

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

Regular Meeting
October 22, 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

Councilors Absent: None

Also Present: Rena Cusma, Executive Officer

Presiding Officer Waker called the meeting to order at 5:35 p.m. He announced that agenda item 6 would be considered first, that item 8.2 would be considered last, and that an executive session would be added to the agenda.

6. RECONSIDERATION OF ORDINANCE NO. 87-225, Establishing a
Metropolitan Exposition-Recreation Commission to Operate
Regional Convention, Trade and Spectator Facilities

Presiding Officer Waker explained that on October 8, 1987, the Council adopted Ordinance No. 87-225 as amended by the Ad Hoc Convention, Trade and Spectator Facilities Task Force by an eight to three vote. At the end of that meeting, Councilor Kelley, who had voted for adopting the ordinance, orally gave notice of intent to move to reconsider the ordinance on October 22. The Presiding Officer then reviewed the Council's rules for reconsideration.

The Presiding Officer also explained that on October 15, Dan Cooper, Metro's Counsel, issued a written opinion stating Ordinance No. 87-225 could not be vetoed by the Executive Officer while it was subject to reconsideration. Because a reconsideration notice was served and until the Council moved to reconsider or decided not to reconsider, the ordinance was not yet enacted.

Motion: Councilor Kelley moved, seconded by Councilor Hansen, to reconsider Ordinance No. 87-225.

Councilor Kelley said although she believed the ordinance adopted on October 8 was good public policy, she was glad Councilor Kirkpatrick had used the last two weeks to work out a compromise with Metro's partners in the convention center project. She requested Councilor Kirkpatrick review the amendments to Ordinance No. 87-225.

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Vote: A vote on the motion to reconsider Ordinance No. 87-225 resulted in:

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

Nays: Councilors Bonner, Collier and Van Bergen

The motion carried.

In response to Councilor Van Bergen's question, Mr. Cooper advised that because amendments had been prepared to the ordinance, Councilors could consider those amendments and adoption of the ordinance at this time.

Motion to Amend: Councilor Kelley moved, seconded by Councilor DeJardin, to amend Ordinance No. 87-225 as submitted by Councilor Kirkpatrick.

The amendments were included in a document distributed to Councilors and identified as "Kirkpatrick Amendments (10/20/87)."

Councilor Kirkpatrick said she agreed the Ordinance adopted on October 8 was good public policy. She also believed the amended version of the ordinance now before the Council was good public policy, would maintain accountability of the new Commission to the Metro Council, and would allow the Commission to conduct its business as appropriate. The Councilor then reviewed all the proposed amendments.

Councilor DeJardin, referring to the amended Section X.01.030(g) requiring that no person elected or appointed to a public office could serve on the Commission, said he disagreed with the policy but would not vote against the amendment.

Presiding Officer Waker strongly disagreed with the amended Sections X.01.030(h) and (j), which allowed for the Commission to adopt its own personnel and contracting rules. The originally adopted ordinance had required the Commission to operate under Metro's rules with the Council granting exemptions to the rules as necessary. He explained he had received letters from many parties suggesting the Exposition-Recreation (E-R) Commission's current organization be used as a model for the Metropolitan E-R Commission. He then read excerpts of Chapter 14 of the City of Portland's Charter relating to how the Commission's purchasing and personnel operations should be conducted. He also read positions of a legal opinion from attorney Chris Thomas to Metro employee Neil McFarlane which discussed the relationship of the E-R Commission to the City of Portland. Presiding Officer Waker concluded the E-R Commission was a department of

the City -- not a completely autonomous body -- and that most purchases were made according to City rules. All clerical and maintenance employees -- the bulk of the work force -- were subject to the City's personnel rules. He thought any requirement that the new Metropolitan Commission write its own personnel and contracting rules redundant, and were counter to the E-R Commission model. He said he would not support the new amendments to Ordinance No. 87-225 and suggested that parties advocating independent rules were seeking a much greater authority than the E-R Commission had actually been granted by the City.

In response to Presiding Officer Waker's question about amendments to Section X.01.030(m), Councilor Kirkpatrick explained the original language authorized the Commission to acquire services by "other means." The amendment defined "other means" as being by budget amendment.

Responding to Councilor Van Bergen's question about the amended language for Section X.01.090(a), Councilor Kirkpatrick said she envisioned the Council Convention Center Committee as a permanent committee.

Councilor Collier said she was opposed to the amended ordinance because the voters had clearly authorized Metro to run the convention center. Metro, by adopting the amendments, would relinquish control of the operation to a non-elected body. If the Council were to live up to its responsibility to voters, Metropolitan Exposition-Recreation commissioners would have to be elected, she said. She perceived problems would occur that were similar to Metro's current relationship with the Department of Environmental Quality (DEQ): the State had given the DEQ authority to site a regional landfill and Metro the responsibility to pay for the siting process. As a result, Metro had to pay DEQ's bills with no oversight of how the money was spent. She further pointed out the City of Portland did not give the E-R Commission authority to set up its own personnel and contracting rules and questioned why Metro would relinquish that control when it had established rules which included worthwhile affirmative action and minority and women-owned business participation goals. Councilor Collier concluded that to allow the Commission to adopt its own operating rules would constitute costly duplication of services. She also questioned why Metro would grant so much liberty to the Commission when it was still unknown who would serve on that board.

Executive Officer Cusma disagreed with Councilor Collier's comments. She commended Councilor Kirkpatrick's work in drafting the amendments which still gave the Council control of the convention center operation through setting policy and approving budgets. The Commission would also continue to report to the Council's subcommittee and would use central Metro services.

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Councilor Kirkpatrick read letters from City of Portland Mayor Bud Clark and Multnomah County Board of Commissioners Chair Gladys McCoy. Both expressed approval of the amendments and appreciation for the Councilors in redrafting legislation that could be endorsed by all the partners involved in the convention center project.

Councilor Knowles thanked Councilor Kirkpatrick for her hard work and leadership. He said the amendments to the ordinance showed the Council wanted to bring about mutual agreement among all regional jurisdictions.

Presiding Officer Waker noted there was a difference between good government and good politics. He thought if the amendments were adopted, Metro's constituents would be the losers for the sake of good politics.

Councilor Ragsdale did not perceive adoption of the amendments as giving in to politics: adoption would be a mature, well reasoned legislative action. He explained the Council had total control over the project's budget as it did over the budget for siting the landfill. The Councilor was proud of the amendments and hoped they passed unanimously.

Councilor Gardner thought both the original ordinance and the new amendments represented good government. However, the amendments represented good government and good politics, he said. Metro had a responsibility to its partners and because the first ordinance did not please those partners, he was glad a solution had been worked out that would be agreeable to all parties.

Councilor Van Bergen said he had supported the Presiding Officer's earlier remarks concerning accountability of the Commission to Metro and thought the amendments submitted for consideration at this meeting brought the accountability issue to a trivial level. He said he agreed with the remarks made earlier by Councilor Collier and expressed regret that so much had been given away over minor differences.

Councilor Cooper supported the amendments, saying they would give Metro authority and accountability. He said he had never known Metro to be bashful about asserting its authority and urged the Council to remain open-minded in order to improve regional government.

Councilor Hansen supported the amendments and praised the parties responsible for working out the compromise. The amendments would bring back enthusiasm of Metro's partners, he said, and that enthusiasm was needed for a successful project.

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Councilor DeJardin noted on October 8 he had supported Ordinance No. 87-225 and had commented that if Metro gave the commission autonomy, it had to expect responsibility in return. He thought Metro had maintained responsibility plus the added support of its partners. He had strongly disagreed with recent Oregonian editorials on the subject and thought it was time to move on.

Vote on the Amendments to Ordinance No. 87-225: A vote on the motion resulted in:

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

Nays: Councilors Bonner, Collier and Van Bergen

The motion carried and the amendments to Ordinance No. 87-225 were adopted as submitted by Councilor Kirkpatrick.

Motion to Adopt Ordinance No. 87-225: Presiding Officer Waker announced a motion had been made by Councilor Kirkpatrick and seconded by Councilor Van Bergen on October 8, 1987, to adopt Ordinance No. 87-225. The Council would again vote on that original motion for adoption.

Councilor Ragsdale recalled at the October 8 meeting, Councilor Kirkpatrick said she did not believe compromise was possible. He commended her for her courage and statesmanship skills in finding a compromise. Councilor Kirkpatrick acknowledged Councilor Ragsdale's assistance in reaching a compromise.

Vote on the Motion to Adopt Ordinance No. 87-225: The vote resulted in:

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

Nays: Councilors Bonner, Collier and Van Bergen

The motion carried and Ordinance No. 87-225 was adopted as amended.

Presiding Officer called a recess at 6:30 p.m. The Council reconvened at 6:45 p.m.

NOTE: During consideration of agenda item 7.2, Ordinance No. 87-233, a discussion occurred regarding the Executive Officer's ability to veto Ordinance No. 87-225.

1. INTRODUCTIONS

None.

2. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Presiding Officer Waker said he and the Executive Officer had received letters from the Boundary Commission requesting a workshop be organized early in 1988 to brief the Council about the Commission and to develop a process for appointing new commissioners. Councilors would be advised of a meeting date.

3. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Ione Pilate, HCR 61, Box 3, Buxton, Oregon, testified before the Council about problems encountered during a recent forest fire in the Vernonia. She explained a fire at the landfill, if sited at Bacona Road, could cause the same problems recently experienced including: Depletion of available water supplies; the presence of only one evacuation route (Highway 47), disruption of power to over 300 people (even though the Department of Environmental Quality's siting reports stated only eight families lived near the Bacona Road Site); and potential animal management problems caused by animals becoming "spooked" around fires. She also noted Highway 47 was very unsafe and many accidents happened along that route. Ms. Pilate reported that as many as three fires a day had been known to occur in the existing municipal dump or on trucks in route to the dump.

Councilor Ragsdale requested staff present a formal update to the Council on the status of the Department of Environmental Quality's (DEQ) landfill siting process and whether Metro could, if feasible, request further consideration of the Bacona Road Site cease. Councilor Van Bergen also requested staff report on the amount of money spent by the DEQ on the siting process. Councilor Cooper concurred with the request, saying he did not want more money spent on the landfill siting process if those expenditures were unnecessary. Executive Officer Cusma said she would have the report presented at the November 12, 1987, Council meeting.

4. COUNCILOR COMMUNICATIONS

None.

5. EXECUTIVE OFFICER COMMUNICATIONS

None.

7. ORDINANCES

Presiding Officer Waker announced that Ordinance Nos. 87-232 and 87-233 would be necessary for the interim operation of the convention center. When the new commission adopted their own contracting and personnel rules, the Ordinances would become obsolete.

7.1 Consideration of Ordinance No. 87-232, for the Purpose of Amending Metro Code Section 2.02.010 and Adding a Code Section 2.04.035 Relating to Personnel and Contracting Rules for the Metropolitan Exposition-Recreation Commission (First Reading and Public Hearing)

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

Dan Cooper, General Counsel, reviewed staff's written report. There was no discussion.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Ragsdale, to adopt Ordinance No. 87-232.

Presiding Officer Waker opened the public hearing. There was no testimony and the hearing was closed. He announced the second reading of the ordinance was scheduled for November 12, 1987.

7.2 Consideration of Ordinance No. 87-233, for the Purpose of Amending Metro Code Section 2.04.041 Creating an Exemption for Agreements for the Lease or Use of the Oregon Convention Center from Public Bidding Requirements (First Reading and Public Hearing)

The Clerk read the ordinance a first time by title only. The Presiding Officer announced the Council would be considering this ordinance in their capacity as the Metro Contract Review Board.

Dan Cooper, General Counsel, reviewed staff's written report, explaining the exemption would be necessary for the convention center to operate as a competitive business.

Councilor Van Bergen, referring to the Council's recent adoption of Ordinance No. 87-225, asked Mr. Cooper to comment on the Executive Officer's letter of October 15, 1987, to Councilor Kirkpatrick in which she had announced her veto of Ordinance No. 87-225. He asked that action be clarified.

Executive Officer Cusma said it was clear the letter related to the ordinance as adopted on October 8. She said she would clarify her views in another letter to Councilors.

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Councilor Collier pointed out new Council procedures were needed that took into account the Executive Officer's veto. The Presiding Officer asked Mr. Cooper to recommend changes to the Council's procedures for future consideration. Councilor Ragsdale further suggested parliamentary procedures other than Roberts Rules of Order be adopted for Council use.

There were no questions of Councilors concerning Ordinance No. 87-233.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Ragsdale, to adopt Ordinance No. 87-232.

Presiding Officer Waker opened the public hearing. There was no testimony and the hearing was closed. He announced the second reading of the ordinance was scheduled for November 12, 1987.

7.3 Consideration of Ordinance No. 87-229, for the Purpose of Amending Metro Code Chapter 3.02, Amending the Regional Waste Treatment Management Plan, and Submitting it for Recertification (Second Reading)

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

Presiding Officer Waker announced that a first reading and public hearing had been conducted on October 8 and at that meeting, Councilor DeJardin and Kirkpatrick had moved for adoption of the ordinance.

There was no discussion.

Vote: A roll call vote on the motion to adopt the ordinance (made by Councilors DeJardin and Kirkpatrick on October 8, 1987) resulted in all twelve Councilors voting aye.

The motion carried and Ordinance No. 87-229 was unanimously adopted.

7.4 Consideration of Ordinance No. 87-230, for the Purpose of Amending Metro Code Chapter 2.04 Relating to Contract Procedures and Creating an Exemption for Computer Software Purchases (First Reading and Public Hearing)

The Clerk read the ordinance a first time by title only. Presiding Officer Waker announced the ordinance would be considered by the Council in their capacity as the Metro Contract Review Board.

Ray Phelps, Finance & Administration Manager, reported Metro's Code already granted exemptions for computer hardware. By adoption of

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this ordinance, software could be acquired by a request for proposals process, rather than a low bid process.

Councilor Van Bergen asked if the exemption would result in increased staff time to analyze proposals. Mr. Phelps said he would return on November 12 with an answer to the question.

Motion: Councilor Cooper moved to adopt Ordinance No. 87-230 and Councilor Ragsdale seconded the motion.

Presiding Officer Waker opened the public hearing. There was no testimony and the hearing was closed. He announced the second reading of the ordinance was scheduled for November 12, 1987.

7.5 Consideration of Ordinance No. 87-231, for the Purpose of Amending Metro Code Chapter 2.04 Relating to the Disadvantaged Business Program (First Reading and Public Hearing)

Ray Phelps reviewed staff's written report. He explained that two events had occurred this year which required revisions in Metro's Disadvantaged Business Program: 1) the 1987 Oregon Legislature adopted a bill which transferred certification authority for disadvantaged and women businesses (DBE's and WBE's) from the Oregon Department of Transportation (ODOT) to the Executive Department; and 2) the Ninth Circuit Court of Appeals rendered a decision which clarified the constitutional limits of disadvantaged business programs. Staff had also determined it would be practical for the program's goal year to run concurrently with the budget year rather than the federal fiscal year.

Mr. Phelps reported that as a result of public concerns, an informal "task force" of DBE's, WBE's, prime contractors and local government representatives had been meeting to review Metro's DBE program and to make recommendations for improvement. Those in attendance at the final October 5 session of the review group concurred with the revisions to the program embodied in Ordinance No. 87-230, he said. A list of the group's participants was distributed to Councilors.

Mr. Phelps then reviewed recommended changes to the DBE program. Referring to page 11, subsection (d), Councilor Ragsdale suggested the language be changed to read: "Even though no DBE/WBE subcontracting opportunities appear likely at the time of contract award, the Liaison Officer [may] shall direct the inclusion of a clause in any contract described in this section . . ." He thought the change consistent with staff's stated intent.

Councilor Kelley requested staff indicate which changes were in compliance with state law and which changes were in response to the

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task force's recommendations. Mr. Phelps said he would supply that information at the November 12 meeting.

Councilor Collier asked if all the review task force participants had agreed with the ordinance changes. Mr. Phelps responded that those attending the October 5 task force meeting had agreed to the changes.

Mr. Phelps continued to review proposed changes to the DBE program. The Presiding Officer requested Councilors submit all questions in writing to Mr. Phelps so he could respond to them at the November 12 meeting.

A discussion followed about the impact of the Ninth Circuit Court's decision on the DBE program. Mr. Phelps explained the new ordinance had been prepared with the assumption the Court of Appeal's decisions was the current law. Staff had consulted with other jurisdictions before drafting the ordinance to determine how other programs were being adjusted to reflect the decision. Metro's program was more ambitious than the City of Portland's and Multnomah County's because of staff's desire to improve the program.

Motion: Councilor Kirkpatrick moved to adopt Ordinance No. 87-230 and Councilor Knowles seconded the motion.

Presiding Officer Waker opened the public hearing.

Jack Kalinoski, 9450 S.W. Commerce Circle, Wilsonville, Oregon 97070, representing the Oregon-Columbia Chapter of the Associated General Contractors (AGC), submitted written testimony to the Council which he read. He said the AGC was of the opinion that Metro, except for federally-aided projects, did not have the authority to require any of its contractors to subcontract portions of work to subcontractors in order to achieve DBE participation. The Ninth Circuit Court had clearly decided states and local governments had this authority only after a specific finding of government-imposed discrimination, and the Court had clearly stated only Congress could impose those requirements.

Mr. Kalinoski then reviewed specific concerns he had with Ordinance No. 87-231 as detailed in his written testimony: 1) that "USDOT" and "ODOT" be used to clearly differentiate between the U.S. Department of Transportation and the Oregon Department of Transportation; 2) the ordinance conform to Oregon State laws with regard to subcontracting when funds from the USDOT were utilized and not utilized; 3) the definitions for Disadvantaged Business Enterprise (DBE), Women-owned Business Enterprise (WBE) and Minority Business Enterprise (MBE) be clearly defined and used consistent with Oregon State law; 4) new section 2.04.115 be amended to eliminate duplication of

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wording or if duplication was not intended, the language be clarified; 5) new section 2.04.135(a) should be eliminated since ODOT, not Metro, had the authority to certify for DBE eligibility; 6) new section 2.04.150(d) should be amended since it would give Metro's liaison officer authority to change a contract after it had been awarded, a practice contrary to Oregon State law; 7) new section 2.04.155 be amended to allow the bidder to attest on the bid form that a good faith effort was made prior to bid opening to achieve the goals required but that goals could not be attained; 8) new section 2.04.155(d) be amended to allow five days for the apparent low bidder to submit documents to Metro; 9) new section 2.04.155(e) be amended to not violate the integrity of the competitive bidding system; 10) new section 2.04.155(f) be amended to be in compliance with Oregon State law; and 11) section 2.04.155(g), on the third line of the paragraph, the second "will" be deleted and in the fifth line after (d), the word "made" inserted.

Councilor Knowles discussed the intent of Oregon State law with Mr. Kalinoski as it related to the ordinance. At the Presiding Officer's request, the Councilor agreed to submit questions and concerns in writing to staff. Mr. Kalinoski was willing to meet with staff to discuss his concerns.

Carolyn Brown, 1717 S.W. Park Avenue, Apartment 1102, Portland, Oregon 97201, thanked the Council for its good faith effort to improve the DBE program. She thought the AGC would use Metro as a model government contracting program and was surprised the AGC had claimed it was not informed of Metro's review process.

Bruce Broussard, 1863 North Jantzen, Portland, Oregon 97217, publisher of The American Contractor trade journal, commended Yvonne Sherlock, Metro's Contract Officer, and Mr. Phelps for their work with individuals participating in the DBE program review meetings. Referring to a distributed list of participants or those notified of the meetings, he noted the list reflected a very broad range of interests and was surprised Mr. Kalinoski was unaware of Metro's process. Mr. Broussard said Metro's staff had always been available to receive comments about the DBE program. Regarding the Circuit Court decision, he said the group had discussed that situation and the consensus of those participating at the final meeting was reflected in Ordinance No. 87-230. Finally, Mr. Broussard suggested the review group reconvene to consider the amendments suggested by Mr. Kalinoski, that the AGC be invited to participate at the meeting by certified mail and for the sake of continued fairness in process, the majority consensus of the group be reflected in any amendments proposed to the ordinance.

In response to Councilor Collier's question, Mr. Broussard said he was basically happy with Ordinance No. 87-230 and acknowledged the

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proposed legislation had been written after input of many parties and special interests.

Councilor Ragsdale noted that Mr. Broussard's compliments of staff's work and the resulting ordinance reflected a significant change in Metro's DBE program efforts.

Kevin Spellman, 435 N.E. Mirimar Place, Portland, President of Emerick Construction Company, testified that although he was a member of the AGC, he had not represented the AGC when participating in the review group activities. He thought the ordinance was an improvement to Metro's current DBE program and that the group's intent was for the program to be consistent with Oregon State law. He also commended Ray Phelps and Yvonne Sherlock for their patience and outstanding work on the project.

Presiding Officer Waker again urged Councilors to submit any questions or comments about the ordinance to staff in writing in time for a response at the November 12 Council meeting and second reading of the ordinance.

8. RESOLUTIONS

8.6 Consideration of Resolution No. 87-819, for the Purpose of Approving Recommendations of the North Portland Enhancement Committee for the Expenditure of \$40,000 from the Rehabilitation and Enhancement Fund

Councilor Hansen, Chair of the North Portland Enhancement Committee (NPEC) reported that the FY 1987-88 Council Budget Committee had required staff to return to the Council for approval of expenditures for enhancement projects. The NPEC was pleased to announce the recommendation of nine projects for funding. The Councilor then reviewed the process for soliciting and screening proposals. He also introduced three NPEC members in attendance: John Fisher, Pamela Arden and Steve Roso. Finally, he thanked Metro staff members Judith Mandt and Marilyn Smalls for their assistance to the Committee.

Presiding Officer Waker acknowledged the NPEC had been a successful joint venture between the community and the Council.

During discussion of agenda item 8.7, Councilor Gardner reported the Council Solid Waste Committee had unanimously recommended adoption of Resolution No. 87-819.

Motion: Councilor Hansen moved, seconded by Councilor Collier, to adopt Resolution No. 87-819.

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NPEC member Steve Roso thanked Councilor Hansen and Ms. Mandt for their work on the project and said he looked forward to the successful closure of the St. Johns Landfill.

Vote: A vote on the motion resulted in all nine Councilors present voting aye. Councilors Cooper, Knowles and Ragsdale were absent.

The motion carried and Resolution No. 87-819 was adopted.

EXECUTIVE SESSION

At 8:25 p.m., Presiding Officer Waker called the meeting into executive session under the authority of ORS 192.660(1)(e), to discuss real property acquisition for the Oregon Convention Center, and ORS 192.660(1)(h), to discuss litigation relating to the Clackamas Transfer & Recycling Center (CTRC). All Councilors except Councilor Cooper were present at the executive session. Other persons present included Executive Officer Cusma, Dan Cooper, Greg Mau, Tuck Wilson, Neil McFarlane, Don Carlson, Neil McFarlane and Jan Schaeffer. The Presiding Officer called the meeting back into regular session at 8:45 p.m.

Convention Center Project Real Property Acquisition

Motion: Councilor Van Bergen moved, seconded by Councilor Gardner, to accept the Portland Development Commission's recommendation with respect to the Roberts Motors Property.

Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors Cooper and Knowles were absent.

The motion carried.

8.7 Consideration of Resolution No. 87-820, for the Purpose of Complying with the Clackamas Transfer & Recycling Center (CTRC) Conditional Use Permit

Councilor Gardner, Chair of the Council Solid Waste Committee (SWC), the SWC took no formal action on the resolution because a quorum was not available at the time it was considered. He and Councilor DeJardin had strongly recommended the Council defer action pending completion of negotiations between the Council Negotiating Task Force (Councilors Waker, Gardner, DeJardin and Executive Officer Cusma) and representatives from the City of Oregon City Commission. He said the recommendation was based on testimony received at the October 20 SWC meeting.

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Councilor Gardner further explained the City of Oregon City Commission was of the opinion that actions taken by Metro to comply with the 700 per ton limit at CTRC would be detrimental to the haulers and public in Clackamas County. They recommended Metro attempt to resolve the matter through negotiation or litigation prior to imposing limits on the use of CTRC.

Councilor Van Bergen requested a date be established for future consideration of Resolution No. 87-820, explaining Councilors had all taken oaths to abide by the laws in the State of Oregon. The Councilor said he could not accept violation of Oregon City's ordinance limiting tonnage at CTRC.

Motion: Councilor Gardner moved, seconded by Councilor DeJardin, to defer consideration of Resolution No. 87-820 to November 12, 1987.

Presiding Officer Waker noted that if negotiations between Metro and Oregon City had not been completed by November 12, the matter could be set over to a later meeting.

Vote: A vote on the motion resulted in:

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

Nay: Councilor Ragsdale

Absent: Councilor Cooper

The motion to defer carried.

8.1 Consideration of Resolution No. 87-815, for the Purpose of Adopting Disadvantaged Business Program Goals for FY 1987-88

Ray Phelps reported that the written staff report explained the program and annual goal adoption process.

In response to Councilor Kelley's question, Mr. Phelps explained the Women-owned Business Enterprise (WBE) participation goal had been decreased from the previous year. The previous goal had been amended from staff's recommendation and as a result, the amended goal had been unreasonable high and unattainable. Councilor DeJardin agreed it was a good management practice to establish reasonable goals for the program and that nothing would preclude exceeding that goal.

Motion: Councilor Knowles moved for adoption of Resolution No. 87-815. Councilor DeJardin seconded the motion.

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Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors Cooper and Van Bergen were absent.

The motion carried and Resolution No. 87-815 was adopted.

8.3 Resolution No. 87-816, for the Purpose of Adopting Affirmative Action Goals and Objectives for Fiscal Year 1987-88

Ray Phelps and Randy Boose reviewed staff's written report, including an analysis of last fiscal year's Affirmative Action efforts. Mr. Phelps reported that for the first time, Department Managers would be directly involved in program efforts.

Presiding Officer Waker thought that if Metro continued to increase Affirmative Action goals as they were met, the agency would, at some point, no longer be in parity with the community work force.

In response to Councilor Gardner's question, Mr. Phelps explained that male participation was indicated as high in the normally female dominated "food service worker" category because other types of male dominated jobs were included in that category such as security guards.

In response to Councilor Ragsdale's question, Mr. Boose explained the proposed goals were developed based on the State of Oregon Employment Division's statistics and they reflected the makeup of the community work force.

Discussion followed about whether the proposed categories and goals were satisfactory.

Motion: Councilor Knowles moved, seconded by Councilor Kelley, to continue consideration of Resolution No. 87-816 to November 12, 1987.

Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors Cooper and Van Bergen were absent.

The motion carried.

8.4 Consideration of Resolution No. 87-817, for the Purpose of Confirming the Appointment of Citizens to the Investment Advisory Board

Ray Phelps briefly summarized staff's written report and recommended Sue McGrath, Bonnie Kraft and Rebecca Marshall be reappointed to the Board.

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Councilor Kirkpatrick noted a typographical error in the resolution which should be corrected to reflect that Sue McGrath would be appointed to a one-year, rather than three-year, term.

Motion: Councilor Kirkpatrick moved to adopt Resolution No. 87-817. Councilor Gardner seconded the motion.

Responding to Councilor Ragsdale's question, Mr. Phelps said Ms. Marshall's appointment would not constitute a conflict of interest since her company's relationship with Metro had not and would not result in exchange of money or services.

Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors Cooper and Van Bergen were absent.

The motion carried and Resolution No. 87-817 was adopted.

8.5 Consideration of Resolution No. 87-818, for the Purpose of Adding an Analyst 3 Position to the Zoo Administration Division

Kay Rich, Acting Zoo Director, discussed the need for the position as outlined in staff's written report.

Councilors Collier and Kirkpatrick were concerned staff had not anticipated the need for the position during the FY 1987-88 budget process. Both stated the contingency fund should be used for true emergencies and discouraged the practice mid-year staffing requests.

Mr. Rich explained staff had requested the position in response to the auditor's recommendation that tighter management was needed for the Zoo's revenue center operations. It had taken Accounting personnel time to analyze and approve that recommendation. He thought the new position could save the Zoo money.

Presiding Officer Waker recommended the Council approve the new position, explaining when a good manager thought he needed assistance, he asked for help. He acknowledged that sometimes the annual budget process was too long a wait to keep up with needed changes that needed to be made.

Councilor Hansen and DeJardin agreed with the need for the position. In response to Councilor DeJardin's question, Mr. Rich said the Zoo had planned to propose adding a Senior Animal Keeper position mid-year but would postpone that request until the next budget cycle. Because it was not a true emergency.

Councilor Ragsdale noted he viewed the contingency fund as a reserve of money to be used to adapt to changing situations.

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Motion: Councilor Ragsdale moved, seconded by Councilor DeJardin, to adopt Resolution No. 87-818.

Vote: A vote on the motion resulted in:

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

Nays: Councilors Collier and Kirkpatrick

Absent: Councilors Cooper and Van Bergen

The motion carried and Resolution No. 87-818 was adopted.

OTHER BUSINESS

9.1 Consideration of an Intergovernmental Agreement with the State of Oregon for the Interim Task Force on Regional Metropolitan Government

Ray Phelps reported the FY 1987-88 Council Budget Committee had contemplated the expenditure of funds for the study. He also explained staff was requesting the Council grant the Executive Officer authorization to develop an agreement based on the terms outlined in the staff report.

Motion: Councilor Kirkpatrick moved to authorize the Executive Officer to develop an agreement based on the terms outlined in the staff report. Councilor Collier seconded the motion.

Councilor Knowles noted the Metro Code required the Council to approve all agreements.

Revision of Motion: Councilors Kirkpatrick and Collier revised the motion to provide the Council to authorize the Executive Officer to develop an agreement based on the terms outlined in the staff report and for staff to bring back the agreement to the Council for approval.

Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors Cooper and Van Bergen were absent.

The motion carried.

8. RESOLUTIONS (continued)

8.2 Consideration of Resolution No. 87-814, for the Purpose of Amending Resolution No. 87-744, Revising the FY 1987-88 Budget & Appropriations Schedule (Relating to the Zoo Analyst 3 Position; the Interim Task Force on Regional Metropolitan Governments; Local Area Network and Contract Funding for the Solid Waste Department; the Zoo Aquarium Study; an Agency-Wide Classification Study; Transportation Department Projects; and a Budget Appropriations Schedule Correction)

Jennifer Sims, Support Services Manager, reviewed staff's written report and explained the projects covered under the budget amendment request.

Councilor Gardner referred to a memo from himself to the Council dated October 21, 1987, which reported the Solid Waste Committee's recommendations on agenda items including the purchase of Local Area Network (LAN) equipment and software for the Solid Waste Department. The SWC recommended the Management Committee (who would be asked to approve the contract) conceptually approve the contract and that the Solid Waste Department utilize existing appropriations for computer purchases (\$36,800) to acquire this system and to return to the Council at a later time for an additional appropriation should more computers be needed in the future.

Regarding funding for Phase II of the Aquarium Feasibility Study, Councilor Gardner reported the Management Committee recommended the project be funded.

Councilor Bonner requested funding for the Aquarium Study be separated from Resolution No. 87-814 and held over to November 12 because people wanting to testify on that issue had assumed it would appear as a separate, easily identified agenda item.

After discussion related to the budget adjustment necessary to fund the Interim Study on Regional Government, the Council concurred the Interim Study portion of the budget adjustment should be separated from Resolution No. 87-814 so that it could be considered together with the intergovernmental agreement with the State of Oregon for conduct of the study.

Councilor Ragsdale requested the budget adjustment relating to the Zoo Aquarium Study also be separated from the resolution in order to receive testimony concerning attendance projections reported in Phase I of the study.

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Councilor Collier said she had learned funding efforts were underway for a public aquarium in Newport, Oregon. She was concerned those efforts would conflict with the facility proposed for Portland. Presiding Officer Waker reported the Portland Aquarium Study Group was aware of Newport's efforts and were committed to making no plans that would conflict with their aquarium. He also noted the Newport facility would be much smaller and of a different nature than the aquarium proposed for Portland.

Presiding Officer Waker opened the public hearing on Resolution No. 87-814.

Bruce Allen, representing the Portland Development Commission (PDC), testified he had assisted the PDC and the Zoo in completing Phase I of the Aquarium Feasibility Study. He strongly recommended the Council approve funding for Phase II. Referring to Councilor Ragsdale's earlier concern about Phase I attendance projections, Mr. Allen reported he had met with the person raising objections and had worked out differences. He also explained a Portland Aquarium Study Group member was serving on the Newport Aquarium Board and a Newport person would attend Portland group meetings. He thought the Portland Aquarium Feasibility Study would assist with Newport's efforts.

Jon Gramstad, 1306 N.E. 153rd, Portland, Oregon, member of Wildlife Defense Northwest, a group of some 2,000 members against the capture of wildlife, thought the real intent of the Portland Aquarium was economical and recreational -- interests in obvious conflict with the need to preserve wildlife. In response to the notion that animals exhibited in the aquarium would be ambassadors of their species, Mr. Gramstad said that human beings should also be ambassadors of their species and not permit the loss of other species.

Barbara Spears, 3113 N.E. Rocky Butte Road, Portland, Oregon 97220, also a member of Wildlife Defense Northwest, agreed with Mr. Gramstad it was inappropriate to exhibit intelligent animals in a theatrical or recreational atmosphere. She noted sea otters were the only marine mammals exhibited at the Monterey Bay Aquarium and explained those otters had been injured in the wild. If healthy, they would not have been exhibited.

Tom Dehen, 2965 NW.. Verde Vista, Portland, Oregon 97210, said he shared the concerns of those previously testifying about marine animals in captivity. He pointed out that when marine mammals were captured for exhibitry, more animals were captured than would be exhibited to allow for the high morbidity rate after capture.

Motion: Councilor Kirkpatrick moved, seconded by Councilor DeJardin, to adopt Resolution No. 87-814 with the provision that the following projects be deleted from the resolution and rescheduled for consideration on November 12, 1987: 1) Phase II of the Zoo Aquarium Study; 2) the Interim Study on Metropolitan Government; and 3) \$35,000 from the Contingency Fund for Solid Waste Department computer equipment.

Vote: A vote on the motion resulted in all ten Councilors present voting aye. Councilors Cooper and Van Bergen were absent.

The motion carried and Resolution No. 87-814 was adopted as amended.

NOTE: After the meeting, it was clarified the Council Solid Waste Committee had recommended the Council not approve staff's request that \$35,000 be transferred from Contingency for computer software. Staff were instructed to bring back requests to purchase equipment as necessary.

10. COMMITTEE REPORTS

Council Solid Waste Committee. A memo to Councilor Gardner, Chair of the Solid Waste Committee, from Don Rocks, Executive Assistant, dated October 21, 1987, entitled "Formation of Health Impact Review Panel" was distributed to Councilors. The memo included a proposal to staff the Panel which had been established by Council adoption of Resolution No. 87-809 on September 22.

Councilor Gardner requested Councilors read the report and submit their comments to Mr. Rocks as soon as possible since the study needed to be completed before a resource recovery project was selected. He said staff would return to the Council requesting a budget transfer to fund the proposal.

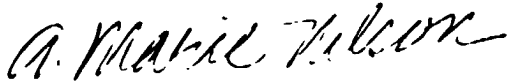
A discussion followed about the proposed cost of the person staffing the panel. Councilor Gardner said he initially had thought costs to be high but had come to accept that budget because of the great quantity of work to be accomplished on very short notice.

Convention Center Committee. Councilor Ragsdale reported convention center architects had to revise the facility's design due to budget constraints. He invited all Councilors to attend a joint meeting of the Committee and the Advisory Committee on Design and Construction at 4:00 p.m., November 3.

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There was no further business and the meeting was adjourned at
10:40 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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