pledges had not been collected and the money could not be secured, landscaping and artistic installations could be deleted from the project. He emphasized no Zoo funds were involved in building the Elephant Museum.

Responding to Councilor Kafoury's question, Mr. Porter said 13 percent of the total contract work would be performed by Disadvantaged Business Enterprises.

Gerald Krahn, 2533 North Winchell, Portland, testified the contract award should be withheld due to claims filed with the Bureau of Labor against Tri-Lett on two previously contracted Zoo projects. It has been claimed Tri-Lett was in violation of the Little Davis Bacon Act, he said. He asked the Council not make a decision on the contract pending the Bureau of Labor's decision.

Ed Stuhr, Contract Manager, reported Mr. Krahn had filed a complaint with the Bureau of Labor against Tri-Lett. He explained there was some question about whether payrolls submitted by Tri-Lett had been properly certified by Metro. Mr. Stuhr said he had learned from the Bureau they had received the complaint. The Bureau would investigate the claim to determine whether there had been a violation of wage laws. He explained that according to the Bureau, any violation on a past project was a separate issue from awarding a new contract to the same contractor and the Bureau could not interfere in new awards.

In response to Presiding Officer Waker's question about Tri-Lett's alleged violation of the Little Davis Bacon Act, Mr. Stuhr explained

if the Bureau of Labor determined prevailing wages had not been paid to workers, the contractor would have to pay the difference to workers. A contractor could be barred from performing further public works if it were determined the violations were more serious, he said. Mr. Stuhr reported Metro's construction contracts provided for compliance with the Little Davis Bacon Act.

Councilor Kelley asked if the project would be in jeopardy if the contract award were delayed until final resolution with the Bureau of Labor claim could be sought. Mr. Leo said it would be desirable to complete foundation work during a good weather period. Mr. Porter added that a delay could increase the cost of constructing the project. Councilor Kelley said the cost of possible legal fees must also be considered into the project. Mr. Leo then explained he understood the process with the Bureau of Labor was of an administrative, rather than legal, nature. The process could take six months to one year to complete and it would have no bearing on the current contract award. Staff, he said, recommended awarding the contract to Tri-Lett because no accusations had been proven.

Mr. Krahn then pointed out the Little Davis Bacon act and the specifications of the two previous Zoo projects performed by Tri-Lett required the contractor to file wage certification documents with the awarding agency before receiving any funds. Mr. Kahn said Tri-Lett had not met those requirements until he had approached Metro about the problem. He questioned whether Tri-Lett would comply with those requirements on the Elephant Museum project.

Councilor Hansen said he was concerned the District District could be liable for being negligent in not requiring proper certification. He requested the decision to award the contract be postponed until May 1 in order to obtain a legal opinion from Counsel regarding Metro's liability for past contract problems.

Councilor Myers agreed Metro's liability could be effected if payments had been made to the contract without proper certification. He requested Council investigate whether language could be incorporated into the Tri-Lett Elephant Museum contract that would hold Metro harmless against past actions by the contractor.

Withdrawal of Motion: Councilor Van Bergen withdrew his motion to approve the contract with Tri-Lett Industries.

Motion: Councilor Hansen moved to continue consideration of the contract award to Tri-Lett Industries until May 1, 1986, and for Council to determine the need for amending the contract to protect the District

against possible violations of the Little Bacon Davis Act on two previously contracted projects with Tri-Lett Industries. Councilor Kafoury seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilor DeJardin

The motion carried and the item was postponed until May 1, 1986.

8.4 Consideration of Ordinance No. 86-201, for the Purpose of Amending the Waste Reduction Program, Ordinance No. 86-199, by Adopting Premium Cost for Alternative Technology Projects (First Reading and Public Hearing)

The Clerk read the Ordinance a first time by title only.

Motion: Councilor Kelley moved Ordinance No. 86-201 be adopted and Councilor Kafoury seconded the motion.

Debbie Allmeyer, Solid Waste Analyst, noted the Ordinance in the agenda packet had been revised to reflect changes suggested at the April 16 Council Work Session.

Councilor Gardner reviewed the redrafted Ordinance that incorporated changes suggested at the April 16 Council Work Session. He explained the portion of the Waste Reduction Program dealing with alternative technology stated the Council would set a premium it would be willing to pay above landfilling costs, develop criteria for evaluating alternative technology proposals, and develop criteria on which to base its decision to proceed with the technology project. He said the Ordinance before the Council was designed to describe that process and to make commitments to proceed with a project if certain criteria were met. Councilor Gardner further explained the "whereas" clauses of the Ordinance gave a historical description of the process and were consistent with applicable laws. He then described Sections 1 through 9 of the Ordinance. In conclusion, the Councilor explained that Ordinance No. 86-201, when adopted, would be submitted to the DEQ as a separate ordinance but would be an amendment to Ordinance No. 86-199, the base Waste Reduction Program.

The Presiding Officer opened the public hearing on the Ordinance.

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Doug Francescon, 18754 South Terry Michael Drive, Oregon City, testified the potential for increasing the life and decreasing the size of new landfills must be considered when evaluating costs of an overall waste disposal system. He also pointed out the tip fee for an energy recovery facility would become a long-term, fixed rate. He suggested Metro and the vendor consider a cost of living adjustment or an adjustment for fluctuations in energy prices. Also, Mr. Francescon advocated a multi-site strategy to avoid political or air quality problems that might result from one large facility. Although energy costs were currently low, he urged the Council to consider the long-term benefits of producing low cost power while keeping tip fees within acceptable limits.

Steve Anderson, 7155 S.W. Gable Parkway, Portland, testified the Council consider constructing a refuse derived fuel (RDF) production plant at the Clackamas Transfer & Recycling Center (CTRC). He said the plant should be capable of handling the entire throughput of CTRC and of producing a material which could be burned in any of several existing solid-fuel boilers in the region. The RDF plant, he said, would offer the advantages of minimal risk and capital and additional facilities could be added as sites and additional markets became available. He recommended Gershman, Brickner & Bratton, Inc. analyze his proposal.

There being no further testimony, Presiding Officer Waker closed the public hearing.

A discussion followed regarding an acceptable base disposal rate for alternative technology. Presiding Officer Waker was concerned commercial disposal rates could double within a few years. Councilor Kafoury said the Council should seriously question to what extent costs could be used to change behavior patterns. Councilor Oleson said it was difficult to put a dollar limit on disposing of waste in a socially responsible manner.

After discussion, it was agreed to vote on adopting Ordinance No. 86-199, discussed earlier under Agenda Item No. 8.2, but to delete two paragraphs from Exhibit B relating to alternative technology.

Motion: Councilor Kirkpatrick moved to amend Ordinance No. 86-199 by deleting the two paragraphs from Exhibit B relating to alternative technology. Councilor Myers seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, Frewing, Gardner, Kirkpatrick, Kafoury, Kelley, Myers, Van Bergen and Waker

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Nay: Councilor Hansen

Absent: Councilors DeJardin and Oleson

The motion carried and the Ordinance was amended.

Motion: The motion to adopt Ordinance No. 86-199 was made by Councilors Kirkpatrick and Gardner at the meeting of March 27, 1986.

Vote: A vote on the motion resulted in:

Ayes: Councilors Cooper, Frewing, Gardner, Kirkpatrick, Kafoury, Kelley, Myers, Van Bergen and Waker

Nay: Councilor Hansen

Absent: Councilors DeJardin and Oleson

The motion carried and Ordinance No. 86-199 was adopted as amended.

There being no further business, the meeting was adjourned at 11:05 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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