

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

January 28, 1988
Regular Meeting

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

Councilors Absent: Mike Ragsdale

Others Present: Rena Cusma, Executive Officer
Dan Cooper, General Counsel

In the absence of Presiding Officer Ragsdale, Deputy Presiding
Officer Kirkpatrick called the meeting to order at 5:30 p.m.

1. INTRODUCTIONS

None.

2. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Deputy Presiding Officer Kirkpatrick read into the record a letter
from Michael Smith, President, Pacific Inland Navigation, Inc.,
dated January 28, 1988. Mr. Smith advised that Pacific Inland in
concert with the Pacific Inland Pilots Association and the Columbia
Region Waste Haulers Association, were developing plans to transport
and dispose of Portland waste. "The Council has, in the past, been
informed of our project and we have cautioned you against using
figures that include waste that will be unavailable," he wrote.
Mr. Smith said he would keep the Council informed about the project
and offer Metro the use of the system.

3. CITIZENS COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Steve Misner, Route 1, Box 222B, Banks, Oregon, urged Metro to
consider waste as a natural resource. The proposed garbage burner
in Columbia County and the proposed landfill at the Bacona Road site
were environmentally unsound disposal options, he explained. A
landfill in Eastern Oregon would be a compromise solution.
Mr. Misner urged the Council to establish recycling as an alterna-
tive to waste disposal and by doing so, set a national example.

Judy Dehen, 2965 N.W. Verde Vista, Portland, Oregon, representing
the Columbia Group of the Sierra Club, distributed a letter from

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Portland Fair Share encouraging all Councilors to attend the Metro-sponsored meeting on solid waste issues scheduled for February 2 at the Fernwood School. Considering all risks, expenses and politics, she favored siting a landfill in Eastern Oregon to the Bacona Road site or a garbage burner. She also requested Councilors read reports given to them by the Sierra Club.

In response to Councilor Hansen's question, Ms. Dehen said the Sierra Club had not officially endorsed the Eastern Oregon landfill alternative nor was it its policy to endorse alternative technology vendors. She said, however, the Club was on record as supporting the DANO process for composting. The Club also endorsed recycling and other composting methods as a means of reducing waste.

Councilor Gardner asked the Executive Officer if staff had responded to questions asked by Oregon Fair Share. At the last Council meeting, the Executive had indicated she would provide a response to those questions by January 28. Executive Officer Cusma said staff was working on the responses she would soon report to the Council.

Mike Edera, Route 1, Box 232E, Banks, Oregon, urged Councilors to read the "Report on the Trash Incineration and Recycling Facility proposed for Columbia County, Oregon," prepared by the Health Impact Review Panel for Metro, dated January 1988. He also discussed problems with the leachate treatment system proposed by the Department of Environmental Quality (DEQ) for the Bacona Road Landfill site. Mr. Edera thought environmentally sound, on-site treatment impossible and asked Councilors to request Metro staff provide them with a report on the workability of leachate treatment solutions proposed by DEQ. He also invited Councilors to contact him for a tour of the Bacona Road site.

Ed Martiszus, 53215 Timber Road, Vernonia, Oregon, testified regarding the Health Impact Review Panel's study. He opposed the alternative technology facility proposed to be built in St. Helens, explaining the study had discussed possible air pollutants being emitted from the plant. Those pollutants, combined with pollution generated by other plants in the area, would be very detrimental to the health of local residents, he explained. Mr. Martiszus reported that Metro currently issued hazardous waste disposal permits for many of the same substances that would be contained in the ash residue created by the garbage burning process. He said he had no faith that DEQ would regulate the safe disposal of ash residue and urged the Council to emphasize recycling as a reasonable alternative. He volunteered his help in promoting that alternative.

4. COUNCILOR COMMUNICATIONS

4.1 Consideration of Resolution No. 88-842, for the Purpose of Expressing Appreciation to Carol Ann Nelson, McKay Rich, Ken Curtis, Chet Gregg, Luke Metcalfe, Stanley P. Held, Janet Y. McCoy, Anne Schaldt, Dick Karnuth, Elizabeth Anne Brown, James A. Gieseck, Jr., Marie Nelson, William Pettis and Alan Holsted for Service Rendered to the Metropolitan Service District

The Deputy Presiding Officer read the resolution which recognized employees who had worked at Metro ten, fifteen and twenty years.

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

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

The motion carried unanimously. The Presiding Officer then presented plaques of appreciation to employees in attendance.

5. EXECUTIVE OFFICER COMMUNICATIONS

5.1 Report on the Results of the Oregon Convention Center Area Development Strategy

Tuck Wilson, Convention Center Project Manager, introduced Chris Kopca of the Portland Development Commission (PDC), who presented the report. He distributed a report entitled "Proposed Oregon Convention Center Area Development Strategy," dated January 1988 which had been prepared by the PDC under contract to Metro. Mr. Kopca reviewed the written report which discussed proposals for enhancing the area adjacent to the Convention Center facility. No action was requested of the Council.

6. CONTRACTS

6.1 Consideration of an Intergovernmental Agreement with the City of Portland for the Public-Private Task Force on Transit Finance

The Deputy Presiding Officer announced the contract would be considered at the end of the evening to accommodate staff's schedule.

6.2 Consideration of a Contracts with JBL&K and the Waddell Organization for Development and Administration of an Insurance Program for the Oregon Convention Center Project

Councilor Cooper, Councilor Convention Center Committee Chair, reported the committee unanimously recommended the Council approve the contracts. Tuck Wilson, Convention Center Project Director, reviewed highlights of staff's written report as updated at the meeting.

Motion: Councilor Cooper moved, seconded by Councilor Waker, to approve the contracts with JBL&K and the Waddell Organization.

Councilors Waker and Van Bergen, both members of the Convention Center Committee, endorsed approval of the two contracts, explaining they had been carefully reviewed by the Committee and would save the District money over the long term.

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

The motion carried and the two contracts were approved.

7. ORDINANCES

7.1 Consideration of Ordinance No. 88-238, for the Purpose of Adopting a Final Order and Amending the Urban Growth Boundary for Contested Case No. 87-2: Angel Property (Second Reading)

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

Motion to Adopt Ordinance: A motion to adopt the ordinance was received at the meeting of January 14, 1988, from Councilors Waker and Kelley.

Dan Cooper, General Counsel, reported he had nothing new to report since he delivered staff's report at the first reading of the ordinance on January 14. He noted all Councilors had received a letter from the Department of Land Conservation and Development dated January 27, 1988, stating the DLCD had decided not proceed with an appeal should the Council approve this amendment to the UGB.

Councilor Knowles reported that on January 14 he had indicated his problems with the findings prepared by staff. He explained that as a quasi-judicial body the Council had an obligation to regard land use laws and procedures as they were written, not as the Council wanted them to be. By waiving its Code requirement in the Angel

Case the Council had not waived its policy but had merely desired to give the petitioner his "day in court." He also questioned whether the applicant's petition had met the Code requirements. The Hearings Officer's report had not demonstrated to the Councilor's satisfaction that inclusion of the property in the UGB would result in improved urban services. He challenged Councilors to view the case on its merits and not adopt the ordinance. He said he was prepared to move to table the ordinance and direct staff to send the matter back to the Hearings Officer.

Councilor Collier said she had been reviewing the case and questioned whether the types of urban services proposed -- specifically fire hydrants -- would actually constitute adequate urban services. Steve Janik, an attorney representing the petitioners, strongly objected to the fact that Councilor Collier was reporting to the Council on new facts not previously heard by the Hearings Officer. Dan Cooper, General Counsel, determined it was appropriate for Mr. Janik to raise a formal objection but it was also appropriate for Councilor Collier to disclose any new information to the Council if she would be using that information to make her final decision.

Councilor Collier reported she had been researching whether adequate emergency medical services could be provided the property in question. She had determined expending public funds to improve the property would not result in adequate urban services.

Councilor Van Bergen thought the only issue the Council could decide was whether to include the land within the UGB. The Council had no business deciding how the property should be used, he said. Councilor Gardner agreed, adding that when the Council decided whether to include the land in the UGB it must do so by applying standard tests.

First Motion to Table: Councilor Knowles moved, seconded by Councilor Bonner, to table Ordinance No. 88-238; to adopt the Hearings Officer's original report on Contested Case No. 87-2 including Findings and Order denying application; and directing Council staff to prepare a resolution stating the Council's intent to examine the entire Skyline Boulevard "neck" within the UGB as part of the upcoming UGB review process.

Councilor Hansen objected to the motion and questioned whether a motion to table an issue could be combined with requests for other specific actions to be taken. He thought it unfair the Council would not be able to discuss those requests for action.

Withdrawal of First Motion to Table: Councilors Knowles and Bonner withdrew the first motion to table Ordinance No. 88-238.

Second Motion to Table: Councilor Knowles moved, seconded by Councilor Gardner, to table Ordinance No. 88-238.

Vote on the Second Motion to Table: A vote resulted in:

Ayes: Councilors Bonner, Collier, Gardner, Kirkpatrick and Knowles

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

Absent: Councilor Ragsdale

The motion failed.

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

Ayes: Councilors Cooper, DeJardin, Hansen, Kelley, Van Bergen and Waker

Nays: Councilors Bonner, Collier, Gardner, Kirkpatrick and Knowles

Absent: Councilor Ragsdale

The motion failed. At least seven affirmative votes are required to adopt an ordinance.

Motion to Continue the Ordinance: Councilor Waker moved, seconded by Councilor Hansen, to continue the ordinance to a second reading on February 11, 1988.

Councilor Knowles did not think the motion in order since the Council's vote had resulted in failure to adopt the ordinance. Deputy Presiding Officer Kirkpatrick called a recess at 7:25 p.m. for the purpose of consulting with General Counsel on the matter. The meeting reconvened at 7:30 p.m. Counsel determined the effect of the vote to adopt the ordinance had resulted in the Council not adopting the ordinance. The matter could therefore not be continued to a second reading. Rather, the Ordinance had to be reintroduced for a first reading and public hearing and proper notice had to be served to the public and press. He also advised the Council that Contested Case No. 87-2 had not be disposed of -- the Council had

not adopted the Hearings Officer's report nor had it adopted staff's findings.

Explaining it was his intent to dispose of the case as a service to the petitioner, Councilor Knowles served notice he would move to reconsider the ordinance at the February 11 Council meeting. Councilor Gardner requested Councilors receive copies of the Hearings Officer's findings in order to prepare for the possible reconsideration.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 88-832, for the Purpose of Establishing Council Policy Regarding Long-Term Agreements for Solid Waste Landfill, Transfer Station, Transportation or Alternative Technology Services

Councilor Hansen, Chair of the Council Solid Waste Committee, reported the Committee had unanimously recommended adoption of the resolution.

Councilor Gardner said he had initially introduced the resolution because he wanted the Council to be able to influence policy issues for significant solid waste projects at the time bids or requests for proposals were being developed.

Motion: Councilor Gardner moved, seconded by Councilor Hansen, to adopt Resolution No. 88-832.

Councilor Hansen, responding to concerns raised before the Solid Waste Committee, explained the resolution in no way was intended to apply to disposal services.

Mr. Cooper reported the resolution was intended to address projects that would extend beyond one budget year. Projects of one budget year or less could be entered into by the Executive Officer without Council approval subject to the provisions of Metro's Contract Rules.

Councilor Bonner commended Councilor Gardner and the Solid Waste Committee for developing the resolution. He thought the new policies would serve to keep the Council informed of and participating in important project decisions.

In response to Councilor Collier's question, Councilor Gardner explained the bid for out-of-region landfill services was presented to the Solid Waste Committee for review and comment but the Committee had no clear authority to mandate policy changes. The matter was not presented to the Committee as an action item.

Deputy Presiding Officer Kirkpatrick asked if the Executive Officer had made a recommendation on the resolution. Ray Barker, Council Assistant, reported that both he and the Council Clerk had contacted the Deputy Executive Officer requesting the Executive forward her recommendation. None was received.

Vote: A vote on the motion to adopt the resolution resulted in all eleven Councilors present voting aye. Councilor Ragsdale was absent.

The motion carried and Resolution No. 88-832 was adopted.

8.2 Consideration of Resolution No. 88-843A, for the Purpose of Amending Resolution No. 87-744, Revising the FY 1987-88 Budget and Appropriations Schedule for an Insurance Contract (Relating to the Oregon Convention Center)

Deputy Presiding Officer Kirkpatrick announced the resolution had originally included budget amendments relating to the Convention Center Operating Reserve and the Arts Grant program. The Presiding Officer had withdrawn those programs from the resolution and had forwarded them to the Council Convention Center Committee for review and recommendation. The Council was being requested to adopt Resolution 88-843A which incorporated the revised budget material.

Ray Phelps briefly reviewed staff's report. There were no questions.

Motion: Councilor Waker moved, seconded by Councilor Collier, adopt Resolution No. 88-843A.

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

The motion carried and Resolution No. 88-843A was adopted.

6.1 Consideration of an Intergovernmental Agreement with the City of Portland for the Public-Private Task Force on Transit Finance

Andy Cotugno, Transportation Director, reviewed staff's report. He also reviewed revisions to the contract.

Motion: Councilor Knowles moved, seconded by Councilor Van Bergen, to adopt the resolution.

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

The motion carried and the resolution was adopted.

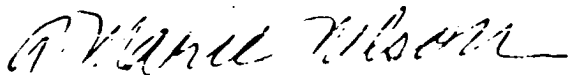
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9. COMMITTEE REPORTS

Committee Chairs reported on the dates and agendas of upcoming Council committee meetings.

There was no further business and the meeting was adjourned.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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