

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

Regular Meeting
December 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

Also Present: Rena Cusma, Executive Officer
Daniel B. Cooper, General Counsel

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

Presiding Officer Waker announced he had received a letter from Luanne Thielke, Mayor of Tualatin, supporting Council adoption of Resolution No. 87-834 relating to purchase of the Jefferson Street Rail Line.

In response to Councilor Van Bergen's question, Executive Officer Cusma explained the letter Councilors had received from Waste Management, Inc. had expressed the firm's appreciation for certain contract amendments made by Metro and the firm's request. Those changes were approved by the Council's Solid Waste Committee.

3. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

4. COUNCILOR COMMUNICATIONS

Councilor DeJardin noted he was serving on the Board of the Special Service Districts of Oregon and in order to be covered by Metro for insurance purposes, the Council needed to officially designate him as their representative on the Board.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Knowles, to appoint Councilor DeJardin as the Council representative to the Board of the Special Service Districts of Oregon.

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

The motion carried. Councilor DeJardin suggested the new Presiding Officer consider making the appointment a regular committee assignment since the group met at least once a month.

5. EXECUTIVE OFFICER COMMUNICATIONS

Zoo Director Selection Process. Executive Officer Cusma reported one finalist had accepted another position and the selection committee was now conducting community visits for the two remaining finalists. The Committee's work would be complete on December 23. One or both candidates would be brought to Portland and the Council would have an opportunity to meet with the candidate(s).

6. CONSIDERATION OF MINUTES

Motion: Councilor Hansen moved, seconded by Councilor Knowles, to approve the minutes of November 12 and November 20, 1987.

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

The motion carried and the minutes were approved.

7. CONFIRMATION OF APPOINTMENTS

7.1 Consideration of Confirmation of Appointments to the Metropolitan Exposition-Recreation Commission (MERC)

Councilor Ragsdale, Chair of the Council Convention Center Committee, reported that after hearings and interviews with each of the seven candidates recommended by Executive Officer Cusma, the Committee recommended approval of all seven candidates.

Motion: Councilor Ragsdale moved, seconded by Councilor DeJardin, to confirm the appointment of Barbara Klein to the Metropolitan Exposition-Recreation Commission for a term to expire January 15, 1990.

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

The motion carried and Barbara Klein was confirmed to the MERC.

Motion: Councilor Ragsdale moved, seconded by Councilor Kelley, to confirm the appointment of Sam Brooks to the Metropolitan Exposition-Recreation Commission for a term to expire January 15, 1991.

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

The motion carried and Sam Brooks was confirmed to the MERC.

Motion: Councilor Ragsdale moved, seconded by Councilor Knowles, to confirm the appointment of Mitzi Scott to the Metropolitan Exposition-Recreation Commission for a term to expire January 15, 1990.

Vote: A vote on the motion resulted in:

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

Nays: Councilors Bonner, Gardner, Van Bergen and Waker

The motion carried and Mitzi Scott was confirmed to the MERC.

Motion: Councilor Ragsdale moved, seconded by Councilor DeJardin, to confirm the appointment of Ben Middleton to the Metropolitan Exposition-Recreation Commission for a term to expire January 15, 1989.

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

The motion carried and Ben Middleton was confirmed to the MERC.

Motion: Councilor Ragsdale moved, seconded by Councilor Cooper, to confirm the appointment of Ted Runstein to the Metropolitan Exposition-Recreation Commission for a term to expire January 15, 1992.

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

The motion carried and Ted Runstein was confirmed to the MERC.

Motion: Councilor Ragsdale moved, seconded by Councilor DeJardin, to confirm the appointment of Richard Ares to the Metropolitan Exposition-Recreation Commission for a term to expire January 15, 1991.

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

The motion carried and Richard Ares was confirmed to the MERC.

Motion: Councilor Ragsdale moved, seconded by Councilor Kelley, to confirm the appointment of Stephen Gale to the Metropolitan Exposition-Recreation Commission for a term to expire January 15, 1992.

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

The motion carried and Stephen Gale was confirmed to the MERC.

After all Commissioners were confirmed, Presiding Officer Waker noted their appointments were effective immediately. Councilor Waker introduced Commissioners who were present at the meeting including Barbara Klein, Sam Brooks, Ben Middleton, Ted Runstein and Stephen Gale. Mitzi Scott appeared later in the meeting and was introduced at that time. Presiding Officer Waker welcomed the Commissioners to their new positions.

7.2 Consideration of Confirmation of an Appointment to the Interim Task Force on Metropolitan Regional Government

Executive Officer Cusma introduced Ed Whelan, her recommended appointment to the Interim Task Force. Mr. Whelan noted he had been solicited by the Executive to serve and had been urged by others to accept. He said he had the time, experience and desire to do the work and was confident the Task Force's work would result in positive changes for Metro.

Presiding Officer Waker noted Mr. Whelan had been a strong advocate of separation of powers between the Council and Executive Office during the transition of Executive Officers early in 1987. He asked Mr. Whelan to explain his views on that issue.

Mr. Whelan explained he supported a clearly defined balance of power for Metro. He suggested the large size of the Council could be reduced and that the Council Chair also serve as Executive. He said he was very open-minded about ways to achieve an effective balance. He also supported Metro assuming responsibility for regional transit.

Councilor Kirkpatrick expressed her dissatisfaction that the Executive Officer had not consulted with Councilors before bringing Mr. Whelan's name forward. She explained she respected his experience but had worked with him to resolve transition issues and did not think he would represent the Council well.

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Executive Officer Cusma noted Mr. Whelan was the third person forwarded to the Council for confirmation. The Presiding Officer had declined her suggestion of referring the matter to a Council committee before consideration at this meeting. It would be impossible to submit a name suitable to 13 people, she explained.

In response to Councilor Knowles question, the Presiding Officer said he had been consulted by the Executive Officer about Mr. Whelan after the Executive had named him as a candidate.

Councilor Collier thought the Interim Committee's work very important to the future of Metro. She noted the Council needed reassurance that Mr. Whelan could fairly represent the Council on the Interim Task Force. Mr. Whelan responded that he had no problem with representing the Council's interests. Past differences had resulted from one issue -- that of Metro's Personnel Rules.

Motion: Councilor Hansen moved to confirm the appointment of Ed Whelan to the Interim Task Force on Metropolitan Regional Government.

Councilor Hansen said Mr. Whelan's experience and knowledge made him an outstanding candidate and he was pleased to have him represent the agency. He noted Mr. Whelan's active role during Tri-Met's labor/management negotiations and thought he could play a similar role on the Task Force of bringing people together.

Presiding Officer Waker said he would have preferred the Executive Officer consult with the Council before bringing a candidate forward for confirmation. He thought the primary issue was that the Council needed to be involved in selection of the candidate and that had not happened.

Executive Officer Cusma urged the Council to confirm Mr. Whelan and that a mutually acceptable procedure for making future appointments could be worked out within the next few months. She noted the Metro representative was the one unfilled position on the Interim Task Force and the group was already meeting.

Councilor Knowles said he would not support the motion because the Council's leadership had not been consulted in advance of the appointment.

Vote: A vote on the motion to confirm Mr. Whelan's appointment resulted in:

Ayes: Councilors Bonner, Cooper, Hansen and Kelley

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Nays: Councilors Collier, DeJardin, Gardner, Kirkpatrick,
Knowles, Ragsdale*, Van Bergen and Waker

The motion failed.

* After the roll call vote, Councilor Ragsdale, with the permission of Presiding Officer Waker, changed his vote from aye to nay for the purpose of serving notice that he might request the matter be reconsidered at the January 14, 1988, Council meeting.

Motion: Councilor Bonner moved, seconded by Councilor Kirkpatrick, to refer the matter of Mr. Whelan's appointment to the Council Management Committee for review and recommendation.

Councilor Van Bergen said he did not support the motion due to the pending change in Council leadership and committee appointments. A discussion followed about the next opportunity for the Management Committee to review the matter. It was agreed that such a referral would cause a delay in the confirmation process.

Withdrawal of Motion: Councilors Bonner and Kirkpatrick withdrew the motion to refer the matter to the Management Committee due to possible delays.

Motion: Councilor DeJardin moved, seconded by Councilor Kelley, to have the Presiding and Deputy Presiding Officers establish a committee of five Councilors to review the appointment of Ed Whelan and to make a recommendation to the Council on January 14, 1988.

Vote: A vote on the motion resulted in:

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

Nays: Councilors Collier and Kirkpatrick

The motion carried.

Later in the meeting, Presiding Officer Waker appointed Councilors Knowles (Chair), Ragsdale, Cooper, DeJardin and Kirkpatrick to the review committee who would meet and make a recommendation to the Council on January 14, 1988.

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8.1 Consideration of Ordinance No. 87-235, for the Purpose of
Amending Metro Code Section 2.04.060 Revising Admission Fees
and Policies at the Washington Park Zoo (Second Reading)

The Clerk read the Ordinance a second time by title only. Presiding Officer Waker announced that the first reading and public hearing was held on December 10. The ordinance was subject to the Executive Officer's veto.

Motion: The motion to adopt the ordinance was made by Councilor Kirkpatrick, seconded by Councilor DeJardin, on December 10, 1987.

Councilor Kirkpatrick reviewed the Zoo Committee's written recommendation: 1) fees be increased effective February 1, 1988; and 2) the ordinance not be amended as originally proposed which would have created special fees for after-hours catered events. The Executive Officer would have the authority to approve variances to admission fees to facilitate commercial ventures, however.

Motion to Amend: Councilor Kirkpatrick moved, seconded by Councilor DeJardin, to adopt the amendments embodied in Ordinance No. 87-235A as recommended by the Zoo Committee.

A discussion followed about whether fee increases were necessary. Councilor Kirkpatrick reported the Committee had determined increases were necessary to finance increased capital costs.

Councilor Kelley questioned the practice of raising admissions so that additional capital revenue would be spent to upgrade concessions. She thought lower admission rates would increase attendance which would result in higher revenues.

After discussion, the majority of Councilors expressed satisfaction with the Zoo Committee's recommendations and thought Zoo admission fees competitive, if not lower than, other attractions in the state.

Vote on the Motion to Amend: A roll call vote on the motion to amend the ordinance resulted in:

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

Nay: Councilor Collier

The motion to amend carried.

Vote on the motion to Adopt the Ordinance: A roll call vote
on the main motion resulted in:

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

Nay: Councilor Collier

The motion carried and the Ordinance was adopted.

Councilor Van Bergen requested the Budget Committee review the issue
of non-tax Zoo revenue being applied to capital outlay projects.

8.2 Consideration of Ordinance No. 87-236, for the Purpose of
Revising the Fee Schedule for Petitions to Amend the Urban
Growth Boundary (First Reading and Public Hearing)

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

Ray Phelps, Finance & Administration Director, and Jill Hinckley,
Land Use Coordinator, presented staff's report. The fee changes
were being proposed so that fees charged by Metro would more closely
correspond to the actual expense of hearing each case.

Presiding Officer Waker and Councilor Kirkpatrick encouraged a
system where a ceiling would be placed on costs to petitioners.

Discussion continued and it was agreed the ordinance should be
referred to the Council Management Committee for review and recom-
mendation. The Presiding Officer concurred.

Motion: Councilor Knowles moved, seconded by Councilor
DeJardin, to adopt Ordinance No. 87-236.

Presiding Officer Waker opened the public hearing. There was no
testimony and the hearing was closed. He explained the ordinance
would be reviewed by the Council Management Committee on
January 21 and would be before the Council for a second reading on
January 28, 1988.

8.3 Consideration of Ordinance No. 87-237, for the Purpose of
Creating an Office of General Counsel (First Reading and Public
Hearing)

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

Councilor Gardner referred Councilors to the Management Committee's written report on the ordinance. As a result of the Council's consideration of a resolution to add a new legal counsel position and the issue of who in the agency could initiate litigation, both Executive staff and Councilors Collier and Van Bergen had drafted ordinances creating an Office of General Counsel. The purpose of the ordinances was to define the role of General Counsel, how the Counsel would be hired and terminated and to define how and by whom litigation could be initiated.

After extensive discussion, the Management Committee recommended the new Legal Counsel position be created (the Council would be asked to consider a resolution creating the position at the January 28 meeting) and that the version of the ordinance now before the Council be adopted.

Councilors Van Bergen and Collier concurred with Councilor Gardner's recommendation. Councilor Collier noted that the new Office of General Counsel would reduce the amount of money spent on outside legal services and that all legal contracts would be approved by the General Counsel.

Executive Officer Cusma said she had some concerns about provisions in the proposed ordinance and would be discussing those issues with Councilors in the near future. Presiding Officer Waker requested the Executive Officer communicate her concerns before the January 14 second reading of the ordinance.

Motion: Councilor Collier moved, seconded by Councilor DeJardin, to adopt Ordinance No. 87-237.

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

A discussion followed about how the ordinance provided for the hiring and termination of the General Counsel.

Councilor Collier was pleased how Executive staff and Councilors had worked to draft an ordinance addressing the concerns of all parties.

Presiding Officer Waker announced the second reading of the ordinance was scheduled for January 14, 1988.

At the end of the meeting citizen Claire Green indicated in writing she would like a second public hearing to be conducted on January 14 because the ordinance had been added to the agenda after it had been mailed to the public. Presiding Officer Waker said he would forward her note to the new Presiding Officer in January and the new Presid-

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ing Officer would decide if a second public hearing would be conducted.

The Council recessed from 7:25 p.m. to 7:45 p.m.

9. RESOLUTIONS

9.1 Consideration of Resolution No. 87-787, for the Purpose of Amending Resolution No. 87-744, Adopting a Supplemental Budget and Appropriations and Increasing Convention Center Project Debt Service Payments (Public Hearing)

Jennifer Sims, Management Services Director, summarized staff's written report. She explained the Council had initially reviewed the resolution in August 1987 and had approved the budget for transmittal to the Tax Supervising & Conservation Commission (TSCC). The TSCC certified the budget and had recommended certain changes as outlined in its letter included in the staff report.

Presiding Officer opened the public hearing. No testimony was received and the hearing was closed.

Motion: Councilor Hansen moved, seconded by Councilor DeJardin, to adopt the resolution.

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

The motion carried.

9.2 Consideration of Resolution No. 87-833, for the Purpose of Endorsing the Tri-Met Five-Year Transit Development Plan

Andy Cotugno, Transportation Director, summarized staff's written report and explained the resolution ensured that a regional transit system would receive a stable funding base. He said the resolution would be presented to the Tri-Met Board pending the Council's adoption.

Motion: Councilor Van Bergen moved to adopt the resolution and Councilor Kelley seconded the motion.

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

The motion carried and the resolution was unanimously adopted.

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9.3 Consideration of Resolution No. 87-834, for the Purpose of
Endorsing the Recommendations of the Jefferson Street Project's
Policy Advisory Committee and Committee Funds to Support the
Purchase of the Rail Line

Councilor Gardner, member of the Policy Advisory Committee, summarized the written report. He explained the committee recommended the Jefferson Street Rail Line be preserved at minimum cost to ensure it would be available at some future time for a light rail project. Richard Brandman, Metro Transportation Analyst, and Ann McLoughlin, City of Portland Transportation Department, were present to answer questions of Councilors.

A discussion followed about the cost to local governments for preserving the rail line. Councilor Gardner explained the estimated cost of extending the line to Lake Oswego was about \$400,000.

Motion: Councilor Gardner moved, seconded by Councilor Kirkpatrick, to adopt the resolution.

Councilor Ragsdale was concerned the resolution was worded to commit Metro and other local governments to spending funds in future fiscal years in a manner not consistent with budget laws. He proposed any references to future commitments read "intends to commit."

Councilor Cooper did not support the resolution, saying the money for the program would be better spent to pay for new Tri-Met buses. Metro had no business buying rail lines, he said. The Councilor did not think it likely a rail line to Lake Oswego would be built.

Councilor Kelley said she would not support the resolution because Metro's correct role was that of a planning agency, not that of acquiring and constructing transportation projects.

Ann McLoughlin, in addressing Councilor Cooper's earlier concerns, noted areas adjacent to the Jefferson Street Rail Line would be developed as called for in the City of Portland Central Plan. At some point in time, rail transit would be a valuable asset to the City.

Councilor Van Bergen was concerned the resolution did not address matters of easements and deed titles and thought problems would result concerning those matters.

Motion to Amend: Councilor Gardner moved, seconded by Councilor Ragsdale, to amend the resolution as follows
(material to be added is underlined; material to be
deleted in in brackets):

1) The second "be it resolved" paragraph be changed to read: "[Commits] Intends to budget funds in FY 1989 for purchase of the Jefferson Street Branch rail line in the amount of \$20,898."

2) The fifth "be in resolved" paragraph be changed to read: "Endorses the City of Portland extending the rail line to downtown Portland at no additional expense to the [consortium] participating local governments."

Councilor Ragsdale explained the latter change would address the likelihood of the consortium disbanding.

Vote on the Motion to Amend: A vote on the motion resulted in All ten Councilors present voting aye. Councilors Bonner and DeJardin were absent.

The motion to amend carried.

In response to Councilor Cooper's question, Councilor Gardner reported Tri-Met had contributed \$67,000 to the first phase of the Jefferson Street project. They had not participated financially in this phase because funds had not been available for expansion projects.

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

Ayes: Councilors Collier, Gardner, Hansen, Kirkpatrick, Knowles, Ragsdale, Van Bergen and Waker

Nays: Councilors Cooper and Kelley

Absent: Councilors Bonner and DeJardin

The motion carried and Resolution No. 87-834 was adopted as amended.

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

Councilor Gardner reported that negotiations continued between Metro and the city of Oregon City.

Motion: Councilor Gardner moved, seconded by Councilor Knowles, to set the resolution over until January 14 pending completion of negotiations with the city of Oregon City.


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

The motion carried.

There was no further business and the meeting was adjourned at 8:35 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "A. Marie Nelson".

A. Marie Nelson
Clerk of the Council

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