

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

Regular Meeting
December 11, 1986

Councilors Present: Tanya Collier, Tom DeJardin, John Frewing,
Jim Gardner, Gary Hansen, Sharron Kelley,
Corky Kirkpatrick, Jim Knowles, Mike
Ragsdale, George Van Bergen and Richard
Waker

Councilors Absent: Larry Cooper

Staff Present: Donald Carlson, Eleanore Baxendale, Gene
Leo, Doug Drennen, Pat Lent, Keith Lawton,
Phillip Fell, Dan Durig, Norm Wietting,
Vickie Rocker, Jan Schaeffer, Dennis
Mulvihill, Steve Rapp, Rich McConaghy, Jim
Shoemake, Wayne Rifer, Kay Rich, Jennifer
Sims, Jill Hinckley, Tuck Wilson, Sandy
Bradley, Neil McFarlane and Ray Barker

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

1. INTRODUCTIONS

None.

2. COUNCILOR COMMUNICATIONS

The Presiding Officer noted Metro was in a transition period before Executive Officer-elect Rena Cusma assumed office in January. He had received informal correspondence from the Executive-elect suggesting personnel changes within the agency. Presiding Officer Waker said he had been authorized by the Executive Officer-elect to read the following statement:

"In lieu of the procedure suggested by the Executive Officer-elect (immediate resignation of designated employees), she has agreed to work with the Council Transition Committee (Waker, Gardner, Kirkpatrick and Ragsdale) on a different approach. The initial meeting of the Executive Officer-elect and Committee is scheduled for Monday, December 15, 1986, at 10:00 a.m.

"The Executive Officer-elect has requested the ability to start meetings with the affected employees now rather than after she assumes office. I concur and the existing Executive Officer concurs.

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"The Executive Officer-elect has requested that the Council support her suggestion for placement services for potentially departed employees."

Presiding Officer Waker noted that affected Metro employees were therefore not required to make any declarations regarding resignation by Friday, December 12, 1986, as previously requested by the Executive Officer-elect.

Councilor Van Bergen said he agreed in principle with most of the actions requested by the Executive Officer-elect but suggested deferring action on placement services for affected employees until after the Executive Officer-elect was sworn into office.

Councilor DeJardin concurred with Councilor Van Bergen because he understood a transition period would occur to resolve those issues. He did not think it proper to take action until the Executive Officer-elect official assumed office.

Presiding Officer Waker explained the Executive Officer-elect had suggested the schedule in order to keep transition time at a minimum.

Councilor Frewing questioned whether the Council would consider changing its current personnel policies in light of the Executive Officer-elect's request. Presiding Officer Waker responded the personnel policies were not being discussed at this time although the Council could consider changes to the policies in the future.

Councilor Ragsdale requested the Council Transition Committee contemplate issues related to personnel and the transition of Executive Officers. Councilors Hansen and Collier concurred. Councilor Collier added that the personnel policies were in place for times such as this and it was not appropriate to consider changing the policies at this time.

Presiding Officer Waker said he had contacted attorney Garry Bullard to advise the Council on personnel transition issues. Outside legal counsel had been secured because Metro's General Counsel, Eleanore Baxendale, had been named by the Executive Officer-elect as an employee subject to resignation. For Ms. Baxendale to advise the Council on such matters would constitute a conflict of interest, he explained.

Councilor Van Bergen did not want to take any action until Mr. Bullard offered his legal advice.

Councilor Kirkpatrick agreed with others that no immediate action should be taken regarding placement services. She said she also

agreed with Councilor Collier about Metro's personnel rules. She hoped to resolve the transition issues quickly and positively.

Councilor Collier stated she would help to resolve the personnel issue as quickly as possible for all affected employees and would keep employees notified of Council actions. She preferred employees not initially hear about decisions from the news media.

Presiding Officer Waker explained the Executive Officer-elect had been reticent to use regular, informational channels since she had not officially assumed office.

3. EXECUTIVE OFFICER COMMUNICATIONS

Donald Carlson, Deputy Executive Officer, presented the Executive Officer's Report in the absence of Rick Gustafson.

One Percent for Art Ordinance. Mr. Carlson reported the first reading and public hearing of a proposed ordinance to set aside one percent for art for major Metro capital construction and renovation projects was scheduled for the December 18 Council agenda. Phillip Fell, Government Relations Manager, said the Council had received a draft version of the Ordinance and accompanying guidelines. He asked Councilors to contact him with questions and suggestions before the December 18 meeting.

West Transfer and Recycling Center. David Luneke, Solid Waste Engineer, said Washington County had accepted Metro's conditional use permit application and had 120 days in which to review the application.

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

6. CONSIDERATION OF MINUTES

Motion: Councilor Gardner moved to approve the minutes of November 13, 1986, and Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilors Cooper and Ragsdale

The motion carried and the minutes were approved.

7. ORDINANCES

7.1 Consideration of Ordinance No. 86-213, for the Purpose of Amending Metro Code Section 2.04.030 to Require Council Approval of Contracts with Another Government Agency (First Reading and Public Hearing)

The Clerk read the Ordinance a first time by title only. Ray Barker, Council Assistant, briefly presented staff's report.

Presiding Officer Waker asked why the agreement with Marion County for the transfer of solid waste had not been listed in staff's report as an intergovernmental agreement entered into during 1986. The Deputy Executive Officer responded that agreement had not been executed at the time the staff report had been prepared.

Motion: Councilor Ragsdale moved the Ordinance be adopted and Councilor DeJardin 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 was scheduled for December 18, 1986.

7.2 Consideration of Ordinance No. 86-214, for the Purpose of Establishing Solid Waste Disposal Charges, Regional Transfer Charges and User Fees; Amending Metro Code Sections 5.01.150, 5.02.020, 5.02.025, 5.02.045, 5.02.050, 5.02.060 and 5.02.070; and Establishing Metro Code Section 5.02.075 for Collection of a Certification Non-Compliance Fee (First Reading and Public Hearing)

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

Steve Rapp, Solid Waste Analyst, reviewed the "1987 Rate Study Executive Summary" which was included in the printed agenda materials. He explained the 1987 Rate Study was the first study to incorporate the implementation of the Waste Reduction Program, included a significant amount of diversion as well as reduction of waste to save landfill space, and projected future rates to provide guidance for long-range financial decision-making. He further

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explained the rate study considered financial management policies as well as stabilization of rate increases to avoid rate volatility in future years. Mr. Rapp then reviewed more specific provisions of the study.

Rich McConaghy, Solid Waste Analyst, discussed policy options available to the Council including recycling incentives, waste diversion and the solid waste fund balance. Other issues reported included the April 1, 1987, proposed effective date of new rates, special waste fees, tire rates and a public minimum charge for waste disposal.

In response to Councilor Kelley's question, Mr. McConaghy estimated a cost of about \$4.50 per ton if a geographic area did not comply with waste reduction program certification standards.

George Hubel, member of the Solid Waste Rate Review Committee (RRC) explained the \$4.50 per ton figure had been presented to the Committee but the RRC did not think there was enough support to impose the fee. Because the RRC considered the matter a political rather than fiscal issue, it had made no recommendation, he explained.

Mr. McConaghy said he hoped Metro would not have to impose the non-compliance fee but thought the existence of the fee would send a signal to any jurisdiction not in compliance with waste reduction policies.

Councilor Kelley questioned whether Metro had the authority to penalize a jurisdiction for non-compliance with waste reduction policies. She recommended deleting reference to the fee from the Ordinance until authority issues were settled.

Responding to Councilor Kelley's question regarding the commercial rate of \$16.90 per ton for disposal at St. Johns Landfill, Mr. McConaghy said a lower rate could effect Metro's bonding capability. Mr. Hubbel added the RRC debated the rate and most members thought the \$16.90 figure too high given Metro's problem of explaining a high solid waste operating fund balance. Mr. Hubel said he could not personally recommend a rate higher than \$16.70 per ton.

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

Presiding Officer Waker opened the public hearing on the Ordinance.

Dale Harlan, appearing before the Council for Estle Harlan, a representative of the Tri-County Council of the solid waste industry, read a statement prepared by Ms. Harlan. He also referred

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the Council to a letter from Ms. Harland to Metro's Solid Waste Rate Review Committee. Ms. Harlan expressed the following concerns with the Ordinance: 1) the time frame was too short for adequate review of the proposed rates; 2) it was not the cost effective to establish programs costing millions of dollars to extend the list of St. Johns Landfill only a few days; 3) Metro had no statutory authority to manage or regular collection programs such as imposing a \$4.50 per ton differential tip fee; and 4) the Council needed to identify and justify long-term needs when allocating the fund balance.

Referring to Ms. Harlan's letter to the RRC, Councilor Hansen asked staff to respond to Ms. Harlan's statement that \$1.3 million would be spent to add two days to the life span of St. Johns Landfill.

Mr. Rapp responded that the \$1.3 million was "seed" money which would derive future dividends: \$310,000 was allocated for resource recovery; \$300,000 for promotion and education; \$175,000 for market assistance; and \$35,000 for a waste composition study. He explained the impact of the curbside recycling collection program would add two days to the life of St. Johns Landfill. When other measures were considered, the landfill's life would be extended longer.

Ron Honstein testified the Washington County Refuse Haulers Association was opposed to increasing disposal fees. Metro's solid waste operating fund balance was ridiculously high, he said, and should be reduced. Mr. Honstein said his hauling firm paid about \$6,500 a year to Metro for dumping fees and he resented being Metro's tax collector. He said Metro could have saved money by siting a new landfill in Newberg in 1982 when Angus McPee offered his landfill site for that purpose. He criticized the performance of Metro's Solid Waste Department staff and in response to Councilor Frewing's question about ways Metro could save money, he suggested the staff person who worked to site the west transfer and recycling center be fired now that the facility was sited.

Merle Irvine, Manager of Oregon Processing & Recycling Center, supported removal of user fees and transfer charges from source separated material. This practice, he said, was consistent with the State mandated waste reduction program. Mr. Irvine encouraged Metro to adopt policies other than rate differentials for a viable waste reduction program.

Presiding Officer Waker read a letter from Michael M. Miller, President of Goodwill Industries of Oregon. Mr. Miller strongly encouraged Metro to keep tipping fees low for his industry. "Without Goodwill's reprocessing and recycling efforts, more than 15 million additional pounds of materials would in all likelihood be shipped to local landfills rather than being recycled."

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The Presiding Officer also read a letter from Elizabeth Haglund, President of the Society of St. Vincent de Paul. Ms. Haglund also urged low tipping fees for source separated waste. She explained disposal fees paid by St. Vincent had increased to an average rate of about \$3,000 a month. She believed the proposed rate increased for April 1, 1987 would further jeopardize the Society's Community Service Program. "Based upon our experience, a rate increased will result in an increased flow of unusable materials through illegal dumping."

Councilor Van Bergen, referring to Mr. Irvine's earlier statement that Metro should employ methods other than rate differentials to reduce waste, requested he relate ideas for staff consideration.

Jack Flemming, 6233 N.E. Alameda, Portland, a Metro area recycler, testified the current \$3.5 million solid waste operating fund balance was too high, his disposal charges were too high and as such, he should receive a rebate. He explained it was becoming very difficult to run a profitable recycling business in light of high disposal fees and the fact that the City of Portland planned to subsidize a recycling program. He agreed with Mr. Honstein's earlier testimony that it was unfair to use waste collectors as tax collectors. He did not think true costs had increased enough to warrant another rate increase.

The Presiding Officer explained Metro's high fund balance was a direct result of the fact that the disposal rates at St. Johns Landfill had been the lowest in the region. Far more waste was disposed at that facility than projected because of low disposal rates and thus, a high fund balance had resulted. Metro now needed to find another place to dispose of the region's waste, he said.

Councilor Gardner further explained to those testifying earlier that Metro's rate policies were in direct response to Senate Bill 662 and the State's mandate to reduce the amount of waste landfilled.

Mr. Flemming noted the State had mandated that be done in a cost effective manner. Councilor Gardner said "cost effective" must be defined as "reasonable" rather than "cheapest."

The Presiding Officer asked if Councilors had concerns or specific amendments for staff to consider before the second reading of the Ordinance on December 18.

Councilor DeJardin said he was concerned about the use of the word "manage" when defining Metro's solid waste authority. Per Dale Harlan's testimony, he did not want "manage" to be construed as authority to collect solid waste.

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Councilor Ragsdale said he was concerned rates be reasonable but still comply with the State's mandate to reduce waste. Mr. McConaghy referred to a chart in staff's report which projected disposal rates if no alternative technology project were in place and another landfill were needed.

There being no further testimony, Presiding Officer Waker closed the public hearing and announced the second reading of the Ordinance would take place on December 18, 1986.

9. OTHER BUSINESS

9.1 Discussion and Public Hearing Regarding the Zoo Tax Levy Ballot Measure

The Presiding Officer announced the Council would conduct the public hearing on this matter at this time out of respect to the public expecting the hearing to start promptly at 7:00 p.m.

Donald Carlson, Deputy Executive Officer, and Councilor Kirkpatrick, liaison between the Metro Council and Friends of the Washington Park Zoo, introduced Resolution No. 86-714 which would establish a ballot title for the proposed \$5.5 million, three year Zoo tax levy.

Presiding Officer Waker opened the public hearing.

Carol Bailey, Director of the Friends of the Zoo (FOZ), said she was speaking on behalf of the FOZ Board of Directors in support of the proposed levy. The Board had reviewed the ballot title and explanation and supported its language, she said, and the FOZ Board would allocate \$5,000 to the Zoo tax levy campaign effort.

Councilor Kirkpatrick said the Council's Zoo Planning Committee recommended the language contained in the proposed ballot title and explanation. The levy would allow Metro to complete the Africa Bush Exhibit and other important projects, she said.

Councilor Hansen asked if the \$500,000 increase over the previous levy would result in a change in the Zoo's operations budget. Kay Rich, Assistant Zoo Director, replied the Zoo's operations costs would increase but the operations budget would continue to be comprised of 50 percent non-tax revenue.

Councilor Frewing said that during discussions of the levy at the Council's Zoo Planning Committee meetings, he had expressed his conviction that the new levy should be devoted exclusively to operations. He said there were other needs for tax dollars in the community and a capital levy would compete with other priorities.

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Councilor Ragsdale, also a member of the Zoo Planning Committee, supported the proposed levy and urged other Councilors to do likewise. He said it was an important community resource that deserved continued funding.

There being no further testimony, the Presiding Officer closed the public hearing and announced Resolution No. 86-714 would be considered for adoption by the Council at the meeting of December 18, 1986.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 86-680, for the Purpose of Amending Resolution No. 86-659, Revising Appropriations, Creating a Convention Center Project Capital Fund and Convention Center Project Management Fund, and Authorizing an Interfund Loan (Public Hearing)

Jennifer Sims, Management Services Director, reported the Council's Convention Center Committee had reviewed the Resolution at their meeting of November 20. The Tax Supervising & Conservation Commission (TSCC) had conducted a hearing on the proposed budget revision and their suggestions for modifications were included in the Resolution now before the Council.

Councilor Ragsdale, Chairman of the Council's Convention Center Committee, explained the Committee endorsed the budget. He said the Committee was still examining some financial issues but would endorse this package through the end of FY 1986-87. A larger, more complete fiscal program would be introduced as part of the FY 1987-88 program, he said.

Presiding Officer Waker opened the public hearing on the Resolution. There being no testimony, he closed the public hearing.

Motion: Councilor Ragsdale moved Resolution No. 86-680 be adopted as submitted. Councilor Van Bergen seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilor Cooper

The Motion carried and the Resolution was adopted.

Tuck Wilson, Convention Center Project Director, reported staff and advisors were currently in the process of selecting a design team to recommend to the Council for approval.

8.2 Consideration of Resolution No. 86-711, for the Purpose of Amending Resolution No. 86-659, Revising the Intergovernmental Resource Center (IRC) Budget and Appropriations, and Authorizing a New Position (Analyst 3) and Contractual Agreements

Ms. Sims explained that Resolution No. 86-700, adopted by the Council on November 20, 1986, had identified the need for more technical assistance to the IRC program. Resolution No. 86-711 would provide that assistance by adding a new analyst position and revising the budget accordingly. Further, two contracts would be approved which would increase the District's computer capabilities.

Presiding Officer Waker said that as Chairman of the Joint Policy Advisory Committee on Transportation (JPACT), he supported the Resolution which would provide remote computer terminals for traffic forecasting.

In response to Councilor Ragsdale's concerns about computer vendors, Keith Lawton, IRC Technical Manager, explained staff had previously undergone an extensive selection process for vendors.

Motion: Councilor Kelley moved the adoption of Resolution No. 86-711 and Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilor Cooper

The Motion carried and Resolution No. 86-711 was adopted.

8.3 Consideration of Resolution No. 86-708, for the Purpose of Initiating Consideration of a Locational Adjustment Near Sherwood and Waiving Assignment to a Hearings Officer

Councilor Kirkpatrick introduced the Resolution. She explained a constituent had requested a minor adjustment to the Urban Growth Boundary (UGB) be made to correct a surveying error undetected at the time an original UGB adjustment had been made in Sherwood north of Edy Road. The property owner believed that Metro's regular adjustment procedures, which would involve up to \$1,500 in Hearings

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Officer costs, was excessively costly and cumbersome for so small and simple a proposed adjustment. The Councilor suggested keeping costs down by allowing the Council to hear the matter directly instead of a paid Hearings Officer.

Jill Hinckley, Land Use Coordinator, agreed the adjustment was very minor and if the Council adopted Resolution No. 86-708, the findings could be brought before the Council in January.

Motion: Councilor Kirkpatrick moved to adopt Resolution No. 86-708 and Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

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

Absent: Councilor Cooper

The motion carried and Resolution No. 86-708 was adopted.

Councilor Ragsdale was pleased the system for adjusting the Urban Growth Boundary worked well and was flexible enough not to be cumbersome.

8.4 Consideration of Resolution No. 86-709, for the Purpose of Extending the Date Set in Resolution No. 86-650 by which the Council Will Amend the Urban Growth Boundary for Contested Case No. 85-7 (Kaiser)

Ms. Hinckley reported the Council had adopted Resolution No. 86-650 on June 26, 1986, which approved the petition by Kaiser Development Company for an amendment to add about 450 acres the Urban Growth Boundary (UGB) in the Sunset Corridor. Because the property was outside Metro's boundaries, the Council lacked jurisdiction to amend the UGB at that time. Therefore, pursuant to its rules for such situations (Ordinance No. 85-189, Section 2, paragraph 3.01.070(c)(1)), Resolution No. 86-650 expressed the Council's intent to amend the UGB as petitioned once the property was annexed to Metro, provided the annexation occurred within six months. The deadline was intended to ensure the findings of fact adopted by the Resolution were current enough to be relied upon when the Council adopted the Ordinance that would actually amend the UGB. Due to the length of the process in seeking Metro annexation, the petitioners were unable to meet the Council's six-month deadline. Because the delay was unforeseen and unavoidable, staff recommended the deadline be extended to March 30, 1987. No person's rights were adversely affected by this waiver of the Code deadline, Ms. Hinckley noted.

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Councilor Ragsdale questioned whether the March 30 deadline would allow adequate time for annexation proceedings. Ms. Hinckley said she wanted to keep the timeline firm but thought one month's additional time might be needed. Councilor Ragsdale suggested extending the deadline to April 30 to avoid the expense of appealing the deadline before the Council another time.

Motion to Amend: Councilor Ragsdale moved to amend the deadline stated in Resolution No. 86-709 to April 30, 1987. Councilor Frewing seconded the motion.

In response to Councilor Gardner's question, Ms. Hinckley said if the facts of the case were stale when the Council considered an Ordinance to amend the UGB, the Council would be briefed an additional time.

Vote on Motion to Amend: The vote resulted in:

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

Absent: Councilor Cooper

The motion carried and Resolution No. 86-709 was amended.

Main Motion: Councilor Ragsdale moved to adopt Resolution No. 86-709 as amended and Councilor DeJardin seconded the motion.

Vote on Main Motion: The vote resulted in:

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

Absent: Councilor Cooper

The motion carried and Resolution No. 86-709 was adopted as amended.

10. COMMITTEE REPORTS

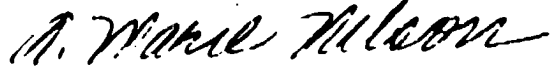
None.

Councilor Kirkpatrick asked staff to provide Councilors with current Zoo Master Plans.

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There being no further business, Presiding Officer Waker adjourned
the meeting at 8:10 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "A. Marie Nelson".

A. Marie Nelson
Clerk of the Council

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