

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

Regular Meeting  
May 14, 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 Rucker, Marc  
Madden, Judith Mandt, Chuck Stoudt, Ray  
Phelps, Gene Leo, Neil McFarlane, Sandy  
Bradley, Rich McConaghy, Dennis Mulvihill,  
Tor Lyshaug, Debbie Allmeyer and Unette  
Worley

Presiding Officer Waker called the meeting to order at 5:35 p.m.

1. INTRODUCTIONS

None.

2. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

3. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Mike Nelson, representing BenjFran Development Company, formally requested the Council extend the deadline from June 1 to July 15. He explained the Council had previously extended the deadline date to June 1, 1987, by which time BenjFran could file its petition to Metro for amending the Urban Growth Boundary. Mr. Nelson explained the process had taken longer than anticipated and all parties agreed that extending the deadline to July 15, 1987, would not cause any inconvenience.

Presiding Officer Waker announced his engineering firm, Waker & Associates, was currently involved in a project in the effected area and as such, he would not participate in any decision regarding the matter.

Marc Madden, Acting IRC Administrator, concurred the extension would not inconvenience staff.

After discussion, it was agreed staff should prepare a resolution requesting the extention the Council consideration adoption of the Resolution as part of the May 28 Consent Agenda.

4. COUNCILOR COMMUNICATIONS

4.1 Report from the Council Legislative Planning Committee  
Recommending a Council Position on State Legislation Regarding  
the Disposition of Plastics

Councilor Collier, Chair of the Legislative Planning Committee, reported the Committee would not make a recommendation due to the varied nature and the number of bills now before the Legislature.

5. EXECUTIVE OFFICER'S COMMUNICATIONS

Executive Officer Cusma reported on the status of certain Metro-related state legislation. She explained a new solid waste bill had been introduced before the House by Representative Ron Cease addressed mandatory recycling and Department of Environmental Quality oversight of particular solid waste responsibilities, among other things. She also reported she and the Presiding Officer would testify on SB 629 (regarding general separation of powers) next week.

6. MINUTES

Councilor Gardner requested the Clerk verify whether a vote to withdraw support of HB 2929, recorded on pages 4 and 5 of the March 26 minutes, was correct. (Note: subsequent verification confirmed that Councilor Hansen voted against the motion.) Councilor Cooper noted page 1 of the March 26 minutes should be changed to reflect that he had voted against the motion regarding designating Oregon City as the official end of the Old Oregon Trail.

Motion: Councilor DeJardin moved, seconded by Councilor Kelley, the minutes of Marcy 26 and April 14, 1987, be approved as amended.

Vote: A vote on the motion resulted in all eleven Councilors present voting aye. Council Knowles was absent. The motion carried.

8.3 Consideration of an Intergovernmental Agreement with the City of Portland for Receipt of Local Improvement District (LID) Proceeds to Partially Fund the Convention Center

Tuck Wilson, Convention Center Project Director, reported the agreement was a mechanism which transferred \$5 million, collected through a City of Portland LID, from the City to Metro for use in constructing the Oregon Convention Center. The agreement would become effective upon Portland City Council approval of the LID time and manner ordinance, scheduled for early July 1987. Mr. Wilson then reviewed staff's written report.

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Councilor Ragsdale reported the Council Convention Center Committee unanimously recommended approval of the agreement.

Motion: Councilor Ragsdale moved the intergovernmental agreement be approved. Councilor Kirkpatrick seconded the motion.

Councilor Bonner asked if there was any opposition to the LID. Mr. Wilson reported the LID had the support of leading property owners and based on responses to a petition, the arrangement was popular with almost all the affected property owners. He was confident the City Council would approve the LID agreement.

Vote: A vote on the motion resulted in all eleven Councilors present voting aye. Councilor Knowles was absent. The motion carried.

## 8.2 Status Report and Public Hearing on the Convention Center Design

Tuck Wilson, Convention Center Project Director, reported the project design team, led by architects Zimmer Gunsul Frasca, had narrowed the project down to two design options. Tonight's hearing was one of several being conducted in the Metro area to obtain public comment on the options.

Dan Jugerty of Zimmer Gunsul Frasca presented slides of the architect's proposed designs. He discussed key design considerations including: accommodation of simultaneous conventions; accommodation of future expansion; access by service vehicles; access to and from existing light rail lines; view of downtown Portland from the convention center which could include plans for a future observation tower; and view of the convention center from downtown which could include a strong architectural feature such as twin towers or pyramid roof formations.

Presiding Officer Waker opened the public hearing.

An unidentified man asked why the architects had not considered high roofs as a means of establishing identity for the center that could be seen from other parts of town. Mr. Jugerty said cost was a major factor. The towers were an affordable option.

In response to Councilor Gardner's question, Mr. Jugerty explained the lobby, as originally designed, had a view of downtown Portland but that option did not allow for connection with MAX transit. Because transportation access was more important than identity with downtown, the facility was redesigned. He said a future observation tower or roof garden could supply interaction with downtown.

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There was no further testimony and the Presiding Officer closed the hearing.

Mr. Wilson reported the Council would be asked to make a final decision on the design plan.

7.1 Consideration of Resolution No. 87-760, for the Purpose of Adopting the Updated Washington Park Zoo Master Plan (Public Hearing)

Presiding Officer Waker announced the public hearing would be conducted at this meeting and that the Council would be asked to formally approve the Resolution on May 28, 1987.

Gene Leo, Zoo Director, reported he had presented a complete overview of the Updated Master Plan at the April 23 Council meeting. There were no additional questions of Mr. Leo on the Plan.

Presiding Officer Waker opened the public hearing. There was no testimony and the hearing was closed.

Councilor Kirkpatrick noted the staff report contained no recommendation from the Executive Officer. Executive Officer Cusma said she recommended adoption of Resolution No. 87-760.

Presiding Officer Waker called a recess at 6:40 p.m. The Council reconvened at 7:05 p.m.

8.1 Reconsideration of a Request by Hillsboro Garbage Disposal, Inc., to Transport and Dispose of Waste at a Proposed Reload Facility Which the Applicant Would Operate

Rich McConaghy, Solid Waste Analyst, reviewed the history of the request and the Council's previous actions related to the request. On April 9, 1987, the Council adopted a motion to deny the request, but on April 23 they adopted a motion to reconsider the matter. He then reviewed staff's findings regarding the request:

1. Hillsboro Garbage Disposal, Inc., could save about \$62,000 per year over the current cost of direct hauling to McMinnville. It was expected that approval of the request could allow Hillsboro Garbage to save about \$6,700 per year over the projected cost of using the existing Forest Grove Transfer Station.
2. The capacity of the Forest Grove facility should be more effectively utilized before investments in additional transfer stations to serve this area were made.

3. Approval of the request would have no additional effect in reducing current waste flows to the St. Johns Landfill.
4. Approval of the facility was not indicated in the current Solid Waste Management Plan and the reload operation would have an uncertain role within the developing solid waste system.
5. Approval of the request would allow one collection operator to save on his total costs while others, who might not be financially able to develop their own reload facilities, would be likely to pay a greater amount for transfer at facilities which were part of the regional system.
6. Approval of the facility on a long-term basis would set a precedent allowing the waste transfer system to develop in a fragmented and unplanned fashion.

Presiding Officer Waker asked if it would cost less for Hillsboro Garbage to use the future West Transfer & Recycling Center (WTRC) when it was built than to use the Forest Grove Transfer Center (FGTC). Mr. McConaghy said he could not answer the question at this time because it was not known whether Metro would waive regional transfer charges to the Forest Grove facility when WTRC opened.

In response to Councilor Van Bergen's question, Mr. McConaghy said the proposed Hillsboro facility would have no effect on reducing waste brought to CTCR.

Cathy Thomas of R.A. Wright Engineering, representing Hillsboro Garbage Disposal, Inc., addressed the Council. She introduced Ron Meyer of Hillsboro Disposal. Ms. Thomas explained the function of the proposed reload facility, its physical characteristics, and reported that Washington County had approved the facility. She said Metro had responded negatively to the proposal because it was not in the Solid Waste Management Plan. Ms. Thomas did not think that a valid reason to deny the proposal since Metro was currently considering two landfill proposals not in the Solid Waste Management Plan.

Mr. Meyer introduced Tim Howard, City of Hillsboro Assistant City Manager, and Shirley Huffman, Mayor of Hillsboro. Mayor Huffman testified in support of the proposed reload facility and referred to letters from herself and others which had been sent to Executive Officer Cusma supporting the facility. To deny the request would be to force Hillsboro Garbage into unfair competition with the FGTC, she said, and Metro could not guarantee when WTRC would be built.

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She emphasized that Hillsboro Garbage's proposal was for a temporary facility and it was not intended to replace Metro's regional system.

Councilor Knowles asked if Hillsboro Garbage would reduce its per can disposal rate if the reload facility were built. Ms. Thomas responded that rates would not be reduced but the facility would keep disposal costs from increasing in the future.

Councilor Knowles asked how Hillsboro Garbage would respond if WTRC were to open in two year. Ms. Thomas said the reload facility would be economical if it operated for at least five years. Mr. Meyers added that he would use WTRC if given no other option.

Councilor Gardner asked if Hillsboro Garbage would agree to close the reload facility upon the completion of WTRC as a condition of approval for this request. Ms. Thomas again explained the reload facility needed to be used a minimum of four or five years in order for the operation to be cost-effective.

Councilor Ragsdale asked if Hillsboro Garbage had a disposal agreement with Riverbend Landfill for the same five-year period. He explained his bias was to approve the request with the condition the waste was disposed outside the region. Mr. Meyers said he had such an agreement with Riverbend and could guarantee the waste would be hauled there during the reload facility's five-year amortization period. Presiding Officer Waker reminded Councilor Ragsdale that Metro had not yet made a decision to exercise any sort of flow control over a solid waste facility. He thought it preferable to maintain a policy of the marketplace dictating where waste would be disposed.

Responding to Councilor Knowles' question about the current disposition of Hillsboro Garbage's waste, Tor Lyshaug, Acting Solid Waste Director, discussed the economic problems now being experienced by the FGTS. He said through Metro staff encouragement, the facility had been built to handle large waste capacities. The facility could handle as much as 600 tons a day. He explained the FGTS could not make a profit on the current 88 tons per day going through the facility.

Presiding Officer Waker read excerpts from a staff report dated August 14, 1986, when the Council had considered granting a variance to the Forest Grove Transfer Station operator to allow additional use of his station:

"The original application for the franchise to serve just the four companies owned by Ambrose Calcagno was based on the restriction of the Code and was there was no intention implied by the franchisee, Metro or the city of Forest Grove that other

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companies would ever use the facility. At the time, Metro staff cautioned the franchisee about the economics of constructing a facility which would only serve four companies." (Page 5)

"The Code's intent of not allowing individuals in the collection business to operate a franchised transfer station for use by other haulers is to prevent the development of a competitive advantage for a franchisee within the collection industry. A stated objective of the Disposal Franchise Ordinance is to prohibit rate preferences and other discriminatory practices." (Page 3)

"Though the variance request listed five to six franchised waste haulers who might use the facility, there is no intention that these operators will be required to use the facility as a condition of the variance or that other commercial waste operators will not be allowed to use the facility." (Page 6)

Presiding Officer Waker emphasized that when the variance was granted last August to the FGTS, Mr. Calcagno had been warned by Metro he was probably building more than he had the right to expect to use. He explained the staff report had convinced him at that time that the FGTS should be allowed to accept additional waste.

Ms. Thomas noted that when Mr. Calcagno had submitted his original application to Metro, she was a member of the Metro Solid Waste staff. She recalled that staff was not supportive of the application at that time and it wasn't until after the facility was built that staff changed their position to one of actively supporting the facility and including it in the region's Solid Waste Management Plan.

The Presiding Officer concluded he was not sympathetic with Mr. Calcagno's current economic circumstances because he had been adequately warned by Metro of the probable consequences of his decisions.

Councilor Ragsdale asked if it were Metro staff's intent to force Hillsboro Garbage Disposal to use the FGTS facility. Mr. Lyshaug said staff could not tell the hauler where to go but it would make economic sense for Hillsboro Garbage to use the FGTS facility. Councilor Ragsdale explained it appeared to him that if the Hillsboro Garbage request were denied, it would be forced to do business with its competitor, FGTS. He concluded that testimony and staff's statements regarding the cash flow situation of the FGTS was not relevant to this request.

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Councilor Knowles said it seemed the FGTS should not have been allowed to be developed and it seemed inefficient to develop a series of privately held transfer stations when Metro knew it would eventually develop its own transfer facility. He thought it inconsistent to grant Ambrose Calcagno the right to build a transfer facility and to then deny Hillsboro Garbage's request. He asked staff to justify denial of Hillsboro Garbage's request.

Mr. McConaghy explained Metro's Solid Waste Management Plan called for three Metro-owned transfer stations. The Plan also called for one satellite transfer station to serve remote parts of the region. At the time the FGTS facility was approved, it was considered suitable for the planned remote facility.

Presiding Officer Waker again quoted from the August 14, 1986, staff report mentioned earlier in the meeting:

"The transfer station chapter of the plan recognizes the potential need for satellite facilities such as the Forest Grove Transfer Station to improve the disposal service for the periphery of the region, although no policies on the role of these facilities has been adopted." (Page 5; emphasis added)

The Presiding Officer noted that if Metro had a policy of allowing only one remote facility, the August 14 staff report did not reflect that policy.

Councilor Kirkpatrick asked if the Council could legally preclude use of the FGTS once WTRC was operational. Eleanore Baxendale, General Counsel, said the Council had the authority to exercise flow control and could preclude such use.

Councilor Gardner was concerned that if the Council granted requests to private operators for transfer stations on the periphery of Metro's boundaries, Metro's solid waste system would become increasingly smaller to the point where those in the center of waste generation would pay a much higher disposal cost and those on the periphery would pay much less. Metro needed to establish a policy regarding satellite transfer stations, he said, that would ensure the integrity of the entire system.

Councilor Gardner acknowledged that at this point in time, diversion of waste from St. Johns Landfill was a priority but if a resource recovery facility were built, it could be a priority to keep waste inside the region.

Presiding Officer Waker asked staff whether the WTRC plan contemplated Hillsboro Garbage or FGTS facilities being in or out of Metro's solid waste system. Mr. McConaghy acknowledged staff was



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temporarily in favor of keeping waste away from St. Johns Landfill in order to extend its life and that a diversion program might continue when WTRC opened. He explained the city of Hillsboro was eight miles from the FGTS and about five miles from the WTRC site. Waste could be transferred to either facility.

A discussion followed about the size and scope of the proposed facility. Councilor Cooper concluded the facility would not be a transfer station but a small reload facility that could save its owner money. He thought the facility should be approved and that it posed no threat to Metro's solid waste system.

Councilor Van Bergen explained the Council had once thought WTRC would be sited in a central Washington County location. The transfer station, however, was ultimately sited in a more remote location. The Council had granted a variance to the FGTS facility with the understanding only the owner would use the facility. He agreed with Council Gardner that the real issue was the future of the solid waste system and whether this and future requests would compromise that system and result in flow controls.

Motion: Councilor Ragsdale moved to approve the request by Hillsboro Garbage Disposal, Inc. to transport and dispose of waste at a proposed reload facility which the applicant would operate. Councilor Cooper seconded the motion.

Presiding Officer Waker requested the General Counsel prepare an order with appropriate findings for Council adoption if the Council approved Hillsboro Garbage Disposal's request.

Councilor Ragsdale said that to approve the facility would mean reducing disposal costs and customer rates and diverting waste from St. Johns Landfill.

Motion to Amend: Councilor Knowles moved, seconded by Councilor Kirkpatrick, to add as a condition of approval the provision that when Metro's West Transfer & Recycling Center became operational, Metro would terminate permission for Hillsboro Garbage Disposal, Inc. to operate its reload facility.

Ms. Baxendale, General Counsel, confirmed the Council had the authority to automatically terminate the arrangement once WTRC became operational.

Councilor Van Bergen did not support the amendment, explaining the arrangement would be as difficult to enforce as the conditions imposed on the Clackamas Transfer & Recycling Center.

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Councilor Gardner said the amendment dealt with his concern about waste being diverted from the region after WTRC became part of the Solid Waste Management Plan. However, he explained, it would be very difficult to ask Hillsboro Garbage to stop using its facility once it was built.

Councilor Hansen said if the amendment failed, he would consider imposing a five-year time limit on the reload operation.

After discussion with Counsel, Councilor Knowles and staff agreed the amendment would impose termination conditions but it would not necessarily restrict the transfer of waste outside the region.

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

Ayes: Councilors Bonner, Gardner, Kirkpatrick and Knowles

Nays: Councilors Collier, Cooper, DeJardin, Hansen, Kelley, Ragsdale, Van Bergen and Waker

The motion failed.

Councilor Hansen explained he had not supported the applicant's request at the meeting of April 9 because he thought it most efficient for the applicant to use the FGTS. However, after considering all the testimony, he realized that probably would not happen and that Metro would never achieve a totally efficient system. He supported the main motion because it was a cost-effective arrangement.

Vote on the Main Motion: A vote resulted in:

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

Nays: Councilors Gardner, Kirkpatrick and Van Bergen

The motion carried and Hillsboro Garbage Disposal, Inc.'s request to construct a reload facility was approved.

Presiding Officer Waker noted the General Counsel would prepare an order with appropriate findings on the matter for the Council's approval on May 28, 1987.

There being no further business, the meeting was adjourned.

Respectfully submitted,



A. Marie Nelson, Clerk of the Council