

**MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT**

**Regular Meeting
January 8, 1987**

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

Also Present: Rena Cusma, Executive Officer

Staff Present: Eleanore Baxendale, Vickie Rocker, Norm Wietting, Rich McConaghy, Jennifer Sims, Tuck Wilson, Chuck Stoudt, Cathy Vandehey, Doug Drennen, Dennis Mulvihill, Steve Rapp, Randi Wexler, Randy Boose, Cathy Thomas, Jan Schaeffer, Phillip Fell, Neil McFarlane, Audrey Lloyd, Gerald Uba, Jennifer Agnew, Ray Durbin, Mike Keele, Keith Lawton, Lee Marshall, Kathy Rutkowski, Dee Saeland-Wright, Steve Siegel and Kathy Tesdal

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

1. INTRODUCTIONS

Councilor Kelley introduced F. Sweeney Tuck and Dave De Silva from Fluor Industries, proposers on Metro's solid waste alternative technology project.

2. COUNCILOR COMMUNICATIONS

Because Councilor Van Bergen was unable to attend the swearing in ceremony for Councilors on January 2, 1987, Presiding Officer Waker administered the oath of office to Councilor Van Bergen for his new term of office.

2.1 Election of Council Officers for 1987

The Presiding Officer reviewed the Council's rules for electing officers.

Motion: Councilor DeJardin moved, seconded by Councilor Ragsdale, to nominate Presiding Officer Waker as Presiding Officer of the Council for calendar year 1987.

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There were no other nominations for the position of Presiding Officer.

Vote: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried and Presiding Officer Waker was re-elected Presiding Officer of the Council for calendar year 1987.

Motion: Councilor DeJardin moved, seconded by Councilor Collier, to nominate Councilor Gardner as Deputy Presiding Officer for the calendar year 1987.

There were no other nominations for the position of Deputy Presiding Officer.

Vote: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried and Councilor Gardner was re-elected Deputy Presiding Officer of the Council for calendar year 1987.

2.2 Appointments to Council Committees

Presiding Officer Waker announced he would defer making appointments until the January 22 Council meeting.

2.3 Consideration of Resolution No. 87-730, for the Purpose of Expressing Appreciation to Jennifer Agnew, Ray Durbin, Mike Keele, Keith Lawton, Lee Marshall, Kathy Rutkowski, Dee Saeland-Wright, Steve Siegel and Kathy Tesdal for Services Rendered to the Metropolitan Service District

Presiding Officer Waker announced the employees named in the Resolution had served ten and fifteen years service to the District, which had included service under the CRAG and MSD organizations. He read the Resolution and commended the employees for their service.

Motion: Councilor Kirkpatrick moved to adopt Resolution No. 86-730 and Councilor Van Bergen seconded the motion.

Vote: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried and the Resolution was adopted. Presiding Officer Waker and Deputy Presiding Officer Gardner presented a plaque of appreciation to each employee named in the Resolution.

3. EXECUTIVE OFFICER'S REPORT

Executive Officer Cusma reported she was continuing to work with the Council Transition Committee. She said she had distributed to Councilors a memo which listed the members of her transition team. Ray Phelps, she reported, had been contracted to do work preliminary to a performance audit concerning contract and federal grant compliance.

3.1 Report on the Status of the Urban Growth Boundary

Presiding Officer Waker announced the report would not be given due to the absence of Jill Hinckley, Land Use Coordinator.

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

6. CONSENT AGENDA

6.1 Consideration of Ratifying the Marion County Disposal Agreement as Modified by the County Commission

Jack Deines, citizen, requested item 6.1 be removed from the Consent Agenda and would be discussed before a motion for approving the agreement was received.

Motion: Councilor Hansen moved, seconded by Councilor Ragsdale, to remove item 6.1 from the Consent Agenda.

Vote: A vote on the motion resulted in all twelve Councilors voting aye.

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

Mr. Deines strongly urged the Council not to ratify the agreement. He said the arrangement would require Metro to pay Marion County over \$600,000 for burning waste that Metro could pay \$106,000 to bury at St. Johns Landfill. He questioned why the Council would authorize an agreement that would pay \$2.4 million to extend St. Johns another four months. He did not think anything positive would come out of the arrangement and asked the Council to at least defer taking action until they fully understood the terms of the contract. Marion County, he said, had all the leverage under the agreement and Metro had no options.

Councilor Gardner said the per ton disposal cost to Marion County was much lower than that calculated by Mr. Deines.

Mr. Drennen explained the primary incentive for entering into a contract with Marion County to divert waste was because the City of Portland would assess Metro a penalty of \$1.2 million per year for exceeding allowable tonnage limits at St. Johns Landfill. Mr. Deines thought the contract with the City of Portland could be renegotiated to avoid the penalty fee.

Estle Harlan, representing the Tri-County Council of the sanitary service industry, distributed written testimony to the Council. He said the Tri-County Council requested the Council adopt a resolution requiring all revenues collected for diversion to Marion County be carefully monitored and measured against expenditures so that appropriate adjustments could be made in next year's budget if diversion tonnage fell below the 40,000 tons for this year.

Mr. Drennen explained staff monitored the figure very closely on a monthly basis and reports on same were regularly distributed to the Council.

Motion: Councilor Kelley moved the agreement with Marion County be ratified and Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried and the agreement was ratified.

III Consideration of Ordinance No. 37-217, for the Purpose of Amending Section 11.01010 of the Metro Code Relating to Transfer of Solid Waste - First Reading and Public Hearing

The clerk read the Ordinance by title only. Presiding Officer Deines explained the Ordinance would give the Council a role in the transfer of waste to transport and dispose of the region's waste at facilities which were not franchised by the District and which could be located outside the region's boundaries. The Ordinance, as explained, would amend Section 11.01010 of the Code and shift the authority for authorization from the Executive Officer to the Council.

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

Presiding Officer Deines opened the public hearing on the Ordinance

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Carol A. Powell, Oregon City Commissioner, 301 Washington Street, Oregon City, Oregon, testified regarding agenda item 8.5, "Resolution No. 86-721, Stating the Availability of Claciamas Transfer & Recycling Center Property." Her testimony is recorded later in these minutes under agenda item 8.5

Estle Harlan, representing the Tri-County Council of the sanitary service industry, questioned Metro's authority over solid waste flow control. Eleanore Baxendale, Metro's General Counsel, responded that Metro had such control by virtue of ORS 268.317: Dean Gisvold, an attorney formerly on contract with Metro, offered a written legal opinion dated January 19, 1981, stating Metro clearly had control over the flow of solid waste. In response to Ms. Harlan's further questioning, Ms. Baxendale said she would check to see whether Metro had requested additional authority from the State Legislature over a previous bonding issue, although she did not think Metro had.

Presiding Officer Waker requested staff provide Ms. Harlan and Councilors a copy of Mr. Gisvold's 1981 opinion.

Alayne C. Woolsey, 818 4th Street, Oregon City, testified regarding agenda item 8.5. Her testimony is recorded later in these minutes under that item number.

There was no further testimony and Presiding Officer Waker closed the public hearing on Ordinance No. 87-217. He announced the second hearing would occur at the Council meeting of January 22, 1987.

7.2 Consideration of Ordinance No. 87-218, for the Purpose of Amending Metro Code Section 5.01.030 Regarding Personnel Rules for Appointments (First Reading and Public Hearing)

The Clerk read the Ordinance by title only.

Randy Boose, Personnel Officer, explained the Ordinance was being brought before the Council at its request. The positions of Finance & Administration Director and Convention Center Project Director were proposed to be added to the list of positions requiring Council confirmation. He also noted that the Ordinance had incorrectly listed ORS Chapter 668.180. That reference should be changed to read 268.180, he said.

Motion: Councilor Kirkpatrick moved the Ordinance as corrected be adopted and Councilor Gardner seconded the motion.

There was no public testimony on the Ordinance.

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After discussion about the correct title of the Convention Center Project Director, Mr. Boose said when the position was first created, the title was "Convention, Trade & Spectator Facility (CTS) Director." However, the more descriptive working title had become "Convention Center Project Director." Councilor Ragsdale requested staff work with the Project Director to ensure all Metro documents reflected the correct position title. Mr. Boose said he would bring back an amendment for Council consideration which reflected the correct title.

The Presiding Officer announced the second reading of the Ordinance would occur on January 22, 1987.

7.3 Consideration of Ordinance No. 87-216, for the Purpose of Adopting Contract Procedures and Repealing Chapter 2.04.001 to 2.04.270 (Second Reading)

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

Main Motion: Councilors DeJardin and Van Bergen moved the Ordinance be adopted at the First Reading of the Ordinance on December 18, 1986.

Eleanore Baxendale, General Counsel, distributed a memo which requested the Council amend the Ordinance to reflect the new position of Finance & Administration Director and the existence of the Finance & Administration Department.

Motion to Amend: Councilor Kelley moved, seconded by Councilor Kirkpatrick, to amend the Ordinance as follows: 1) all occurrences of the "Director of Management Services" or "Manager of Accounting" be amended to read "Director of Finance and Administration;" 2) all occurrences of the "Management Services Division" or "Manager of Accounting" be amended to read "Department of Finance and Administration;" and all occurrences of a combined reference to "Director of Management Services and Manager of Accounting" be amended to read "Department of Finance and Administration."

Vote on Motion to Amend: A vote on the motion to amend resulted in all twelve Councilors voting aye.

The motion carried and the Ordinance was amended.

Vote on Main Motion: A roll call vote on the main motion, as amended, resulted in all twelve Councilors voting aye.

The motion carried and Ordinance No. 86-216 was adopted as amended.

7.4 Consideration of Ordinance No. 87-215, for the Purpose of Establishing a One Percent for Art Program for the New Construction or Major Alteration of Major District Facilities (Second Reading); and

8.1 Consideration of Resolution No. 87-717, for the Purpose of Establishing Guidelines for Metro's One Percent for Art Program

The Clerk read the Ordinance by title a second time. Presiding Officer Waker announced the first reading and public hearing of the Ordinance had occurred on December 18, 1986.

Motion: Councilors DeJardin and Knowles moved the Ordinance be adopted at the meeting of December 18, 1986.

Phillip Fell, Legislative Liaison, explained at the December 18 meeting, the Council requested staff prepare amendments addressing six areas: 1) art may serve functional as well as aesthetic purposes (Kelley); 2) the Council should have the ability to exclude projects from the provisions of the Ordinance (Van Bergen); 3) Council should have the ability to determine location for display of artworks (Waker); 4) if artworks were to be placed in a neighborhood, that neighborhood should have an opportunity to present its preferences to the Advisory Committee (Knowles); 5) performing arts should be an eligible expenditure (Frewing); and 6) Council should have the option of spending "up to" one percent for art (Waker).

John Frewing, a Metro Councilor until December 31, 1986, testified it was his understanding that at the first reading of the Ordinance, the Council wanted the performing arts included in the program and that the program not be limited to local artists.

A discussion followed about how to administer a performing arts program. Mr. Frewing suggested a trust fund, ideally administered by the Metropolitan Arts Commission or another body, be established from which performing artists could be paid. He explained Michael Russo, a local artist who had testified at the December 18 public hearing, had urged Metro's arts program incorporate art which related to the region's unique character. Performing arts, he said, would achieve that goal.

Responding to Councilor Ragsdale's question, Mr. Fell reported the Ordinance as now written would fund performing arts facilities and equipment.

Edwin Schneider, President, Oregon Youth Philharmonic Association, spoke in support of including performing arts in the Ordinance. He

said a revolving trust fund, as suggested by Mr. Frewing, would be the best way to administer a performing arts program.

Greg Moss, past President of Oregon Artists Equity and current President of the National Artists Equity Association, urged the Council to limit its program to visual arts. He explained the visual artists' potential for earning revenue was limited to one time, he could not sell season tickets and his materials were often costly. Other jurisdictions had determined it best to limit programs to visual arts, he said.

Constance Haws, 19920 S.W. Oak Court, Aloha, objected to including performing arts in the program because audiences would have only one opportunity to enjoy a performance. Visual arts, however, could be enjoyed continuously.

There was no further testimony.

First Motion to Amend: Councilor Kelley moved, seconded by Councilor Gardner, to amend Resolution No. 87-717, page 2, Guideline II(G), "Works of Art," to include a new paragraph to read "Artworks which possess functional as well as aesthetic qualities."

Vote on the First Motion to Amend: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried and Resolution No. 86-717 was amended.

Second Motion to Amend: Councilor Van Bergen moved, seconded by Councilor Hansen, to amend Ordinance No. 87-215 as follows:

1. Replace the existing definition for "District Facility" with the following definition: "D. 'District Facility' means those facilities constructed at the direction of the District."
2. Replace the existing definition for "Major District Construction Project" with the following definition: "E. 'Major District Construction Project' ('Project') means projects for construction, reconstruction or major renovation of a District facility with an estimated construction cost of \$100,000 or more. 'Major District Construction Project' does not include emergency work, minor alteration, ordinary repair of maintenance necessary to preserve a facility."

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Mr. Fell explained the Council would be voting on the concept of the amendment and staff would return on January 22 with more refined language for final consideration.

Councilor Knowles said he did not understand the need for the above amendment when the Council could exempt a program by resolution at any time. Eleanore Baxendale, General Counsel, explained that by establishing a clear policy by ordinance, the Council would be adopting a process that would most likely not be challenged in the future.

Councilor Knowles questioned whether the budget adoption process or the time when a contract was approved would be the most appropriate time to determine if the art program should apply to specific construction projects. Ms. Baxendale said she had discussed that issue with Kay Rich, Assistant Zoo director because the Zoo was the most prolific contractor in the agency. Mr. Rich had advised making a determination when a project architect was selected because the architect needed basic knowledge about what the project would include. Ms. Baxendale recommended the Council specify a time in the Ordinance.

After discussion, Councilors Ragsdale, DeJardin and Knowles agreed the Council should have the authority to deem a project inappropriate for the art program and to allocate those funds to another project. Councilor Kelley, however, was not sure the Council would want to spend the large amounts demanded by upcoming solid waste facilities projects.

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

Ayes: Councilors Bonner, Collier, Cooper, Gardner, Hansen, Kelley, Kirkpatrick and Van Bergen

Nays: Councilors DeJardin, Knowles, Ragsdale and Waker

The motion carried.

Mr. Fell discussed a proposed amendment to the Ordinance and Resolution that, if adopted, would allow the display of artworks in locations other than actual Metro facilities.

In response to Councilor Bonner's concern, Ms. Baxendale said staff could draft language clarifying that the Council would determine the general location (i.e. facility) rather than specific placement (i.e. which wall) for artwork.

Third Motion to Amend: Councilor Knowles moved, seconded by Councilor Van Bergen, that Criteria V(B) and (D) of Resolution No. 87-717 be changed to read:

"B. In making the decisions regarding the expenditure of the Program funds, the Advisory Committee shall be guided by the goals and purposes of these Guidelines and the criteria set forth below. The Committee will first recommend to the Council appropriate locations for the display of the art. In addition: the Advisory Committee shall select Works of Art which are technically feasible to produce, display and maintain; the selection of the Artist(s) who will provide art integral to the project will be made as early in the conceptual design stage as practical, so the Artist(s) will be able to work with the Architect from the beginning of the project.

"The Committee will prepare a budget for its administrative operations and the selection process; funds may not be expended unless in conformance with the budget. Next the Committee shall prepare a statement of the procedures to be followed in the selection process. These procedures shall cover at least the method of advising prospective competitors of the selection process, a time schedule of the Committee's work, the nature of the proposals sought, the process by which the Works of art will be chosen, and the means of accomplishing the purposes of these Guidelines set forth above.

"D. The Advisory Committee shall solicit opinions regarding suitable art forms from the affected neighborhood."

The language was moved for adoption in concept only with the understanding staff would return with more refined language for final adoption by the Council at a later date.

Councilor Knowles explained he was proposing the amendment in order to bring about greater community involvement in the art program.

Councilor DeJardin suggested that under the proposed amendment, artwork could be placed in the Oregon City community to enhance the City's historical promotion efforts.

Councilor Hansen proposed a neighborhood representative be added to the artwork selection and placement committee. Presiding Officer

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Waker said guidelines could be developed at a later date which would establish those procedures.

Vote on Third Motion to Amend: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried.

Responding to Councilor Hansen's earlier statement, Councilor Knowles said he had considered the option of having a neighborhood representative on selection committees but decided that provision was unnecessary because it would not guarantee the neighborhood representative would have the required technical expertise to judge the merit of proposed artworks.

A discussion followed the definition of "adjacent" in the Ordinance as it applied to artworks. Councilor Van Bergen said defined "adjacent" as directly on the premises of a Metro facility. Councilor Knowles said the artwork could be near the capital investment. Presiding Officer Waker instructed staff to return with final language for Council adoption that would define "adjacent" as very near the capital project. Councilor Van Bergen said he was still opposed to that language.

The Council then discussed whether the Ordinance should include performing arts. Councilor Cooper did not think performing arts appropriate because the benefits of such art were not long lasting.

Councilors Ragsdale and DeJardin supported including performing arts because visitors could easily glean the "Oregon experience" from performances. Councilor Ragsdale suggested a subcommittee be established to recommend specific language and guidelines for performing arts.

Councilor Gardner supported commissioning performing artworks because they could be performed repeatedly.

Councilor Van Bergen did not support including performing arts because he thought it too difficult to administer. He questioned whether the Council had the capability to establish an ongoing trust fund.

Councilor Knowles also opposed performing arts saying the Council should restrict its investment to works of a capital nature. Presiding Officer Waker concurred.

Councilor Bonner did not object to including performing arts in the Ordinance.

Fourth Motion to Amend: Councilor Van Bergen moved, seconded by Councilor Bonner, to amend the one percent for art Ordinance and Resolution to include provisions for performing arts.

Councilor Hansen said he would support the motion because the Advisory Committee could offer assistance in recommending how a performing arts program should be administered.

Councilor Knowles again explained he was strongly opposed to including performing arts in the program. He said the Council should limit its investment to capital items, especially if borrowed funds were being used to finance facilities.

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

Ayes: Councilors Bonner, DeJardin, Gardner, Hansen and Ragsdale

Nays: Councilors Collier, Cooper, Kelley, Kirkpatrick, Knowles, Van Bergen and Waker

The motion failed.

Fifth Motion to Amend: Councilor Van Bergen moved, seconded by Councilor Cooper, to amend the Ordinance and Resolution to provide for funding projects "up to one percent" rather than a full one percent.

Councilor Van Bergen explained it could be impossible to purchase artworks that were exactly one percent of the value of a total facility.

Councilor DeJardin said he supported a full one percent program. Any unused funds could be set aside for other projects, he explained, and a full one percent program represented a clear commitment to the program.

Vote on Fifth Motion to Amend: A vote resulted in:

Ayes: Councilors Cooper and Van Bergen

Nays: Councilors Bonner, Collier, DeJardin, Gardner, Hansen, Kelley, Kirkpatrick, Knowles, Ragsdale and Waker

The motion failed.

Motion to Continue the Ordinance: Councilor Ragsdale moved, seconded by Councilor DeJardin, to continue the second reading of Ordinance No. 87-215 to the meeting of January 22, 1987.

Vote on Motion to Continue: A vote resulted in all twelve Councilors voting aye.

The motion carried.

Motion to Continue to Resolution: Councilors Kirkpatrick moved, seconded by Councilor DeJardin, to continue consideration of Resolution No. 86-717 to the meeting of January 22, 1987.

Vote on Motion to Continue: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried and Ordinance No. 87-215 and Resolution No. 87-717 were continued to the meeting of January 22, 1987.

Presiding Officer Waker called a recess at 8:10 p.m. Deputy Presiding Officer Gardner reconvened the Council at 8:30 p.m. and explained Presiding Officer Waker left the meeting due to illness.

8.2 Consideration of Resolution No. 87-702, for the Purpose of Adopting Principles for a Legislative Program for the 1987 Legislative Session

Mr. Fell reported the Resolution before the Council did not include proposals for solid waste legislation because the Council Legislative Planning Committee determined it would be appropriate to seek the recommendation of the Council Solid Waste Committee prior to formal adoption of any proposed solid waste legislation. He then reviewed the major legislative programs recommended for 1987 including general government funding, Convention Center funding, transportation and administration.

Councilor Van Bergen said he did not support the proposed administration-related legislation concerning the definition of Zoo overtime pay. He thought Metro should be subject to the same tests as any other business.

Councilor Collier, Chair of the Legislative Planning Committee, reported the Committee met informally with Metro area legislators. The Solid Waste Committee would consider a recommendation for solid waste legislation at their meeting of January 13. Regarding Councilor Van Bergen's concerns, she said she also was uncomfortable with the Zoo overtime issue and would bring back more information to the Council on the matter.

Councilor Kirkpatrick asked the Legislative Planning Committee to work with county election officials in order to have a March Zoo levy election conducted in one mode. She said current plans called for Washington and Clackamas Counties conducting the election by mail and Multnomah County by regular ballot. She explained that situation would require two different campaigns.

Councilor Ragsdale said although he would support the transportation legislative package, he was concerned that the Oregon Department of Transportation (ODOT) had consistently underfunded the Metro region.

Motion: Councilor DeJardin moved, seconded by Councilor Hansen, to adopt Resolution No. 87-702 with the exclusion of the legislative program entitled "Administration."

Vote: A vote on the motion resulted in all eleven Councilors present voting aye. Presiding Officer Waker was absent.

The motion carried and Resolution No. 87-702 was adopted as amended.

8.3 Consideration of Resolution No. 87-728, for the Purpose of Reappointing Citizen Members to the Solid Waste Rate Review Committee

Ray Barker, Council Assistant, presented staff's report.

Motion: Councilor Kirkpatrick moved to adopt the Resolution and Councilor Van Bergen seconded the motion.

Vote: A vote on the motion resulted in all eleven Councilors present voting aye. Presiding Officer Waker was absent.

The motion carried and Resolution No. 87-728 was adopted.

8.4 Consideration of Resolution No. 87-729, for the Purpose of Revising the FY 1986-87 Budget and Appropriations, and Authorizing Advance Payments to the Department of Environmental Quality (DEQ) for Landfill Siting (Public Hearing)

Doug Drennen, Solid Waste Engineering and Analysis Manager, introduced Steve Greenwood and Lydia Taylor of the DEQ. Mr. Drennen briefly reviewed staff's report as printed in the agenda materials.

Deputy Presiding Officer Gardner opened the public hearing on the Resolution.

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Estle Harlan, representing the Tri-County Council of the solid waste industry, objected to the proposed transfer of funds from Metro to the DEQ. She requested Metro ask the Legislature to place a limit on the amount of money DEQ could spend for landfill siting. She stressed that Metro's Solid Waste Operating Contingency Fund was not an endless money source for financing special projects.

Deputy Presiding Officer Gardner explained the Council's Solid Waste Committee shared many of Ms. Harlan's concerns and would discuss the issue at a future Committee meeting.

Steve Greenwood of the DEQ reported the Legislature had initially granted the Department \$2.47 million to site a new regional landfill. However, DEQ was requesting Metro advance them additional funds in order to complete necessary tasks to conclude the process by July 1, 1987. The funds would be repaid to Metro at a later date. If Metro did not advance DEQ additional funds, DEQ would have to increase landfill fees, he said.

A discussion continued about the financial status of the landfill siting project. Councilors Kirkpatrick, Knowles, Collier and Hansen all expressed concern and frustration because the DEQ was spending large amounts on the project Metro would eventually operate and the Council had not seen expense reports. Councilor Kirkpatrick added the situation was especially frustrating because Metro had already spent money on a different siting process. She suggested the Council send the matter back to the Emergency Board of the Legislature and that DEQ provide the Council with an audit of program expenses.

Mr. Greenwood expressed his concern about the Council's discussion. He said DEQ had offered to provide staff with information and the agency's monthly financial reports were public record. He stressed the additional funds were needed not because of bad management but because extra drilling and engineering work were needed in order to make a better siting decision.

Councilor Ragsdale noted his comments did not reflect on the quality of work done by DEQ but rather on the fact that Senate Bill 662 was bad legislation. He was not comfortable with granting a transfer of funds when Metro had no control over how the DEQ would spend the money and because Metro had been put in the position of tax collector for the Legislature's Emergency Board.

Lydia Taylor, Management Services Administrator for the DEQ, explained DEQ's request for a cash advance of Metro would greatly simplify the siting process and schedule. If Metro denied this request, the DEQ would be required to draft a full piece of legislation, she said.

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In response to Deputy Presiding Officer Gardner's question, Ms. Taylor said DEQ could not request additional funds of the Pollution Control Board, as had been done before, without another bond sale.

The Council further discussed their concerns with DEQ's request. Councilor DeJardin urged the Council not to impede the siting process by failing to adopt the Resolution. He explained that ordinarily he would oppose granting the advance when Metro seemed to have no control over expenditures, but he thought it more important to complete the siting process of July 1, 1987.

Councilor Kelley reported the Solid Waste Committee had expressed many of the same frustrations raised at this meeting. She said, however, she would support the Resolution because the alternative of raising landfill fees was not acceptable.

Councilor Ragsdale said he would not have supported the Resolution if it were possible for the DEQ to request funds from the Emergency Board. However, because the Board had already conducted its last meeting before the Legislature convened, he fully understood that to introduce a full piece legislation in order to get the additional funds needed would greatly interrupt the siting process.

Councilor Hansen said he was a critic of DEQ's financial process but to delay the process further by not adopting the Resolution would further increase the cost of siting and Metro to be asked to pay that extra cost.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Collier, that due to the initial \$1.3 million siting budget being increased to \$2.4 million, a letter be directed to the appropriate Legislative committee expressing the Council's concern that the funding advance granted by Metro represented a ceiling on landfill siting spending and that any extension of the July 1, 1987, siting deadline by the Legislature would result in withdrawal of Metro's financial support; and the Council be provided an audit and regular financial reports on DEQ's expenses for the landfill siting process.

Councilor Collier suggested the letter could be jointly signed by Metro and the DEQ. In response to Councilor Cooper's question, Councilor Collier said if DEQ did not sign the letter, the Council could repeal Resolution No. 87-729 and stop payments.

Councilor Hansen advised deferring the letter proposal to the Council's Solid Waste Committee. Councilor Kirkpatrick said she

would not object to the Committee discussing the letter concept if adoption of the Resolution were also delayed.

Mr. Greenwood explained if the Council delayed adoption of the Resolution until January 22, the DEQ would not be able to fund important tests that would provide information for inclusion into a draft siting report due for public distribution in April.

Councilor Knowles said he would not support the motion because Metro could not force DEQ to sign the letter. He agreed circumstances were uncomfortable but said Metro had to be responsible and move ahead with the project.

Mr. Greenwood said he was not comfortable with the proposal that funds be withdrawn if the July 1 deadline were extended because unforeseen factors could cause the Legislature to change the date. Councilor Kirkpatrick said she would be willing to negotiation if that were eventually the case.

Vote: A vote on the motion to send DEQ a letter resulted in:

Aye: Councilor Kirkpatrick

Nays: Councilors Bonner, Collier, Cooper, DeJardin, Gardner, Hansen, Kelley, Knowles, Ragsdale and Van Bergen

Absent: Councilor Waker

The motion failed.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Ragsdale, to adopt Resolution No. 87-729.

Vote: A vote on the motion resulted in all eleven Councilors present voting aye. Presiding Officer Waker was absent.

The motion carried and Resolution No. 87-729 was adopted.

8.5 Consideration of Resolution No. 87-721, for the Purpose of Stating the Availability of Clackamas Transfer & Recycling Center Property

Debbie Allmeyer, Solid Waste Analyst, summarized staff's report as contained in the written meeting agenda materials. She explained staff recommended adoption of the Resolution in response to a request from one of the proposers for the Resource Recovery Project for a statement of site availability. She emphasized that in stating the

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availability of the land adjacent to Clackamas Transfer & Recycling Center (CTRC), Metro was not indicating preference for the site itself or particular technology. Metro was stating the land parcel was available for solid waste disposal purposes consistent with local and state laws.

Public testimony on the Resolution was received earlier in the meeting but will be noted below.

Carol A. Powell, 301 Washington, Oregon City, a City of Oregon City Commissioner, testified the City of Oregon City had adopted a resolution against landfill sites in the area and a charter amendment against garbage burners close to Oregon City. She said the City was tired of being the garbage dump for the region. Oregon City was trying to build a tourist industry, she explained, and a fertilizer plant on the main access highway was not acceptable.

Alayne C. Woolsey, 818 4th Street, Oregon City, reviewed the actions taken by Oregon City and Clackamas County against a garbage burning facility in that area. She said citizens expended a great deal of time and money to stop Metro's past plans for a burner and the possibility the same land could be used for a garbage facility was very alarming to residents. Ms. Woolsey discussed Oregon City's efforts to promote its unique Oregon history and to preserve historic buildings which were not compatible with Metro's proposed plans. Finally, Ms. Woolsey said now was the time for public officials to restore credibility. Senate Bill 662 had given the Department of Environmental Quality (DEQ) the authority to site the next landfill over the wishes of the people, she said, and that was not the way things were done in Oregon. She urged the Council to care enough to take a long, second look at its process for major solid waste projects and to use the initiative and referendum process.

Councilor DeJardin concurred that Oregon City's historical importance was unique in that the entire western United States had a connection with the City. He hoped Metro's Convention Center Project would enhance those tourist and historical promotion efforts. However, he said, the region had to solve its garbage problems and he preferred not to continue to landfill garbage. The Councilor said he was especially sensitive to areas such as North Portland and Oregon City which had borne the brunt of solid waste in the past and he would take no action to damage the beauty of the Oregon City area.

Councilor Kelley questioned why it was "in the public's interest," as stated in the Resolution, to declare the site available for suitable resource recovery projects. Eleanore Baxendale, General Counsel, said it would be difficult to declare the site not suitable when Metro could eventually operate such a facility. She said the

Resolution could specify that only the successful bidder could use the property.

Motion: Councilor DeJardin moved to adopt Resolution No. 87-721 and Councilor Kirkpatrick seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Bonner, Collier, Cooper, DeJardin, Gardner, Hansen, Kelley, Kirkpatrick, Knowles and Ragsdale

Nay: Councilor Van Bergen

Absent: Councilor Waker

The motion carried and Resolution No. 87-721 was adopted.

9. OTHER BUSINESS

9.1 Consideration of the Evaluation Process and Criteria for Responses to the Requests for Proposals for Resource Recovery Project

Debbie Allmeyer, Solid Waste Analyst, reviewed staff's report and the proposed timeline and process for the resource recovery project proposals as contained in the written agenda materials.

Judy Dehen, 2965 N.W. Verde Vista, Portland, representing the Columbia Group of the Sierra Club, distributed a document dated January 8, 1987, entitled "Comments on Evaluation Criteria and Evaluation Form for Responses to Mass Incineration, RDF and Compost Request for Proposal." She reviewed the comments and said Metro's evaluation criteria were unacceptable because they failed to fully and faithfully reflect the intent of ORS 459.015. The technology did not have to be economically and technically preferable, only feasible, she said.

Councilor Ragsdale asked Ms. Dehen how mass burn technology would be in violation of ORS 459.015. She replied that according to the state mandated heirachy, mass burn could not be used if other technologies were economically feasible. She defined "feasible" as "doable."

Councilor Hansen said he had difficulty agreeing with Ms. Dehen's analysis because if compost technology were given preference over burning technology, much more garbage would be landfilled and the Legislature had identified landfilling at the lowest end of the

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heirachy scale. Ms. Dehen said she hoped technology would advance to the point where that would not be a problem.

Councilor Kelley explained the criteria and schedule had been closely reviewed by the Council's Solid Waste Committee and the State mandated heirachy was carefully followed. She urged adoption of the document.

Motion: Councilor Kirkpatrick moved to approve the evaluation process and criteria for responses to requests for proposals for the Resource Recovery Project. Councilor Bonner seconded the motion.

Councilor Kirkpatrick requested staff to review the written comments submitted by Ms. Dehen. She explained if changes to the process and criteria needed to be made based on staff's evaluation of those comments, staff could to bring those matters back to the Council.

Councilor Gardner, Chair of the Council's Solid Waste Committee, invited the Sierra Club to attend the Committee's meetings which were advertised and open to the public.

Vote: A vote on the motion resulted in all eleven Councilors present voting aye. Presiding Officer Waker was absent.

10. COMMITTEE REPORTS

There were no reports.

Councilor Kirkpatrick requested future staff reports to the Council contain information about Council committee recommendations. She explained if that information were included in reports, lengthy discussion regarding recommendations could be avoided.

Councilor Kirkpatrick requested that in compliance with Metro Code Sections 2.04.050, 2.04.051 and 2.04.052, the Executive Officer furnish the Council with copies of employment contracts for the Executive's transition employees.

There being no further business, Deputy Presiding Officer Gardner adjourned the meeting at 10:40 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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