

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

Regular Meeting
November 12, 1987

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

Councilors Absent: Corky Kirkpatrick

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

1. INTRODUCTIONS

None.

2. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

3. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Greg Brown, Route 1, Box 212, Cornelius, Oregon 97113, addressed the Council about the Bacona Road landfill siting process and the report that would be issued by the Department of Environmental Quality (DEQ) to Metro on the site. He questioned the accuracy of DEQ's findings and pointed out the Environmental Quality Commission had also raised concerns with those findings. Mr. Brown requested the Council read a short synopsis of the DEQ's findings which had been prepared by the Helvatia-Mountaindale Preservation Coalition.

Judy Dehen, 2965 N.W. Verde Vista, Portland, Oregon, invited Councilors to attend a meeting at which Neil Seldman, Ph.D., co-founder of the Institute for Local Self-Reliance, would discuss development approaches to municipal solid waste management which would respect environmental quality and create economic development opportunities for minority youth, community organizations, and small businesses.

4. COUNCILOR COMMUNICATIONS

Presiding Officer Waker announced that staff had developed procedures for the Executive Officer's veto of certain legislative ordinances. Councilors could obtain a copy of the procedures from the Council Clerk.

5. EXECUTIVE OFFICER'S COMMUNICATIONS

Report from the Task Force on Metropolitan Regional Government. In the Executive Officer's absence, Deputy Executive Officer Engstrom introduced Ray Phelps, Finance & Administration Director, and Glenn Otto, Chair of the Task Force on Metropolitan Regional Government. Representative Otto and John Houser, staff to the Committee, discussed the Task Force's mission. Work would include studying Metro's current and potential responsibilities, its physical boundaries and financing. The Committee would also recommend whether Metro should have its own charter and whether it should assume responsibility for Tri-Met and the Boundary Commission, regional libraries, water services and transportation systems.

Mr. Houser anticipated the Task Force would be comprised of three subcommittees to study governance issues, the relationship of existing regional agencies to Metro and potential regional functions.

Representative Otto supported Metro seeking a tax base in November 1988 and hoped the Task Force's work would make that task easier.

Report from the Solid Waste Director Regarding a Tour of Dano Facilities. Richard Owings, Solid Waste Director, presented slides and discussed his recent tour of Dano facilities in Western Europe.

Aquarium Study. Deputy Executive Officer Engstrom referred Councilors to a memo from Councilor Kirkpatrick dated November 12, 1987, requesting the portion of budget adjustment Resolution No. 87-821 (agenda item 10.5) relating to funding Phase II of the Aquarium Feasibility study be deferred. The Executive Officer concurred with the request to delay the matter.

6. CONSENT AGENDA

Motion: Councilor Van Bergen moved, seconded by Councilor DeJardin, to approve items on the Consent Agenda.

Vote: A vote on the motion resulted in:

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

Absent: Councilors Cooper, Kelley, Kirkpatrick, Knowles and Ragsdale

The motion carried and the following items were approved:

6.1 Minutes of October 8 and 22, 1987

Metro Council
November 12, 1987
Page 3

6.2 Resolution No. 87-825, Confirming a Citizen Member to the Transportation Policy Alternatives Committee (TPAC) (John Godsey)

7. REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS ON METRO'S
FY 1987 ANNUAL FINANCIAL REPORT AND SCHEDULE OF FEDERAL
FINANCIAL ASSISTANCE

Don Cox, Manager of Accounting, distributed documents entitled "Annual Finance Report, Fiscal Year Ended June 30, 1987" and "Schedule of Federal Financial Assistance (Single Audit), June 30, 1987, (With Auditors' Report Thereon)." He introduced Roger Rowe and Joe Hoffman, auditors from Peat Marwick Main & Co. The auditor's Letter to Management would be reviewed at the December 17 Management Committee Meeting, he explained.

8. CONTRACTS

8.1 Consideration of an Amendment to the Contract with Zimmer
Gunsul Frasca Partnership for Design Services for the Oregon
Convention Center Project

Neil McFarlane, Public Facilities Analyst, reviewed staff's written report. Councilor Ragsdale, Chair of the Council Convention Center Committee, reported the Committee unanimously recommended the Council approve the contract amendment. There was no further discussion.

Motion: Councilor Ragsdale moved, seconded by Councilor DeJardin, to approve the contract amendment with Zimmer Gunsul Frasca Partnership.

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

The motion carried and the contract amendment was approved.

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

Ray Phelps, Finance & Administration Director, presented staff's report as included in the written agenda materials. There was no discussion.

Motion: Councilor Kelly moved, seconded by Councilor Hansen, to approve the agreement.

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

The motion carried and the Intergovernmental Agreement was approved.

9. ORDINANCES

9.1 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 (Second Reading)

Presiding Officer Waker announced the Council would be considering the ordinance in its capacity as the Metro Contract Review Board and that the ordinance was not subject to the Executive Officer's veto. The Clerk read the ordinance a second time by title only. There was no discussion.

Main Motion: The motion to adopt the ordinance was made by Councilors Cooper and Ragsdale on October 22, 1987, at its first reading.

Vote: A roll call vote on the motion resulted in all eleven Councilors present voting aye. Councilor Kirkpatrick was absent.

The motion carried and Ordinance No. 87-230 was adopted.

9.2 Consideration of Ordinance No. 87-231, for the Purpose of Amending Metro Code Chapter 2.04 Relating to the Disadvantaged Business Program (Second Reading)

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

Main Motion: The motion to adopt the ordinance was made by Councilors Kirkpatrick and Knowles on October 22, 1987, at its first reading.

Ray Phelps reported that as a result of public testimony and Councilor questions on October 22, staff met again with the citizen's group who had worked to revise Metro's Disadvantaged Business Enterprise (DBE) Program. He then distributed proposed amendments to the ordinance which were endorsed by that group. Mr. Phelps and Yvonne Sherlock, Contracts Officer, reviewed each amendment and answered questions of Councilors.

Motion to Amend: Councilor Gardner moved, seconded by Councilor Hansen, to amend Ordinance No. 87-231 as follows:

- 1) All references to DOT shall be changed to USDOT to avoid confusing the U.S. Department of Transportation with Oregon's Department of Transportation (ODOT).
- 2) Section 2.04.150(d) shall be changed to read: "Even though no DBE/WBE goals are established at the time that bid/proposal documents are drafted, the Liaison Officer may direct the inclusion of a clause in any RFP or bid documents for any contract described in this section which requires that the prime contractor, prior to entering into any subcontracts, make good faith efforts, as that term is defined in Section 2.04.160, to achieve DBE/WBE participation in the same goal amount as the current annual goal for that contract type."
- 3) Section 2.04.155(a) shall be changed to read: "To be eligible for award of contracts containing a DBE/WBE goal, prime contractors must either meet or exceed the specific goal for DBE and WBE participation, or prove that they have made good faith efforts to meet the goal prior to the time bids are opened or proposals are due. Bidders/Proposers are required to utilize the most current list of DBEs and WBEs certified by ODOT until December 31, 1987, and thereafter, by the Executive Department, in all of the bidders'/proposers' good faith efforts solicitations. The address where certified lists may be obtained shall be included in all applicable bid proposal documents."
- 4) Section 2.04.155(b) shall be changed to read: "All invitations to bids or requests for proposals on contracts for which goals have been established shall require all bidders/proposers to submit with their bids and proposals a statement indicating that they will comply with the contract goal or that they have made good faith efforts as defined in Section 2.04.160 to do so. To document the intent to meet the goals, all bidders and proposers shall complete and endorse a Disadvantaged Business Program Compliance form and include said form with bid or proposal documents. The form shall be provided by Metro with bid/proposal solicitation."
- 5) Section 2.04.155(d) shall be changed to read: "Apparent low bidders/proposers shall, by the close of the next working day following bid opening (or proposal submission date when no public opening is had), submit to Metro detailed DBE and WBE Utilization Forms listing names of DBEs and WBEs who will be utilized and the nature and dollar amount of their participation. This form will be binding upon the bidder/proposer."

Metro Council
November 12, 1987
Page 6

Within five working days of bid opening or proposal submission date, such bidders/proposers shall submit to Metro signed Letters of Agreement between the bidder/proposer and DBE/WBE subcontractors and suppliers to be utilized in performance of the contract. A sample Letter of Agreement will be provided by Metro. The DBE and WBE Utilization Forms shall be provided by Metro with bid/proposal documents."

6) Section 2.04.155(e) shall be changed to read: "An apparent low bidder/proposer who states in its bid/proposal that the DBE/WBE goals were not met but that good faith efforts were performed shall submit written evidence of such good faith efforts within two working days of bid opening or proposal submission in accordance with Section 2.04.160. Metro reserves the right to determine the sufficiency of such efforts."

7) Section 2.04.155(f) shall be deleted.

Mr. Phelps referred the Council to a letter dated November 12, 1987, from Jack R. Kalinowski, Public Affairs Manager of the Associated General Contractors of America, Inc., thanking Councilors for considering the amendments suggested by the AGC on October 22, 1987.

Vote on Motion to Amend: A roll call vote on the motion to amend Ordinance No. 87-231 resulted in all eleven Councilors present voting aye. Councilor Kirkpatrick was absent.

The motion carried.

Vote on the Main Motion: A roll call vote on the main motion, as amended, resulted in all eleven Councilors present voting aye. Councilor Kirkpatrick was absent.

The motion carried and Ordinance No. 87-231 was adopted as amended.

Councilor Knowles commended staff on their successful inclusion of the business community in revising Metro's Disadvantaged Business Program.

9.3 Consideration of Ordinance No. 87-232, for the Purpose of Amending Metro Code Section 1.02.010 and Adding a Code Section 2.04.035 Relating to Personnel and Contracting Rules for the Metropolitan Exposition-Recreation Commission (Second Reading)

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

Metro Council
November 12, 1987
Page 7

Motion: The motion to adopt the ordinance was made by Councilors Kirkpatrick and Ragsdale at the first reading on October 22, 1987.

There was no discussion on the ordinance.

Vote: A roll call vote on the motion resulted in all eleven Councilors present voting aye. Councilor Kirkpatrick was absent.

The motion carried and Ordinance No. 87-232 was adopted.

9.4 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 (Second Reading)

The Clerk read the ordinance a second time by title only. Presiding Officer Waker announced the Council would consider the ordinance in its capacity as the Metro Contract Review Board and that the ordinance was not subject to the Executive Officer's veto.

Motion: The motion to adopt the ordinance was made by Councilors Kirkpatrick and Ragsdale at the first reading on October 22, 1987.

There was no discussion on the ordinance.

Vote: A roll call vote on the motion resulted in all eleven Councilors present voting aye. Councilor Kirkpatrick was absent.

The motion carried and Ordinance No. 87-232 was adopted.

9.5 Consideration of Ordinance No. 87-234, for the Purpose of Adopting a Final Order and Amending the Metro UGB in Contested Case No. 87-1 for the Chicken Creek, Harborton and Bull Mountain Sites (First Reading); and

10.1 Consideration of Resolution No. 87-822, for the Purpose of Initiating Annexation to Metro and Expressing Council Intent to Amend the Urban Growth Boundary in Contested Case No. 87-1 for the Edy Road, Highway 99W, Middleton and Substation Sites

The Clerk read the ordinance a first time by title only. Presiding Officer Waker announced that the Council would consider this matter in its capacity as a quasi-judicial board and as such, the ordinance was not subject to the Executive Officer's veto. He also announced that a public hearing had previously been conducted on the matter

Metro Council
November 12, 1987
Page 8

and the Hearings Officer's Report was included in the agenda materials. The Council would consider adoption of both the ordinance and resolution on November 24, 1987, he explained.

Jill Hinckley, Land Use Coordinator, introduced Chris Thomas, Hearings Officer for Contested Case No. 87-1. Mr. Thomas summarized the written Hearings Officer's Report as contained in the meeting agenda materials.

In response to Councilor Knowles question, Ms. Hinckley reported a few residents had testified at the hearing in opposition to the amendment. Citizens were primarily concerned about traffic on Bull Mountain Road. Jean Young, King City Mayor, had also opposed the amendment. She explained those citizens were very cooperative and understood the standards by which Metro would judge the case.

Motion: Councilor DeJardin moved, seconded by Councilor Ragsdale, to adopt Ordinance No. 87-234.

Presiding Officer Waker announced the ordinance would be continued to a second reading on November 24 and which time Resolution No. 87-822 would also be considered for adoption.

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

Presiding Officer Waker reported he, Executive Officer Cusma, Dan Cooper, and Councilors Gardner, DeJardin and Cooper were continuing to meet with representatives of Oregon City to negotiate a solution to the problems surrounding the tonnage limit issue at CTRC. Because negotiations were not complete, the Solid Waste Committee recommended deferring Resolution No. 87-820 to the next Council meeting.

Motion: Councilor Van Bergen moved, seconded by Councilor Collier, to set over consideration of Resolution No. 87-820 to November 24, 1987, pending negotiations with the city of Oregon City.

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

The motion carried unanimously.

10.3 Consideration of Resolution No. 87-812, for the Purpose of Granting a Processing Facility Franchise to K.B. Recycling, Inc.

The Presiding Officer announced the resolution had been removed from the agenda at the request of K.B. Recycling, Inc.

10.4 Consideration of Resolution No. 87-826, for the Purpose of Establishing Rental Rates, Terms and Conditions for the Oregon Convention Center

Neil McFarlane, Public Facilities Analyst, reported the resolution would be an integral part of the convention center marketing plan and referred the Council to information contained in staff's written report.

Councilor Ragsdale, Chair of the Council Convention Center Committee, explained the Committee had unanimously recommended adoption of the resolution.

Motion: Councilor Ragsdale moved, seconded by Councilor Cooper, to adopt Resolution No. 87-826.

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

The motion carried and the resolution was adopted.

10.5 Consideration of Resolution No. 87-821, for the Purpose of Amending Resolution No. 87-744, Revising the FY 1987-88 Budget & Appropriations Schedule for the Aquarium Study, Interim Task Force on Regional Metropolitan Governments, Health Impact Review Panel (Relating to the Resource Recovery Project), Two Copier Purchases and Council Needs

Aquarium Study. Presiding Officer Waker referred Councilors to Councilor Kirkpatrick's memo dated November 12, 1987, requested the Aquarium Study portion of the budget amendment be withdrawn from consideration at this time. Don Carlson, Council Administrator, explained the Council Zoo Planning Committee would review the Aquarium Study matter further and make a recommendation to the Council on November 24, 1987.

Motion: Councilor Bonner moved, seconded by Councilor Collier, to delete the Aquarium Study portion from the resolution and to consider it separately on November 24, 1987.

Metro Council
November 12, 1987
Page 10

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

The motion carried unanimously and the Aquarium Study item was deleted from Resolution No. 87-821.

Health Impact Review Panel. Councilor Van Bergen recalled the Management Committee had previously approved a \$24,000 contract to staff the Review Panel and questioned why the budget amendment request was in the amount of \$27,000. Don Rocks, Executive Assistant, explained the additional \$3,000 would be needed for staffing expenses not covered under the contract with the project consultant.

Councilors Knowles, Collier, DeJardin and Gardner all expressed concern about the high cost of staffing the Health Impact Review Panel and the limited process for negotiating the contract.

Interim Task Force on Regional Metropolitan Governments. Jennifer Sims, Management Services Director, reported the Council had approved a related Intergovernmental Agreement with the State of Oregon for the above earlier in the evening. There was no discussion on the matter.

Council Needs. Ms. Sims explained because of the recent office move, the budget adjustment was necessary to pay for furniture items. A computer had also been purchased for word processing, budget analysis and automation of Council action indices.

Copier Purchases. New copy machines were proposed for the Management Services and Zoo departments due to increased demands.

Motion: Councilor Collier moved, seconded by Councilor Kelley, to adopt Resolution No. 87-821 as amended and to consider the Health Impact Review portion of the resolution by separate motion.

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

The motion carried.

Motion: Councilor Hansen moved, seconded by Councilor Knowles, to approve the Health Impact Review portion of Resolution No. 87-821.

Metro Council
November 12, 1987
Page 11

Vote: A vote on the motion resulted in:

Ayes: Councilors Bonner, Cooper, DeJardin, Gardner, Hansen, Knowles, Van Bergen and Waker

Nays: Councilors Collier, Kelley and Ragsdale

Absent: Councilor Kirkpatrick

The motion carried and Resolution No. 87-821 was adopted as amended.

10.6 Consideration of Resolution No. 87-824, for the Purpose of Adding One Analyst 3, One Secretary and .5 FTE Office Assistant to the Solid Waste Department

Rich Owings, Solid Waste Director, reviewed staff's written report, explaining the proposed Analyst position would be used for the hazardous waste program.

Councilor Gardner, Chair of the Council Solid Waste Committee, reported the majority of the Committee (3 to 2 vote) had voted to recommend adoption of the resolution. Ray Barker's November 12 memo to the Council summarized the Committee's recommendation and discussion. The minority expressed concern that the Solid Waste Department had shifted a program position to an administrative position -- an Analyst 3 position previously designated for the waste reduction program had been administratively redefined as the Assistant to the Director. The minority felt the hazardous waste work requested by the Solid Waste Director could be accomplished by filling a vacant analyst position in the functional planning program with a qualified individual and reassigning the Assistant to the Director position to a specific program area to work on the functional planning effort. This would accomplish the hazardous waste work program without the appropriation of additional funds for Personal Services.

Councilor Hansen added that all five Committee members agreed the additional clerical positions were necessary. He agreed with the majority of the committee that the new Analyst position was justified due to changing priorities in the Solid Waste Department.

A discussion followed on the need for the Analyst 3 position. Councilor Knowles recalled that six new positions had been added to the Solid Waste Department during the FY 1987-88 budget process. He was concerned the department had not clearly stated their needs at that time had reassigned responsibilities as described above.

In an unrelated matter, Councilor Van Bergen reported he had received a letter from Executive Officer Cusma regarding the status of the Bacona Road landfill siting process. He did not consider the letter

Metro Council
November 12, 1987
Page 12

responsive to the questions raised by Councilors at the October 22 Council meeting. He requested staff contact him regarding Metro's liability, as provided by Oregon Statute, for siting expenses incurred by the Department of Environmental Quality.

Main Motion: Councilor Hansen moved, seconded by Councilor Kelley, to adopt Resolution No. 87-824.

Councilor Ragsdale asked if staff had considered alternative ways to resolve staffing problems. Mr. Owings explained the Assistant to the Director position was necessary for relieving the Director of clerical and administrative responsibilities as well as staffing the North Portland Enhancement Committee. There were no other positions available to pick up that important work. A vacant Analyst 3 position had been filled to perform functional planning work which was a top priority, fast-track project at this time, he said.

Motion to Amend: Councilor Gardner moved, seconded by Councilor Bonner, to delete the Analyst 3 position from the resolution.

Councilor Kelley was concerned about placing the Solid Waste Department in a position of playing "shell games" with personnel. She suggested a performance audit be performed to evaluate staffing. Both hazardous waste and functional planning programs were important priorities and deserved appropriate staffing, she explained.

Councilor Hansen noted that by approving the Analyst 3 position the Council was actually voting on whether it wanted to develop an effective hazardous waste program. He urged the Council to accept the majority recommendation of the Solid Waste Committee and to not endanger staff morale and program continuity. He agreed a performance audit should be conducted at some future time.

Councilor Collier explained it was important Councilors be able to trust the budget process. She thought mid-year staffing requests should be discouraged.

Councilor DeJardin thought the major concern of the Council should be to get important work accomplished which sometimes would require mid-year staff adjustments. He concurred a performance audit was desirable.

Vote on the Motion to Amend: A vote on the motion to delete the Analyst 3 position from the resolution resulted in:

Ayes: Councilors Bonner, Collier, Gardner, Knowles,
Van Bergen and Waker

Nays: Councilors Cooper, DeJardin, Hansen, Kelley and Ragsdale

Absent: Councilor Kirkpatrick

The motion to amend the resolution carried.

Vote on the Main Motion: A vote on the motion to adopt the resolution resulted in:

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

Nays: Councilors Bonner, Collier and Van Bergen

Absent: Councilor Kirkpatrick

The motion carried and Resolution No. 87-824 was adopted as amended.

Councilor Bonner said he had voted against adoption of the resolution because he thought additional staffing requests should only be made as part of the annual budget progress.

Councilor Gardner requested Council staff's analysis of the Solid Waste Department's request, which was sent to Solid Waste Committee members, be made available to all Councilors.

10.7 Consideration of Resolution No. 87-815, for the Purpose of Adopting Affirmative Action Goals and Objectives for FY 1987-88

Motion: Councilor Ragsdale moved, seconded by Councilor Kelley, to adopt the resolution.

There was a consensus among Councilors that staff should investigate a different system for measuring affirmative action process which could be implemented for FY 1988-89. Ray Phelps suggested alternatives could be discussed as part of the upcoming budget process.

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

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

11. COMMITTEE REPORTS

Metropolitan Exposition-Recreation Commission (MERC) Nomination Process. Councilor Ragsdale announced that at the November 24 Council meeting, the Executive Officer would present her recommenda-

Metro Council
November 12, 1987
Page 14

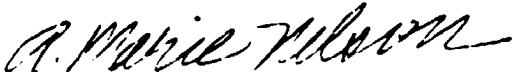
tions. The Convention Center Committee would hold hearings to interview nominees on December 3, at which time the same set of questions would be asked all candidates. He asked Councilors to submit possible questions to him in advance of the hearing. Presiding Officer Waker concurred with the process and schedule.

Solid Waste Resource Recovery Project. In response to Councilor Van Bergen's question about the status of the project, Councilor Gardner reported staff were currently negotiating with vendors and would make their recommendation to the Council in mid-January. The Health Impact Review Panel would conclude their studies and also make a recommendation to the Council in mid-January.

Landfill Siting Process. Councilor Hansen expressed concern about the amount of time the Department of Environmental Quality had taken to conduct the regional landfill siting process. He asked staff to review whether a time limit was or could be imposed on the DEQ. Councilor Ragsdale also requested staff report to the Council on the potential for landslides at the Bacona Road site.

There being no further business, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

amn
8650C/313-2
12/14/87