

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

Regular Meeting  
November 13, 1986

Councilors Present: Tanya Collier, Larry Cooper, Tom DeJardin,  
Jim Gardner, Gary Hansen, Marge Kafoury,\*  
Sharron Kelley, Corky Kirkpatrick, David  
Knowles,\* Mike Ragsdale, George Van Bergen  
and Richard Waker

Councilors Absent: John Frewing

Also Present: Rick Gustafson, Executive Officer

Staff Present: Don Carlson, Eleanore Baxendale, Dan Durig,  
Don Cox, Vickie Rucker, Sonnie Russill,  
Janet Schaeffer, Tuck Wilson, Rich  
McConaghy, Dennis Mulvihill, Dennis O'Neil,  
Steve Rapp, Norm Wietting, Ray Barker and  
Estelle O'Connor

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

1. INTRODUCTIONS

None.

2. COUNCILOR COMMUNICATIONS

2.1 Declaration of Vacancy for District 11 Council Position

The Presiding Officer noted he had received a letter of resignation from Councilor Kafoury. She had accepted a position with the City of Portland as legislative liaison which created a conflict of interest in continuing to serve as a Metro Councilor.

Motion: Councilor Kelley moved, seconded by Councilor Gardner, a vacancy be declared for the District 11 Council position effective November 13, 1986.

Vote: A vote on the motion resulted in:

---

\* The District 11 Council position was filled by Marge Kafoury until the motion carried to declare a vacancy for that position (see pages 1 and 2). The vacant position was then filled by David Knowles (see pages 2 and 3).

Metro Council  
November 13, 1986  
Page 2

**Ayes:** Councilors Collier, Cooper, Gardner, Kafoury, Kelley, Kirkpatrick, Ragsdale, Van Bergen and Waker

**Absent:** Councilors DeJardin, Frewing and Hansen

The motion carried and a vacancy was declared.

**2.3 Consideration of Resolution No. 86-699, for the Purpose of Expressing Appreciation to Marge Kafoury for Services Rendered to the Metro Area**

Presiding Officer Waker introduced and read the Resolution, noting the extensive contributions former Councilor Kafoury had made to the region during her tenure as a Metro Councilor.

**Motion:** Councilor Waker moved the Council adopt Resolution No. 86-699 and Councilor Kelley seconded the motion.

**Vote:** A vote on the motion resulted in:

**Ayes:** Councilors Collier, Cooper, Gardner, Kelley, Kirkpatrick, Ragsdale, Van Bergen and Waker

**Absent:** Councilors DeJardin, Frewing and Hansen

**Vacant:** Council Position 11

The motion carried and the Resolution in honor of former Councilor Kafoury was adopted. The Presiding Officer then presented a plaque of appreciation of the former Councilor.

**2.2 Consideration of Resolution No. 86-698, for the Purpose of Appointing David Knowles to the Vacant District 11 Council Position**

Ray Barker, Council Assistant, explained it was being recommended that David Knowles be appointed to the vacant Council position effective November 13, 1986. Mr. Knowles had been elected by the majority of the voters from District 11 to serve as Councilor effective January 1, 1987, and was therefore an appropriate choice to serve during the interim period.

**Motion:** Councilor DeJardin moved the Resolution be adopted and Councilor Cooper seconded the motion.

**Vote:** A vote on the motion resulted in:

Metro Council  
November 13, 1986  
Page 3

Ayes: Councilors Collier, Cooper, DeJardin, Gardner,  
Kelley, Ragsdale, Van Bergen and Waker

Absent: Councilors Frewing, Hansen and Kirkpatrick

Vacant: Councilor Position 11

Presiding Officer Waker administered the oath of office to  
Mr. Knowles and the Councilor was seated with the Council.

### 3. EXECUTIVE OFFICER COMMUNICATIONS

#### 3.1 Presentation of the FY 1985-86 Audit Report

Don Cox, Manager of Accounting, introduced Joe Hoffman and Roger Rowe of the Peat, Marwick, Mitchell & Co. audit team. Mr. Rowe explained the audit of Metro's FY 1985-86 financial status was very positive; no complications had been noted in the report to management. He reviewed highlights of the written report and Mr. Cox explained the Management Committee would be discussing the audit in more detail at their meeting of November 20. All Councilors were invited to attend that meeting.

Convention, Trade and Spectator Facilities Project. Executive Officer Gustafson discussed the importance of the passage of Metro's Convention Center Project bond measure on the General ballot. He was especially encouraged the measure had done well in Clackamas County and saw this as a good sign of regional cooperation in solving economic problems.

Presiding Officer Waker said he would bring back a proposal to the Council for establishing a Convention, Trade and Spectator Facilities Task Force. The incoming Executive Officer, he noted, had agreed such a task force was necessary.

Transition of Executive Officers. Executive Officer Gustafson reported he had appointed Donald Carlson, Deputy Executive Officer, to work with Rena Cusma, Executive Officer-Elect, for a smooth transition.

Presiding Officer Waker said Ms. Cusma had submitted a request for the Council to establish a \$5,000 fund for the transition period. After brief discussion on the matter, the Presiding Officer said he would request the Executive Officer-Elect submit a budget for the request to the Council for consideration on November 20, 1986.

### 4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Thomas Wright of Association of Professional Business, 1410 N.W. Johnson, Portland, 97209, addressed the Council regarding the Disadvantaged Business Enterprise (DBE) Program Goals adopted by the Council at their October 23, 1986, Council meeting. By adopting Resolution No. 86-697, the Council adopted a Women-Owned Business Enterprise (WBE) goal of 10 percent and a Minority-Owned Business Enterprise (MBE) goal of 5 percent for personal services contracts. Mr. Wright suggested the MBE goal be raised to 10 percent which he said would be more in line with goals adopted by other agencies. Mr. Wright said a higher MBE goal could be reached if Metro worked harder to achieve minority business participation for professional type contracts.

Presiding Officer Waker explained the goals established by the Council were not limits. Rather, they reflected amounts the Council wanted to achieve. When those goals were achieved, staff would continue to solicit participation from minority and women-owned businesses, he said.

Mr. Wright said his agency could work with Metro's staff to direct them to firms qualified for specific Metro projects.

In response to Councilor's question about additional efforts the Council could take to increase MBE participation, Mr. Wright suggested the Council require MBE participation on contracted projects. He explained once MBE participation was a requirement, majority-owned firms actively sought out his agency to assist in finding minority subcontractors.

The Presiding Officer explained that Metro's current "good faith" program required contractors to make every possible effort to locate MBE or WBE subcontractors and if they could not be located, to explain why not. Mr. Wright said it had been demonstrated "best effort" programs did not work well. He cited the city of Seattle's program as one which had substantially increased DBE participation by requiring participation on contracted projects.

Councilor Hansen noted Metro's record of minority participation on labor and materials contracts was excellent because the agency had stringent standards for its "good faith" program. He suggested the same rigid requirements be imposed for personal services contracts. The Councilor said Council rules would not allow for reconsideration of Resolution No. 86-697 at this meeting, or he would so move (a motion for reconsideration must be entertained during the same meeting it was considered). He suggested, however, staff return to the Council to advise whether the MBE goals for personal services contracts needed to be re-evaluated.

Presiding Officer Waker said he and Councilor Hansen would meet with Ed Stuhr, Grants/Contracts Specialist, to determine whether MBE goals for personal services contracts needed to be re-evaluated. They would make a recommendation to the Council at a later date. He said staff would inform Mr. White of the date that presentation would be made to the Council.

6. CONSIDERATION OF MINUTES

Motion: Councilor Hansen moved the minutes of October 9, 1986, be approved. Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Gardner, Hansen, Kelley, Kirkpatrick, Ragsdale, Van Bergen and Waker

Absent: Councilors Frewing

Abstain: Councilor Knowles

The motion carried and the minutes were approved.

7. ORDINANCES

7.1 Consideration of Ordinance No. 86-211, for the Purpose of Modifying and Continuing a Temporary Reduction in Disposal Rates for Source Separated Yard Debris at the St. Johns Landfill (First Reading and Public Hearing)

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

Rich McConaghy, Solid Waste Analyst, reviewed highlights of staff's report as printed in the agenda packet. The Council had previously adopted Ordinance No. 86-210 which established disposal rates for source separated yard debris at the St. Johns Landfill. Those rates were adopted on a temporary basis (from October 6 through December 31, 1986) in the expectation that new 1987 disposal rates would be effective on January 1, 1987. The analysis of the 1987 rates had been delayed so that new rates were not expected to take effect until April 1, 1987. The purpose of Ordinance No. 86-211 was to extend the St. Johns yard debris rates until 1987 rates could be implemented so that yard debris disposed in the landfill would continue to be minimized during that interim period.

A discussion followed about the current status of the yard debris stockpiled at the Landfill. Norm Wietting, Solid Waste Operations

Metro Council  
November 13, 1986  
Page 6

Manager, acknowledged it would take staff at least six months to process the estimated 50,000 yards of debris stockpiled. He also explained staff had distributed ads identifying other processors of yard debris so that Metro's program would not have negative effects on private processors.

Responding to Councilor Gardner's question, Mr. Wietting said the yard debris diverted represented about one percent of all waste disposed in the landfill.

Motion: Councilor Gardner moved for adoption of Ordinance No. 86-211 and Councilor Kirkpatrick seconded the motion.

Presiding Officer Waker opened the public hearing on the ordinance. There being no testimony, he closed the hearing and announced the second reading of the Ordinance would occur at the Council meeting of November 20, 1986.

7.2 Consideration of Ordinance No. 86-212, for the Purpose of Amending Metro Code Section 5.02.050 to Allow for the Exemption of Solid Waste from the Metro Regional Transfer Charge when it is Delivered to Marion County Solid Waste Facilities by Commercial Haulers (First Reading and Public Hearing)

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

Rich McConaghy, Solid Waste Analyst, reviewed staff's report. On September 23, 1986, the Council approved an agreement with Marion County to allow for the delivery of a portion of the region's waste to the Brooks mass burn facility. The purpose for exempting directly hauled waste from the Metro regional transfer charge was to provide an incentive for commercial haulers to use the Marion County facility rather than Clackamas Transfer & Recycling Center. This, he explained, would serve to reduce flows at CTTC (as required by Oregon City) and at the St. Johns Landfill.

Councilor Kelley said she had visited with Marion County officials the previous day. Some of the officials expressed dissatisfaction that Metro haulers would, under the new agreement, pay less for waste disposal than would Marion County haulers. The Councilor said she was concerned about Metro's relationship with the County and thought it better for the County's Board of Commissioners to approve all arrangements before Metro's Council adopted the Ordinance.

Doug Drennen, Engineering/Analysis Manager, said he was involved in all negotiations with Marion County. He said the County requested Metro provide them with additional waste which would result in more revenue for their mass burn facility and therefore, cost savings to

Metro Council  
November 13, 1986  
Page 7

the County's users. The three-year agreement with Marion County was designed to provide waste to the facility until such a time Marion County haulers could provide sufficient tonnages to run the facility, he explained.

Motion: Councilor DeJardin moved to adopt Ordinance No. 86-212 and Councilor Van Bergen seconded the motion.

Presiding Officer Waker opened the public hearing on the ordinance. There being no testimony, he closed the public hearing and announced the second reading of the Ordinance would occur at the Council meeting of November 20, 1986.

## 8. CONTRACTS

### 8.1 Consideration of a Contract with EMCON Associates for Services Connected with St. Johns Landfill Inspection and Remaining Capacity Calculation

Dennis O'Neil, Solid Waste Analyst, reviewed staff's report. He explained the three-year, \$100,925 contract would provide for third party inspections of the St. Johns Landfill as required by Metro's contractual agreement with the City of Portland. Three bids were received for the service and EMCON's bid was the lowest. The proposed contractor had an established reputation in the field of landfill inspection, Mr. O'Neil said.

In response to the Presiding Officer's question, Mr. O'Neil reported one bid had been received from a minority-owned contractor but EMCON had submitted a lower bid and was therefore being recommended for the contract award.

Councilor Kelley requested the consultant provide cost estimates for repairing the landfill's entrance bridge, explaining the information would be useful when discussions resumed regarding Solid Waste Operation Budget carryover amounts. Mr. O'Neil said the estimate could be prepared.

Councilor Hansen asked if the contract would lend itself to subcontracting had 10 percent of the contract had been set aside for minority-owned contractors. Mr. O'Neil responded that some parts of the contract could have been subcontracted. He was uncertain, however, whether a minority-owned engineering firm existed with specific landfill inspection experience.

Motion: Councilor DeJardin moved the contract with EMCON Associates be approved and Councilor Gardner seconded the motion.

Metro Council  
November 13, 1986  
Page 8

Councilor Van Bergen expressed concern that the \$100,925 contract amount was not the same as the \$89,295 total bid initially submitted. Presiding Officer Waker explained bidders had been requested to submit a base bid and to itemize estimates for additional work elements should they be required. All bidders had submitted estimates for the additional elements and bids had been evaluated to include the estimates for additional elements.

Councilor Van Bergen said he would have preferred staff establish the work elements before the project was bid and include those elements in the base bid request. Mr. O'Neil explained some of the additional requirements had been submitted to him after the initial request for bids was issued. It was only after the bids were submitted that staff could determine whether it could provide funding for those additional work elements. Norm Wietting, Operations Manager, explained that cost estimates had been compared with other firms and EMCON's prices were the lowest.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Gardner, Hansen, Kelley, Kirkpatrick, Knowles, Ragsdale, Van Bergen and Waker

Absent: Councilor Prewing

The motion carried and the contract was approved.

Councilor Ragsdale commended staff for preparing a succinct staff report which had helped him analyze the issues and to make an informed decision.

#### 9. ALASKA TUNDRA LITIGATION SETTLEMENT

Eleanore Baxendale, General Counsel, reviewed her confidential memo to the Council dated November 6, 1986, in which a settlement proposal and draft agreement had been explained. Since the memo's distribution, she had learned funds were available in SIC's bankruptcy claim and Metro could recover 25 to 23 percent on the dollar. She had not received any information on the status of Allied Fidelity's claim, however.

After a brief discussion, the Council agreed it understood the issues outlined in the confidential memo and there was no need to conduct an executive session on this matter.

Motion: Councilor Van Bergen moved to settle the litigation regarding the Zoo's Alaska Tundra Exhibit as recommended in Counsel's confidential memo dated November 6, 1986. Councilor DeJardin seconded the motion.



Metro Council  
November 13, 1986  
Page 9

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Gardner,  
Hansen, Kelley, Kirkpatrick, Knowles, Ragsdale,  
Van Bergen and Waker

Absent: Councilor Frewing

The motion carried.

Presiding Officer Waker asked if Councilor Knowles had abstained from voting. The Councilor responded that he had read Counsel's memo, understood the issues, and had voted in support of the motion.

Councilor Hansen requested the Council be appraised of future developments in this case. Ms. Baxendale said she would report to the Council via the quarterly report on litigation matters.

Councilor Kelley requested Counsel prepare a summary of the Alaska Tundra litigation matter including the final settlement amount and the total of all expenses incurred.

There being no further business, Presiding Officer Waker adjourned the meeting at 6:50 p.m.

Respectfully submitted,



A. Marie Nelson  
Clerk of the Council

amn  
6574C/313-2  
12/03/86