

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

Regular Meeting
September 10, 1987

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

Councilors Absent: Tom DeJardin and Richard Waker

Also Present: Rena Cusma, Executive Officer

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

1. INTRODUCTIONS

None.

2. EXECUTIVE OFFICER COMMUNICATIONS

2.1 Report on the Portland Aquarium Feasibility Study, Phase I

Mike Lindberg, City of Portland Commissioner, presented the Phase I Portland Aquarium Feasibility Study report document to Councilors and reviewed highlights of the findings. The Executive Officer explained the Council would be asked to consider funding Phase II of the study at the September 22 meeting.

Commissioner Lindberg reported that he, the Zoo, and Portland Development Commission had coordinated Phase I of the Feasibility Study. The Study, conducted by Economics Research Associates had surveyed about 300 Metro area citizens: 89 percent indicated they would visit a local aquarium facility; 71 percent said they would bring their children to the facility; 76 percent thought an aquarium would attract tourists; and 74 percent thought the City or other entity should build the facility.

The Commissioner explained the best experts had been assembled to recommend an aquarium development plan. A proposed theme for the aquarium would be the relationship of Oregon's great rivers and the breadth of the Pacific Rim. He discussed how the aquarium could be developed to interpret that theme and how exhibits might look. The site selection process, he explained, would be the same as that used to select the Convention Center location. The new aquarium would be visited by an average of 735,000 people a year, would create 200 direct and 650 indirect new jobs in the region.

Councilor Kelley asked if consultants had examined aquarium facilities that were economic failures. Bruce Allen of the Portland

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Development Commission responded that newer, more dramatic facilities had been visited because they represented the type of facility proposed for this region.

Councilor Bonner expressed concern about the ethics of capturing marine mammals from their wild habitats for aquarium exhibition. Commissioner Lindberg responded that any animals captured would not be used to entertain the public. Rather, they would be used to educate adults and youth about the importance of the animals and would generate a desire for the public to preserve their natural habitats.

2.2 Report on Results of Resource Recovery Project Preliminary Negotiations

Executive Officer Cusma reported that based on preliminary negotiations with resource recovery vendors, the negotiating team recommended Metro enter into full Memorandum of Understanding (MOU) negotiations with Combustion Engineering (C-E) for a waste-to-energy project and that negotiations with Riedel continue. They further recommended Schnitzer Steel/Ogden-Martin Systems, Inc. (S/O) and Fluor/Southern Electric International (F/S) be second and third ranked, respectively, for the waste-to-energy MOU negotiations if negotiations with C-E did not proceed satisfactorily. Details of the recommendation were set out in a memo to the Executive Officer from the Resource Recovery Negotiating Team, dated September 10, 1987. The Executive Officer concurred with the recommendation and introduced a resolution (later identified as Resolution No. 87-809) for later Council consideration which embodied the recommendations.

Executive Officer Cusma recommended C-E as the first ranked vendor for the following reasons: 1) they had proposed the lowest tip fee due to their financial strength and bond rating; 2) they demonstrated the greatest willingness to negotiate unresolved issues with Metro; 3) they would build a second line facility at no extra cost to Metro; and 4) C-E's proposal presented environmental advantages in that more recyclables would be removed from the waste stream and the process would result in fewer air emissions.

Harvey Gershman, President of Gershmann, Brickner & Bratton (GBB), Metro's lead consultant on the project, expanded on the Executive's remarks. He reported the negotiating team had not been pleased with Riedel's financial terms. Metro had required financial guarantees and Riedel's parent company would not back its performance on the project. Metro could enter into the MOU phase with Riedel if such backing were secured.

In response to Councilor Kirkpatrick's question, Mr. Gershmann explained Metro was assisting Riedel obtain letters of credit

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because it was the traditionally role of the project banker (Metro) to provide that service. He pointed out it was in Metro's best interests to obtain quality grantors.

Mr. Gershman summarized that as a result of the Council's decision to enter into preliminary negotiations with three vendors, all proposal costs had been lowered. Two of the vendors had been asked to assume St. Helens as the facility location. He said the September 10 memo contained comparative information about aspects of the financial negotiations, air emissions, and projected tipping fees.

Deputy Presiding Officer Gardner described the subsequent process for selecting vendors for the MOU phase: The Council Solid Waste Committee would meet in September 15, 1987, to receive public testimony and make a recommendation to the Council. The Council would select vendors for the MOU phase on September 22, 1987. A public hearing would also be held on September 22 prior to making that decision.

3. COUNCILOR COMMUNICATIONS

Clackamas Transfer & Recycling Center. Councilor Van Bergen reported he had read in The Oregonian that Jim Owings, Solid Waste Director, said Metro would appeal to the State Land Use Board of Appeals (LUBA) Oregon City's decision to deny Metro's extension of a conditional use permit for the Clackamas Transfer & Recycling Center (CTRC). He questioned who in the agency had the authority to initiate such litigation. He pointed out the Council had been requested to consider whether Metro should appeal the Washington County Hearings Officer's decision in the Washington Transfer & Recycling Center (WTRC) matter.

Dan Cooper, General Counsel, noted that because Oregon City had not yet signed its final order, the window was still open for filing an appeal. The Council could consider a response at their September 22 meeting and still meet the deadline for filing an appeal, he said.

Councilor Knowles pointed out decisions to appeal litigation were Council decisions and could be placed on the agenda by any Councilor or by motion of a specific action.

Councilor Van Bergen explained his concern was that he did not like learning from the media that Metro intended to initiate specific litigation before the Council had not had an opportunity to consider the matter.

Councilor Knowles suggested the Council or the Solid Waste Committee request a briefing on the CTRC matter from General Counsel.

Motion: Councilor Collier moved, seconded by Councilor Knowles, to request General Counsel brief the Council at the September 22, 1987, meeting on legal matters relating to the City of Oregon City and the CTRC, and that the Executive Officer and the Council Solid Waste Committee submit a recommendation to the Council on the matter on September 22.

Councilor Gardner said the Solid Waste Committee could discuss the matter at their September 15 meeting.

Vote: A vote on the motion resulted in all eight Councilors present voting aye. Councilors Bonner, Cooper, DeJardin and Waker were absent.

The motion carried.

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Ted Stanwood, Warren, Oregon, head of the Alternative to Burning Committee, Columbia County, testified that the selection of Combustion-Engineering as a lead vendor for Memorandum of Understanding negotiations fell into the framework of Metro's disposition to build one large facility to handle the region's waste disposal problem. That approach had been tried in the past and it did not work, he said. Mr. Stanwood said his group had ideas about alternatives and were willing to discuss them with Metro's decision makers. He also reported a petition was being circulated in Columbia County banning the construction of a resource facility in the County.

Christine Lambert, St. Helens, Oregon, testified she was very concerned about the way the Executive's recommendation had been presented at this meeting. She said she represented the people who did not want a resource recovery facility. She was especially concerned about the effects of such a facility on the airshed and referred to the many problems the Bergsoe plant had already caused in the St. Helens area.

Councilor Van Bergen said he had read in a St. Helens newspaper the previous day that Snitzer/Ogden (S/O) had proposed to build a plant for \$160 million. S/O had quoted a figure of \$102 million to Metro representatives. The Councilor requested the Solid Waste Committee clarify which figures were correct.

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Ellen Saunders, Box 35, Manning, Oregon 97125, representing citizens against the Bacon Road landfill site, distributed tickets to Councilors for a bluegrass festival. She said the group supported clean burning of waste as an alternative to landfilling if no negative emissions were produced.

6. CONSIDERATION OF MINUTES

Motion: Councilor Kelley moved to approve the Minutes of August 13, 1987. Councilor Kirkpatrick seconded the motion.

Vote: A vote on the motion resulted in all seven Councilors present voting aye. Councilors Bonner, Cooper, DeJardin, Knowles and Waker were absent.

The motion carried and the minutes were approved.

7. CONTRACTS

7.1 Consideration of a Contract with Slayden Construction for Construction of the Administration/Education Center at the Zoo

Kay Rich, Acting Zoo Director, summarized staff's written report. He introduced the project architect and reviewed the bidding process. He explained because Slayden's low bid of \$813,800 exceeded the budget by 6 percent, staff would return to the Council with a budget adjustment request. The contractor had exceeded Metro's Disadvantaged and Women Business Enterprise (DBE/WBE) Goals, he said.

Motion: Councilor Kirkpatrick moved to approve and contract and Councilor Collier seconded the motion.

In response to Councilor Collier's question about the status of the Executive's group to evaluate Metro's DBE/WBE program, Ray Phelps, Finance & Administration Director, reported the group was about to make its recommendations to the Council when the Association of General Contractors sued in three different courts on the basis such programs were unconstitutional. More legal research was being conducted before a final recommendation would be made, he explained.

Vote: A vote on the motion resulted in all eight Councilors present voting aye. Councilors Bonner, Cooper, DeJardin and Waker were absent.

The motion carried and the contract was approved.

8. RESOLUTIONS

**8.1 Consideration of Resolution No. 87-804, for the Purpose of
Abolishing the Solid Waste Policy Advisory Committee (SWPAC)**

Ray Barker, Councilor Assistant, presented staff's report. He noted that because of the creation of the Solid Waste Advisory and Technical Committees, it had been recommended by the Council Solid Waste Committee SWPAC be abolished.

Councilor Kirkpatrick asked staff to advise her on which SWPAC members had been seated on the Technical Committee.

Main Motion: Councilor Kirkpatrick moved, seconded by Councilor Collier, to adopt Resolution No. 87-804.

First Motion to Amend: Councilor Kirkpatrick moved, seconded by Councilor Van Bergen, to amend Resolution No. 87-804 by changing the words "abolishing" and "abolished," used in the resolution title and the first "be it resolved" paragraph, to read "dissolving" and "dissolved."

Vote on the First Motion to Amend: A vote on the motion resulted in all seven Councilors present voting aye. Councilors Bonner, Cooper, DeJardin, Ragsdale and Waker were absent.

The first motion to amend carried.

Second Motion to Amend: Councilor Kirkpatrick moved, seconded by Councilor Van Bergen, to amend the last "be it resolved" paragraph to read: "That the question of continuing citizen advice on solid waste matters ..."
(new word underlined).

Vote on the Second Motion to Amend: A vote on the motion resulted in all seven Councilors present voting aye. Councilors Bonner, Cooper, DeJardin, Ragsdale and Waker were absent.

The second motion to amend carried.

Vote on the Main Motion as Amended: The vote resulted in all seven Councilors present voting aye. Councilors Bonner, Cooper, DeJardin, Ragsdale and Waker were absent.

The motion carried and Resolution No. 87-804 was adopted as amended.

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8.2 Consideration of Resolution No. 87-805, for the Purpose of
Amending Resolution No. 87-744, Revising the FY 1987-88 Budget
and Appropriations Schedule

Jennifer Sims, Management Services Director, explained the budget amendment would transfer from Zoo Capital Fund contingency \$60,000 to the Administration/Education Center project budget. The project construction contract had been approved by the Council earlier in the meeting.

Motion: Councilor Kirkpatrick moved to adopt Resolution No. 87-805 and Councilor Hansen seconded the motion.

Vote: A vote on the motion resulted in all seven Councilors present voting aye. Councilors Bonner, Cooper, DeJardin, Ragsdale and Waker were absent.

The motion carried and Resolution No. 87-805 was adopted.

8.3 Consideration of Resolution No. 87-806, for the Purpose of
Authorizing an Exemption to the Public Contracting Procedure
Set Out in Metro Code Section 2.04.010 et seq. for the Purchase
of Accounting Software as Part of Data Processing Plan
Implementation

Ray Phelps, Finance & Administration Director, and Leroy Nolette, Data Processing Manager, discussed the need for software purchases to implement the Data Processing Plan. Metro's Code exempted computer hardware from competitive bidding procedures but did not exempt software. Staff would return to the Council at a later date requesting adoption of an Ordinance to amend the Code to include an exemption of computer software.

Motion: Councilor Ragsdale moved Resolution No. 87-806 be adopted and Councilor Collier seconded the motion.

Vote: A vote on the motion resulted in all eight Councilors present voting aye. Councilors Bonner, Cooper, DeJardin and Waker were absent.

The motion carried and Resolution No. 87-806 was adopted.

9. OTHER BUSINESS

9.2 Executive Session

At 7:25 p.m. Deputy Presiding Officer Gardner called an executive session under the authority of ORS 192.660(1)(e) for the purpose of discussion real property transactions for the Oregon Convention

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Center. All Councilors were present except Councilors Bonner, Cooper, DeJardin and Waker. Staff present included Tuck Wilson, Neil McFarlane and Ray Barker. Members of the Portland Development Commission staff were also present. The Deputy Presiding Officer called the meeting back into regular session at 7:35 p.m.

9.3 Acquisition of Real Property for the Oregon Convention Center

Motion: Councilor Kirkpatrick moved, seconded by Councilor Ragsdale, to instruct the Portland Development Commission (PDC) to purchase the Sears property according to the terms recommended by the PDC.

Vote: A vote on the motion resulted in all eight Councilors present voting aye. Councilors Bonner, Cooper, DeJardin and Waker were absent.

The motion carried.

9.1 Status Report on the Activities of the Oregon Convention Center

Tuck Wilson, Convention Center Project Director, distributed a document entitled "Oregon Convention Center Project: Status Report to Metro Council Regarding Implementation of the Master Plan on Regional Convention, Trade & Spectator Facilities," dated September 1987. The document outlined a three-year project activity schedule. Mr. Wilson reviewed progress and planned activities for missions related to public information, financing, design and construction, property acquisition, operations and administration.

Councilor Van Bergen requested staff proceed with transferring the title for the Lloyd property from the City of Portland to Metro. Councilor Hansen requested an update on issues concerning the Lloyd property acquisition.

Mr. Wilson reported soils testing would be needed for the property formerly owned by the Finzer Plating Company. The plating operation and possible operations of previous property owners could have resulted in contaminating the site's soil. The Council would be asked to approve a contract for soils testing work at the September 22 meeting, he explained.

Councilor Van Bergen expressed concern that limiting pricing for the new Convention Center facility would constitute an anti-trust situation and would limit open market competition. Mr. Wilson said Metro would be competing with other companies and would not have a monopoly.

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Councilor Van Bergen said he was very interested in the feasibility study for an arena and wanted the study process to involve members of the community.

10. COMMITTEE REPORTS

The Ad Hoc Task Force on Convention, Trade & Spectator (CTS) Commission Legislation met on September 3 and would meet again at noon, September 17, Councilor Kirkpatrick reported.

North Portland Rehabilitation & Enhancement Committee. Councilor Hansen said the Committee had received proposals for neighborhood enhancement projects and would make a decision on final projects soon. The Council would be asked to approve the Committee's recommendations, he said.

Bi-State Commission. Councilor Hansen reported the September meeting of the Commission had been well attended and a tentative agenda for the new year had been approved. The December meeting would be in Portland and would include a discussion of tourist related subjects. He encouraged Council Convention Center Committee members to attend that meeting.

There being no further business, the meeting was adjourned at 8:05 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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