

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

May 1, 1986

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

Councilors Absent: Councilor Kafoury

Also Present: Rick Gustafson, Executive Officer

Staff Present: Donald Carlson, Phillip Fell, Doug Drennen, Ray Barker, Wayne Rifer, Keith Lawton, Jennifer Sims, Norm Wietting, Dennis Mulvihill, Rich McConaghy, Janet Schaeffer, Ed Stuhr, Debbie Allmeyer and Steve Siegel

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

1. INTRODUCTIONS

Councilor Cooper introduced Mike Gardner, a student of government from Gladstone High School.

2. COUNCILOR COMMUNICATIONS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Deputy Executive Officer Donald Carlson reported the Executive Officer was at a meeting of the Convention, Trade and Spectator Facility (CTS) Committee and would make a report of the Committee's activities at the end of the Council meeting.

Disposal Agreement with Yamhill County. Dan Durig, Solid Waste Director, referring to a letter to Bill Campbell of Yamhill County dated April 25, 1986, reported Metro had entered into an inter-governmental agreement with the County and the Riverbend Landfill. He explained this arrangement would accomodate some waste from Clark and Columbia Counties banned from the St. Johns Landfill by passage of Ordinance No. 85-194. It would also help to extend the life of St. Johns Landfill and would deliver adequate amounts of waste to Riverbend. Mr. Durig said the agreement would be reviewed after one year to determine its effects on solid waste flow.

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 requested Item No. 6.2, Consideration of Resolution No. 86-644, for the Purpose of Amending the By-Laws of the Solid Waste Policy Advisory Committee to Assign Responsibilities for the Certification Program and Readopting the By-Laws," be removed from the Consent Agenda. Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilor Kafoury

The motion carried and the item was removed from the Consent Agenda.

Motion: Councilor Kirkpatrick moved to approve Items 6.1 and 6.3 of the Consent Agenda. Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilor Kafoury

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

6.1 Minutes of March 27, 1986

6.3 Resolution No. 86-645, for the Purpose of Forming the Local Government Advisory Committee on Certification (LGACC) and Adopting a Missions and Procedures Statement

6.2 Consideration of Resolution No. 86-644, for the Purpose of Amending the By-Laws of the Solid Waste Policy Advisory Committee (SWPAC) to Assign Responsibilities for the Certification Program and Readopting the By-Laws

Estle Harlan, representative of the Oregon Sanitary Service Institute (OSSSI), requested the Council include local solid waste disposal industry councils on the Local Government Advisory Committee on

Metro Council
May 1, 1986
Page 3

Certification (LGACC). Ms. Harlan testified that because OSSI was not a local government and because SWPAC was already organized and did not include such representatives, the industry would not receive adequate recognition.

Councilor Kirkpatrick urged industry councils be invited to participate. Councilor Gardner pointed out the solid waste disposal industry was represented on SWPAC and questioned the need for additional recognition.

Motion: Councilor Kirkpatrick moved to adopt Resolution No. 86-644 and Councilor Gardner seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilor Kafoury

The motion carried and the Resolution was adopted.

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 (TSCC) (Public Hearing)

Presiding Officer Waker noted on April 22 the Executive Officer presented the FY 1986-87 Budget along with the Budget Committee's recommendations. A public hearing was also conducted at that meeting.

Motion: Councilor DeJardin moved to adopt Resolution No. 86-642 and Councilor Cooper seconded the motion.

Jennifer Sims, Director of Management Services, reported that at the last meeting a question had been raised about the status of cash balances and how those would effect fund balance estimates. Ms. Sims said she and Accounting Manager Don Cox reviewed fund balance estimates. She said balances were within recommended limits and staff would adjust projected amounts after the approved budget was returned from the TSCC and before it was forwarded to the Council for final adoption.

Councilor Kelley reported her previous concerns about the \$2.6 million carryover in the Solid Waste budget had been addressed to her satisfaction by staff. She was, however, concerned about the timing of rate increases and their effect on the budget. Councilor

Metro Council
May 1, 1986
Page 4

Hansen suggested that matter could be addressed when the Council next considered rate issues.

Motion to Amend: Councilor Frewing moved to amend the Resolution by incorporating the Budget Committee Recommendations into the FY 1986-87 Budget. Councilor Hansen seconded the motion.

Vote on Motion to Amend: A vote on the motion resulted in:

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

Absent: Councilor Kafoury

The motion carried and the Resolution was amended.

Presiding Officer Waker opened the public hearing on the budget.

Chuck Stoudt, 1934 S.W. Highland, Portland, requested the budget document be simplified to make it easier for citizens to read and understand. He said he did not see a figure in the Solid Waste budget describing the total debt and principle to the Department of Environmental Quality (DEQ). Mr. Stoudt said he did not understand the source of Building Fund. He explained because building fund monies were reported in several department budgets, it was difficult to know if duplication of reporting had occurred. Finally, Mr. Stoudt said he it was unclear to him about the number of Zoo employees working at the Metro Center offices, why \$93,000 had been transferred to the Building Management Fund from the Zoo, and the criteria for determining the amount of the transfer.

Dan Durig responded to Mr. Stoudt's question about the amount of the total debt services to DEQ. He provided Mr. Stoudt with a document showing the total debt to DEQ through the year 2003. He said those debts consisted of three major loans: 1) a loan made in the late 1970's before user fees had been implemented to cover planning expenses; 2) loan made around 1980 to build a one-mile dyke at the St. Johns Landfill which made available 55 acres for future fill and to remodel the landfill gatehouse; and 3) a loan to construct the Clackamas County Transfer & Recycling Center.

Ms. Sims then described the criteria for allocating building costs. She said the percentage of square feet of space benefitting each of the operating funds was calculated. No Zoo staff were housed at the Metro offices. Therefore, the Zoo's costs were indirect costs for the portion of the Metro office building that benefitted the Zoo.

Metro Council
May 1, 1986
Page 5

For example, she explained, a portion of the Council Chamber, payroll offices, personnel offices, etc., was calculated into the Zoo's budget. She said 18.4 percent of the total building costs were allocated to the Zoo.

Responding to Mr. Stoudt's last question, Mr. Durig explained there were no building lease costs in the Solid Waste budget. Lease costs reported were for leasing the St. Johns Landfill, he said.

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

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

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

Absent: Councilor Kafoury

The motion carried and the Resolution was adopted as amended.

The Presiding Officer announced the approved FY 1986-87 budget would be forwarded to the TSCC for review. When it was certified and returned to Metro, the Council would consider the budget for final adoption on June 26, 1986, at which time there would be another public hearing.

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

Presiding Officer Waker explained at the last meeting the Council had voted to postpone consideration of the contract award until counsel could offer an opinion on whether the terms of the new contract could be amended to exclude the District from any liability for previously contracted Zoo projects. He then referred the Council to a letter from Andrew Jordan, legal counsel retained in the absence of Eleanore Baxendale. Mr. Jordan recommended:

1. The council could award the Elephant Museum contract to Tri-Lett without fear of additional exposure;
2. As consideration for that award, Tri-Lett should be asked to indemnify Metro for any damages, costs or attorney's fees which Metro might incur as a result of Tri-Lett's failure to pay prevailing wages on the Gift Shop Contract; and

3. Future construction contracts should be amended to provide for such indemnification.

Motion: Councilor Kirkpatrick moved to approve the contract with Tri-Lett for construction of the Elephant Museum to include the above conditions recommended by Mr. Jordan. Councilor Cooper seconded the motion.

Vote: A vote on the motion resulted in:

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

Nay: Councilor Hansen

Absent: Councilor Kafoury

The motion carried and the contract was approved.

9.1 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 (Second Reading and Continued Public Hearing)

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

Motion: The motion to adopt the Ordinance was made by Councilors Frewing and Gardner on April 22, 1986.

There was no public testimony on the Ordinance.

Referring to her memo to Metro Councilors dated April 25, 1986, Janet Schaeffer, Publications Specialist, reviewed questions raised by Councilors at the April 22 Council meeting and staff's responses to those questions. There were no additional questions about the Public Education Plan. Presiding Officer Waker reminded the Council that staff would bring back a final Plan for future consideration.

Councilor Frewing said he wanted to record to show he was interested in staff coordinating with DEQ and the various cities involved in SB 405 programs to set up a cooperative promotional and education program. The Councilor said he understood staff was establishing such a process with DEQ.

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

Metro Council
May 1, 1986
Page 7

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

Absent: Councilor Kafoury

The motion carried and the Ordinance was adopted.

9.2 Consideration of Ordinance No. 86-201, for the Purpose of
Amending Ordinance No. 86-199 by Adopting Criteria for
Implementation of Alternative Technology Projects (Second
Reading and Continued Public Hearing)

The Clerk read the Ordinance by title only a second time. The Presiding Officer announced the Ordinance would be subject to approval at the May 15 Council meeting.

Motion: A motion to adopt the Ordinance was made by
Councilors Kelley and Kafoury at the meeting of
April 22, 1986.

Debbie Allmeyer, Solid Waste Analyst, reviewed several minor changes to the Ordinance proposed since the last meeting. Those changes were underlined on the version of the Ordinance included in the meeting agenda packet. She also noted the Council had asked about the impact of adding resource recovery to system costs on different types of customers and Rich McConaghy had prepared a memo to Councilors responding to that question.

Presiding Officer Waker said Mr. McConaghy's memo did not respond to his concerns of April 22. He was specifically concerned about cost increases consumers would experience as a result of system changes including a new landfill, transfer stations and alternative technology. Presiding Officer Waker questioned Mr. McConaghy's use of a rate of \$10.84 per ton as the cost to the consumer.

Mr. McConaghy said the \$10.84 rate was used to compare with the \$31 per ton system cost rate projected for the year 1990. Both rates, he explained, did not include user fees, state landfill siting fees or enhancement fees.

Presiding Officer Waker said he was also confused about staff's projections for the percentage distribution of commercial and residential waste collected and disposed. Referring to Table 1 of his memo, Mr. McConaghy explained that rates did vary according to area and whether facilities were franchised. Staff had averaged out costs for their projections, he said.

Metro Council
May 1, 1986
Page 8

Councilor Van Bergen agreed there was currently a large variety of prices paid for solid waste disposal and the impact of increased system costs would vary widely depending on the type of waste generator.

Councilor Frewing noted on April 22 the original Section 3 of the Ordinance, now Section 4, listed the criteria to be used in evaluating alternative technology proposals. He said two people testified that an item "j" be added to say: "Maximize flexibility by minimizing the initial capital costs and construction time of any alternative technology facility." The Council urged that language be included in the Ordinance.

First Motion to Amend: Councilor Frewing moved the above language be included as an item "j" to Section 4 of the Ordinance. Councilor Myers seconded the motion.

Councilor Van Bergen said he did not want to language to be a limitation for the project.

Vote on First Motion to Amend: A vote on the motion to amend resulted in:

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

Absent: Councilors Kafoury and Oleson

The motion carried and the Ordinance was amended.

The Presiding Officer opened the public hearing.

Judy Dehen, 2965 N.W. Verde Vista, Portland, representing the Columbia Group of the Sierra Club, testified regarding Section 6 of the Ordinance. She said if Metro wanted to at least partially satisfy the provisions of ORS.495.015 which listed the priorities of waste reduction, the Ordinance should indicate a disposal cost equation scale for prioritized modes of waste reduction. This, she said, would clearly recognize the state's mandated waste reduction priorities.

Councilor Myers said although the heirachy of waste reduction were vital criteria, some Councilors wished to avoid premium concepts tied to the heirachy because it would not be necessary to attract bidders. The Councilor said he was uneasy about adding that type of language back into the Ordinance.

Metro Council
May 1, 1986
Page 9

Estle Harlan, 2202 Lake Road, Milwaukie, representing the Oregon Sanitary Service Institute (OSSI), referred the Council to her written comments. She objected to the provisions of Section 5 recommending a 20 percent premium. She said the collection industry recommended a 10 percent premium. Ms. Harlan was worried Metro's waste generation assumptions were too low and would skew cost figures. She said a recent study conducted by Clackamas County indicated the average weight per can collected was about 40 pounds per week, conferring with a long-standing industry average. She again stated the 20 percent figure was very high.

Responding to Councilor Gardner's question, Ms. Harlan said all industry weight studies assumed some cans would be empty.

Joe Cancilla, 18450 S.E. Vogel Road, Portland, representing PASSO, concurred with Ms. Harlan that Metro's assumptions regarding the average weight were too low. He also disagreed with Metro's assumptions on the ratio of commercial to residential generators. He said the ratio varied widely throughout the region.

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

The Presiding Officer noted the Ordinance as drafted did not provide for any upward limit to a unit cost for an alternative technology project. Ms. Allmeyer explained that Section 4(i) addressed that concern although no specific figures were identified.

Councilor Myers noted that Section 5 did not reference back to satisfy the criteria established in Section 4. He suggested Section 5 be moved back to Section 4 and be listed as an additional criteria or to insert language into Section 5 to read: "Except for proposals that satisfy the criteria of Section 4, and . . ."

Second Motion to Amend: Councilor Frewing moved Section 5 be amended to read: "Metro . . . adopts a policy to maximize resource recovery from waste by committing to accept a proposal(s) that best meet the criteria of Section 4 and increase system costs no more than 20%." (NOTE: New language is underlined.) Councilor Gardner seconded the motion.

Councilor Frewing explained his motion would resolve the concern raised by Councilor Myers. At the request of Councilor Myers, he agreed to change the language of "up to 20 percent" to read "no more than 20 percent."

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

Metro Council
May 1, 1986
Page 10

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

Absent: Councilors Cooper, Kafoury and Oleson

The motion carried and the Ordinance was amended.

Third Motion to Amend: Councilor Kirkpatrick moved to amend
Section 5 to read: ". . . up to 15%." Councilor
DeJardin seconded the motion for discussion purposes.

Councilor Kirkpatrick said she understood the 20 percent figure was arbitrary and the proposed amendment would be in keeping with the collection industry's request.

Doug Drennen said the 20 percent figure was not purely arbitrary. It was used from the premium cost table and was established based on staff's best judgment to catch the lower end of the project but not to be so high to destroy the spirit of competition.

Executive Officer Gustafon explained the 20 percent figure was arbitrary from the standpoint that it was based on assumptions that could or could not occur. He said the percentage was provided to give a guarantee to the Environmental Quality Commission regarding the Council's intent. He advised adopting no percentages in order to avoid sending out undesirable signals.

Motion to Postpone Action on Third Motion to Amend: After discussion about an appropriate percentage, Councilors Kirkpatrick and DeJardin moved action on the motion be postponed to May 15 in order to give staff time to analyze the impacts of percentages on the project.

Vote on Motion to Postpone: A vote resulted in:

Ayes: Councilors DeJardin, Frewing, Gardner, Hansen,
Kirkpatrick, Myers, Van Bergen and Waker

Absent: Councilors Cooper, Kafoury, Kelley and Oleson

The motion carried.

Councilor Frewing requested staff also provide information regarding the results of a public survey about the acceptability of higher costs in order to avoid landfilling. He explained he was comfortable with the 20 percent figure because it would probably only translate into a 5 percent increase in customer rates. He said he

Metro Council
May 1, 1986
Page 11

thought the public surveys indicated that amount of increase would be acceptable to avoid landfilling.

Presiding Officer Waker noted the residential public had been polled on that matter and questioned how accepting commercial customers would be of such an increase. Councilor Gardner also noted he was not comfortable with the broad wording of that particular question to the public which could have skewed the responses in favor or an increase.

Councilor Myers said the language of Section 6 should be reworded to state a more definite policy and would propose new language for the next meeting. Councilor Gardner said he had originally proposed that language to guarantee Metro would proceed with a project if it increased the system cost no more than 20 percent and to provide the EQC assurance that resource recovery would be part of Metro's waste reduction program. The second part of the section would provide that if all the proposals cost more than 20 percent, Metro could still proceed with one vendor if the Council determined there were other justified benefits, he explained. Councilor Gardner agreed it would be helpful to clarify the intent of Section 6 and define justified benefits.

Councilor Hansen requested staff provide information on the 20 percent proposed premium. He asked at what point in the operation would the 20 percent figure apply. Mr. Drennen said the figure applied to the year 1990 when the project would commence but Section 4(g) permitted the Council to look at the long-term effectiveness of the project.

There being no further discussion, Presiding Officer Waker continued the public hearing on the Ordinance to May 15, 1986.

3. EXECUTIVE OFFICER COMMUNICATIONS (Continued)

Report on the Convention, Trade and Spectator Facilities Project. Steve Siegel explained that about one and a half years ago the Convention, Trade and Spectator Facilities (CTS) Committee was established to make a series of recommendations to Metro and tri-county governments on a CTS facility for the Portland metropolitan region. Mr. Siegel said the Committee's formal recommendations would be made May 12 and staff would explain those recommendations to the Council at the May 15 Council meeting. He said the slide presentation given to the Council at this meeting would provide background information about the project and an opportunity for Councilors to ask questions.

Mr. Siegel first discussed the need for the regional facility. The convention center would be designed to accomodate conventions of

Metro Council
May 1, 1986
Page 12

under 10,000 delegates, he said, and it was assumed new convention business would greatly boost the Portland metropolitan area economy. He then reviewed the various factors the CTS Committee had considered in selecting a specific location for the facility including cost, availability of hotel/motel space and surrounding facilities. Mr. Siegel briefly discussed the means by which such a project could be financed and the convention center sites currently under consideration.

Finally, Mr. Siegel reviewed the schedule of major events for the CTS project: the Committee's formal recommendations would be announced May 12; a lead agency and land use approvals would be sought in May and June; the general obligation bond campaign would be conducted for a November General Election; the project construction would begin mid-1988; and the project would be operating by mid-1990.

Presiding Officer Waker adjourned the meeting at 8:20 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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