

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

March 24, 1988  
Regular Meeting

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

Councilors Absent: None

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

Presiding Officer Ragsdale called the meeting to order at 5:30 p.m. He announced Agenda Item 9.5 would be considered after Agenda Item 6 and that an Executive Session had been scheduled at the end of the meeting.

1. INTRODUCTIONS

None.

2. COUNCILOR COMMUNICATIONS

The Presiding Officer announced he had designated the Council Planning and Development Committee to work with the Council to develop recommendations for the Task Force on Metropolitan Regional Governnance.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

5. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Greg Brown, Route 1, Box 212, Cornelius, requested the Council adopt Resolution No. 88-865 as soon as possible. The resolution would require staff to notify the Environmental Quality Commission that the Bacona Road landfill site was not needed. He explained additional debt was incurred to Metro each day the site was considered

an option. A decision not to use the site would ease the minds of area residents, he said.

6. CONSENT AGENDA

Motion: Councilor DeJardin moved, seconded by Councilor Waker, to approve items 6.1 through 6.4 of the Consent Agenda.

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

The motion carried unanimously and the following items were approved:

6.1 Minutes of February 25, 1988

6.2 Resolution No. 88-884, Approving Use of Federal-Aid Urban System Funds in Partial Support of Oregon's Technology Transfer Center for Transportation

6.3 Resolution No. 88-895, Authorizing the Use of Metro Region Interstate Transfer Funds by the Salem Urbanized Area

6.4 Resolution No. 88-883, Appointing Citizens to the Metropolitan Service District Solid Waste Rate Review Committee (Coleen Acres, Milton Fyre and Andrew Thaler)

9.5 Consideration of Resolution No. 88-864A, for the Purpose of Securing a General Purpose Landfill Disposal Site for Solid Waste for the Portland Metropolitan Region; and

Consideration of Resolution No. 88-864B, for the Purpose of Sending the Present Landfill Services Bid/Contract Back to the Solid Waste Committee for a Period of 30 Days for Reevaluation with the Tidewater Barge Lines Proposal

Presiding Officer Ragsdale announced the procedure for considering the two resolutions: 1) Councilor Hansen, Chair of the Council Solid Waste Committee, would present the Committee's recommendation and report; 2) Executive Officer Cusma would address the Council regarding her recommendation and present witnesses to speak on behalf of her recommendation; 3) Councilors Kirkpatrick, Kelley and Van Bergen would present a minority Committee report, introduce Resolution No. 88-864B, and present witnesses to speak on behalf of their recommendation; and 4) the Presiding Officer would conduct a public hearing on all issues related to Resolution Nos. 88-864A and 88-864B.

Majority Report from the Solid Waste Committee

Councilor Hansen, Committee Chair, reported that at its meeting of March 15, 1988, the Committee had voted 3 to 2 on a motion to recommend the full Council adopt Resolution No. 88-864A. (Voting aye: DeJardin, Gardner and Hansen. Voting nay: Kelley and Van Bergen.) He regretted the decision to recommend the Gilliam site had not been unanimous. The majority of the Committee, however, thought the site presented an environmentally superior disposal solution. The majority also acknowledged that Gilliam County was a willing host community, that the process for securing a Department of Environmental Quality (DEQ) landfill permit was nearly complete, and contract documents for the project were of a superior quality.

Motion: Councilor Hansen moved, seconded by Councilor Gardner, to adopt Resolution No. 88-864A which included amendments introduced by Councilor Hansen and the addition of a "Most Favorable Rate Agreement" to the contract documents.

Executive Officer's Recommendation and Presentation of Witnesses in Support of Her Recommendation

Executive Officer Cusma supported adoption of Resolution No. 88-864A, explaining a decision to enter into a contract for the landfill would solve a nagging regional problem.

Rick Daniels, Vice President and General Manager of Oregon Waste Systems, Inc. (OWS), explained that by approving the contract with OWS, the Council would indeed take a large step toward solving the region's disposal problem. He then discussed the advantages of Metro entering into a contract with OWS: the Gilliam landfill site was sufficiently large and environmentally superior; the site was isolated from population centers but accessible by rail, barge and highway; the landfill's environmental protection plan had been approved by the Department of Environmental Quality (DEQ); and the host community supported the project. Mr. Daniels explained his company had worked very hard to create a "win/win" situation for all parties involved. The national company enjoyed an excellent reputation in its dealings with host communities because of its efforts in working with communities throughout the U.S. to manage over 175 solid waste landfills and 37 waste transfer stations.

Mr. Daniels then reviewed what he termed were "overlooked" contract provisions: the contract would be a 20-year, fixed price agreement and prices could only be adjusted by the Consumer Price Index or changes in performance required by law; Metro would make no volume

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guarantees; OWS would post a \$5 million performance bond to guarantee contract performance which would gradually be replaced by a retainage fee and cash account; OWS would indemnify and hold Metro harmless from any claims for liability and for any claims against the landfill operation; OWS would be obligated to pay a fee of \$50 per ton for any waste not accepted as provided by the contract; Metro could terminate the agreement if OWS did not accept waste as agreed to or if OWS did not remedy problems within a prescribed period of time; any contract breach would be subject to arbitration with the exception specific situations which would be subject to other laws; OWS could refuse to accept wastes determined to be hazardous but must also assume the financial risk if those wastes were later determined not to be hazardous; under prescribed conditions, Metro would approve the sale of the landfill site, any land transfers or landfill operators; and OWS would be responsible for landfill closure.

Mr. Daniels reviewed his responses to the most commonly asked questions about the agreement. First, the contract was not an "out of site, out of mind" solution to solid waste in the region. OWS would actively recycle and promote waste reduction. Second, consumer prices would rise under any option to landfilling at St. Johns. The Gilliam County solution, however, was the most environmentally sound and presented the least costly solution over a 20-year period. Third, OWS would encourage recycling because it would waste the landfill site to fill it with valuable recyclables. Fourth, train derailments would not cause serious delays to the operation because waste could be transported by barge or truck if necessary. Finally, OWS was not operating a monopoly. The contract stipulated that Metro would guarantee OWS a specific percentage of the waste flow. Other waste could be sent to alternative technology facilities or other landfills.

In conclusion, Mr. Daniels said OWS had been very open in its participation with Metro, had fully responded to questions, had offered assistance to staff and other parties, and he thought approval of the contract with OWS would represent good public policy.

Laura Pryor, Judge, Gilliam County, Oregon, introduced other Gilliam County representatives to the Council including Alan Anderson, Dennis Gronquist, Lawrence Lear and Boyd Harris. She discussed the excellent opportunity the landfill project presented to improve the County's economic base and the fact that OWS had made a "commitment to excellence" to the surrounding community. The County Court had voted unanimously to grant a land use permit to the company, she explained. Judge Pryor also reported a citizens group had been monitoring the activities of the hazardous waste disposal site in Arlington. The same process would be used to monitor landfill activities. She urged the Council to adopt the resolution.

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Councilor Hansen thanked Judge Pryor for Gilliam County's political courage and willingness to consider the landfill project.

Councilor Van Bergen asked General Counsel if the Council adopted substitute Resolution No. 88-864A, would the project have to be rebid under provisions of the state statutes. Dan Cooper, General Counsel, said the project would not have to be rebid. Councilor Van Bergen then asked if the project would have to be rebid if the Council decided to consider an additional proposal for landfill services. Mr. Cooper responded that such a situation would constitute an additional offer made by the low bidder through a competitive bid process.

#### Council Minority Report

Councilor Kirkpatrick referred the Council to Resolution No. 88-864B which had been introduced by herself and Councilors Kelley, DeJardin and Van Bergen. If the substitute resolution were adopted, the OWS bid matter would be referred back to the Council Solid Waste Committee for 30 days in order for the Committee to evaluate OWS's proposal with the one submitted by Tidewater Barge Lines.

Councilor Kelley explained the intent of the substitute resolution was to provide time to consider more options for solid waste disposal. Because Metro had received only one bid for the landfill project, questions concerning ethics, lack of competition, and lack of flexibility could be raised. She then referred Councilors to a memo from Donald E. Carlson, Council Administrator, to herself dated March 23, 1988, entitled "Comparative Cost Estimates for Landfill Proposals." Mr. Carlson's estimates concluded that landfilling costs proposed by OWS's would be considerably higher than the cost of landfilling at the Bacona Road site. She also was concerned that the OWS proposal had not addressed the cost of transporting solid waste from the Metro region to the Gilliam County site.

Councilor Kelley explained she had asked Ray Barker, Councilor Assistant, to contact communities served by Waste Management, Inc. (OWS's parent company), to determine the impact of the company on collection and disposal costs and recycling activity. Mr. Barker reviewed his findings which were also reported in a memo from himself to Councilor Kelley dated March 24, 1988. He concluded Waste Management's presence had not impacted collection and recycling activity. Disposal costs had increased for most of the communities contacted but increases were mainly due to a rising Consumer Price Index. Councilor Waker asked if any of the communities contacted had landfills 100 miles from the city limits. Mr. Barker said he had not asked that question. Councilor Kelley concluded that the point of the survey was to see how the Metro region compared with other areas. The survey had concluded that

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Metro was unique. Responding to questions from Councilors Hansen and Cooper, Mr. Barker said he had received no negative comments from respondents concerning Waste Management, Inc.

Councilor Van Bergen referred Councilors to a series of documents he had requested be made available to Councilors: 1) an information packet initially submitted by OWS at the March 15, 1988, Council Solid Waste Committee meeting; 2) a speech delivered by Executive Officer Cusma at the February 11, 1988, Council meeting in which she stated (page 2) that staff had researched OWS and found nothing that disqualified them from being a "loyal, eligible and reputable bidder for landfill services"; 3) the waste disposal services contract document dated December 1987 including a confidential supplement containing financial statements; 4) a letter from Dan Cooper, General Counsel, dated March 10, 1988, which summarized the contract; 5) a series of articles including "Titans of Trash" from The News/Sun-Sentinel and two Wall Street Journal articles; 6) a letter from Dan Cooper dated March 4, 1988, regarding ORS 279.037 and information Mr. Cooper had acquired on the background of Waste Management, Inc.; 7) two letters submitted to the Council Solid Waste Committee on March 15, 1988, from Mr. Robert S. Hurley, President, Environmental Waste Systems, Inc., and from Mr. Wesley J. Hickey, Executive Vice President, Tidewater Barge Lines, Inc.; 8) a memorandum from Rich Owings, Metro Solid Waste Director, to Councilor Hansen entitled "Favored Nations Agreement"; and 9) an article from the March 20, 1988, edition of The Oregonian concerning the Waste Management, Inc. organization.

Councilor Van Bergen said he did not think Waste Management was an acceptable contractor and he did not think the terms of the proposed contract for landfill services were acceptable. The Councilor discussed Waste Management's continuous conviction record. Fines paid since 1984 exceeded \$19,000,000, he reported, which did not include current litigation and potential judgments in the hundreds of millions of dollars. The Councilor said the hundreds of nationwide violations ranged from government bribery to landfill failures, hazardous waste failures and anti-trust. "Whenever the choice is between profits and being a good citizen, the corporation appears to come down on the side of profits," he said. Councilor Van Bergen was concerned about what he perceived to be Waste Managements' general disregard for law.

The Councilor did not agree with excuses offered for Waste Managements' problems. "A principal's responsibility for its agent's or subordinate's actions, within the scope of his authority, which benefits the principal, is absolute accepted law," he explained. The Council was being asked to trust OWS because it was protected by contract. Councilor Van Bergen said he had never seen a contract where the parties had not promised to abide by all city, state and

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federal laws. He noted, however, that such contractual defaults had occurred as a result of the hundreds of violations by Waste Management. He disagreed with the administration's report to the Council that Waste Management was a qualified contractor under ORS 279.037(1)(c) which set out disqualification if "the person has repeatedly breached contractual obligations to public and private contracting agencies."

In conclusion, Councilor Van Bergen said a solid waste solution at any price was not acceptable and would be in violation of the public trust. He urged rejection of OWS bid. The Tidewater proposal -- a company with roots in Oregon for over 50 years -- would save the District \$36,000,000, he said. The Councilor submitted his statement for the record.

Councilor Kirkpatrick referred the Council to substitute Resolution No. 88-864B and explained the majority of the Council Solid Waste Committee supported its adoption.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Van Bergen, to adopt Resolution No. 88-864B, to refer Resolution No. 88-864A back to the Council Solid Waste Committee for the purposes explained in the "Be it Resolved" clauses of Resolution No. 88-864B and that the Committee return to the Council within 30 days with a specific recommendation.

Public Hearing on Resolution Nos. 88-864A and 88-864B

Linda Peters, Route 1, Box 192, Cornelius, Oregon 97113, testified she lived near the Bacona Road landfill site and urged the Council to cease consideration of that site. She noted the cost of the siting process and subsequent site work ordered by the Environmental Quality Commission no longer made it a reasonable option. She thought the additional engineering tests would render the site undesirable. Finally, Ms. Peters cautioned the Council that if it bended its rules to allow consideration of another landfill services proposal, it could also bend its rules and drop any further consideration of the Bacona Road site.

Kent Goodyear, PO Box 212, Heppner, Oregon 97836, Port Commissioner and Chair of the Morrow County Planning Commission, spoke in favor of the Tidewater proposal. He discussed the extensive hearing process conducted in Morrow County and the fact there had been no opposition to the plan. He explained when Metro decided not to include the transportation element in its Request for Bids (RFB), it became unacceptable for Tidewater to submit a bid for landfill services. He urged Council support of the substitute resolution.

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In response to Councilor Cooper's question, Mr. Goodyear said Tidewater was just as capable as OWS to run a landfill.

Councilor Hansen asked if, after learning that Metro would not include a transportation element in its RFB, Tidewater had discussed with the Port of Morrow the feasibility of responding to the RFB. Mr. Goodyear said the question had not been asked by Tidewater. Councilor Hansen asked what Mr. Goodyear's response would have been had Tidewater asked him that question. Mr. Goodyear replied he would have told Tidewater to submit a bid but he explained the public had only been presented a proposal that included the transportation element.

Tom Miller, 5150 S.W. Alger Avenue, Beaverton, Oregon 97005, a solid waste hauler, said he was very concerned Metro had received only one bid for landfill services. Also, if the Council adopted the resolution authorizing the contract with OWS, the District would have only one component of the solid waste system versus a complete solid waste disposal system. He said during the planning phases of this project the disposal industry had advised Metro to hire a consultant to get advice on how to develop a solid waste disposal system plan.

Lawrence F. Lear, 403 North Main, Condon, Oregon 97823, Mayor of the City of Condon in Gilliam County, said Metro's credibility was at stake if it rejected the OWS bid which had been submitted according to Metro's requirements. He also noted that Tidewater's proposal to barge waste to the Port of Morrow could pose problems because locks on the Columbia River were routinely closed for maintenance.

Larry Lindsay, Port of Morrow, PO Box 4195, Lexington, Oregon, yielded the floor to Mr. Miller.

R. L. Miller, 1 Marine Drive, Boardman, Oregon, Manager of the Port of Morrow, testified in support of the Tidewater proposal because transportation had been an integral part of that plan.

Councilor DeJardin asked Mr. Miller if closure of the locks would cause insurmountable problems for barging waste up the Columbia River. Mr. Miller explained the locks were routinely closed two weeks out of the year for maintenance. That schedule was announced well in advance, he said, and alternative arrangements for waste transport could easily be made for those two weeks.

Carolyn Browne, 1717 S.W. Park Avenue, Apartment 1102, Portland, Oregon 97201, said she was opposed to the OWS landfill services contract plan because it was not consistent with the state mandate that Metro reduce the volume of garbage in the waste stream.



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Boyd Harris, Box 33, Condon, Oregon, supported the Tidewater proposal, explaining all required landfill specifications had been met.

George Ward, 4941 S.W. 26th Drive, Portland, a consulting engineer representing his own interests, expressed concern about the current operations of Chem Securities, the company managing the Arlington Hazardous Waste disposal site, and a subsidiary of Waste Management, Inc., of which OWS was also a subsidiary. Mr. Ward read a letter which discussed problems with Chem Securities management of the disposal site and the fact that the State of Oregon Emergency Board had authorized funds to clean up spills at the site. He termed the hazardous waste facility as "Oregon's worst environmental insult" and invited Councilors to review his files on the operation. He thanked Councilor DeJardin for his personal interest in the matter.

Alan L. Anderson, PO Box 466, Condon, Oregon, Gilliam County Commissioner, favored the OWS proposal. He said the company had exhibited complete cooperation in its dealings with the County and residents favored the project. Mr. Anderson also said he was concerned about the potentially harmful environmental impacts of waste being barged on the Columbia as proposed by Tidewater. Finally, he said, "we stuck to our deals and we'd like to think your word is something."

In response to Councilor Kelley's question, Mr. Anderson said OWS and the County had considered barging waste to the Arlington site but had opted for rail transport.

Councilor Van Bergen was concerned that Mr. Anderson's final statement could be construed to mean the Council had made promises to Gilliam County. Mr. Anderson acknowledged the Council had not made promises to the County.

Greg Brown, Route , Box 212, Cornelius, Oregon, said he had received a memo which summarized the March 15, 1988, Solid Waste Committee proceedings. The memo had stated a majority of the Committee recommended adoption of Resolution No. 88-864 and entering into a contract with OWS. He was confused that Councilor Kirkpatrick had said earlier at this meeting the majority of the Committee favored adoption of substitute Resolution No. 88-864B. After discussion it was clarified not all members had been at the March 15 meeting. Of majority of Councilors present at the meeting favored adoption of Resolution No. 88-864. The majority of the seven-member committee, however, favored adoption of the substitute resolution.

Dennis Gronquest, Mayor, City of Arlington, Oregon, said OWS had submitted the only qualified bid for landfill services according to Metro's prescribed rules. After that process was completed, Tidewater submitted a proposal to provide the landfill services for a

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lower price. He did not understand how Metro could consider the Tidewater proposal under those circumstances. He also explained -- responding to Mr. Ward's earlier testimony -- that Chemical Securities had been a very good neighbor.

Jim Worthington, 3232 S.E. 153rd, Portland, Oregon 97236, testified he was against awarding the contract to OWS because a potential waste disposal monopoly could be created at the expense of rate payers. He said he had attended a recent community meeting at which OWS representatives were discussing transportation arrangements as if they had already been awarded the transportation contract. Mr. Worthington was concerned about potential accident and pollution problems with barge and train transport to the Arlington area. He suggested rejecting the OWS bid and having the Council's Solid Waste Committee study all available landfill service options.

Michael Smith, PO Box 4924, Portland, Oregon 97208, representing the Columbia Region Waste Haulers Association, urged the Council to reject the OWS bid and adopt substitute Resolution No. 88-864B. He also advocated Metro entering into a shorter term landfill contract in order to keep options open and disposal rates down.

Art Kegler, Box 667, Boardman, Oregon 97818, said he used to live next to a landfill operated by Waste Management, Inc. As a result, his mother, dog and many young people in the area died of cancer. He moved to Oregon to escape what he called the corrupt political system of that area. He was very concerned Metro was considering doing business with OWS, a subsidiary of Waste Management, Inc. and advised the Council to take more time and consider other available options.

There was no further testimony.

Council Discussion Concerning Resolution Nos. 88-864A and 88-864B

Councilor Hansen did not support adoption of the substitute resolution. Tidewater, he said, had not submitted a bid according to the prescribed schedule and they had not approached Morrow County about a program that would respond to Metro RFB. The Solid Waste Committee had been evaluating the landfill services matter for some time and he did not think any new facts would emerge by delaying a decision. He said Tidewater's "back door" proposal had confirmed that OWS's price was fair and he urged the Council to make a final decision at this meeting.

Councilor Waker said he would vote against Resolution No. 88-864B for the same reasons given by Councilor Hansen. He regretted that Tidewater had been placed in an awkward position by certain Councilors. To consider that proposal would required reopening a bid

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process that had been closed since December 21 and he did not think the public would be well served by a delay.

Councilor Knowles did not support the substitute resolution explaining the Council could gather information indefinitely and still not make a decision. He thought the Council knew enough at this time to make a good decision: St. Johns Landfill would soon have to be closed; the Bacona Road site was not a suitable landfill option; the Columbia County garbage burner proposal would not be implemented; Morrow County/Tidewater had not responded to Metro's request for bids; and no evidence had been submitted to disqualify OWS as a contractor. OWS was experienced in operating landfills and Metro would enter into a good contract that would protect it from potential harm. He explained it was the Council's responsibility to deliver a credible disposal facility to the public.

Councilor Cooper said he had indicated earlier to Councilor Kelley he would support the substitute resolution. However, after assessing the facts, he could not support re-opening the bid process to consider Tidewater's proposal. He thought it was time for the Council to make a decision.

Councilor Kelley said the intent of a 30-day delay would not be to reopen the bid process but to examine potential problems caused by the same company running both landfill operations and hauling businesses.

Councilor DeJardin was encouraged that two counties were competing for the landfill project. He was also concerned that some people thought a deal had been already cut for the transportation element. He supported providing the region with the best disposal solution possible and to deliver those services on schedule.

Councilor Van Bergen regretted only one bid had been received for the project. He thought Tidewater had been placed in an awkward position due to the failure of the Solid Waste Committee. To award the contract to OWS could result in higher tipping fees and a potential monopoly, he said.

Councilor Gardner supported awarding the contract to OWS because of its certainty. He said the Council had been searching a long time for a valid option and many project plans had not worked out. A Request for Bids had been issued and Metro had received a tentative proposal from Tidewater written on a one-half sheet of paper. He saw no reason to hold up the project based on that type of response. OWS had submitted a reasonable bid and the Council's credibility would be a stake if it could not make a timely decision.

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Councilor DeJardin pointed out that Gilliam and Morrow County would most likely be approached by many other communities about landfill projects. The Council's decision would be eliminate future options, he said.

Councilor Kirkpatrick supported adoption of Resolution No. 88-864B, explaining the Council needed time to examine all options and that a monopoly situation should be avoided if possible. According to the terms of the OWS contract, the Council had until June 1988 to make a decision.

Vote: The vote on the motion to adopt substitute Resolution No. 88-864B resulted in:

Ayes: Councilors Kelley, Kirkpatrick and Van Bergen

Nays: Councilors Bonner, Collier, Cooper, DeJardin, Gardner, Hansen, Knowles, Ragsdale and Waker

The motion failed.

Councilor Bonner announced he had been considered the swing vote but had decided to support the OWS proposal because the Arlington site was an environmentally sound option and OWS had submitted a responsive bid. Approving the contract would result in good public policy, he said.

Councilor Hansen noted that approval of the OWS contract would represent the foundation for a solid waste solution. The Council, however, had more work to accomplish to develop a sound system and he looked forward to cooperation in working out solutions.

Vote: A vote on the motion to adopt Resolution No. 88-864A resulted in:

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

Nays: Councilors Kelley, Kirkpatrick and Van Bergen

The motion carried and Resolution No. 88-864A was adopted.

Presiding Officer Ragsdale called a recess at 8:30 p.m. The Council reconvened at 8:40 p.m.

ORDINANCES

7.1 Consideration of Ordinance No. 88-244, Amending the Metro Urban Growth Boundary for Contested Case No. 85-7: The Edy Road, Highway 99W, Middleton and Substation Sites (Second Reading)

The Clerk read the ordinance by title only a second time. There was no discussion on the ordinance.

Motion: A motion was received on March 10, 1988, by Councilors Waker and Bonner to adopt the ordinance.

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

The motion carried and Ordinance No. 88-244 was adopted.

7.2 Consideration of Ordinance No. 88-241A, for the Purpose of Amending Chapter 2.01 of the Metro Code Pertaining to Council Organization and Procedure (Second Reading)

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

Donald Carlson, Council Administrator, reviewed staff's report which explained revisions to the ordinance that had been recommended by the Council Internal Affairs Committee.

Main Motion: Councilor Collier moved to adopt the ordinance and Councilor Kelley seconded the motion.

First Motion to Amend: Councilor Waker moved, seconded by Councilor Collier, to amend Section 2.01.070(b)(2) to read: "The [Council] Presiding Officer directs that the reading be by title only."

Vote on the First Motion to Amend: A roll call vote resulted in all twelve Councilors present voting aye.

The motion carried unanimously.

Second Motion to Amend: Councilor Bonner moved, seconded by Councilor Hansen, to amend Section 2.01.010(e) to read: "The Presiding Officer or temporary Presiding Officer may be removed by the Council upon the affirmative vote on [two-thirds (2/3)] three-fourths (3/4) of the Councilors [(8)] (9)."

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Vote on the Second Motion to Amend: A roll call vote resulted  
in all twelve Councilors present voting aye.

The motion carried unanimously.

Concerning Section 2.01.080(c), Councilor Waker said he hoped the Council would develop procedures for bring minority reports before the Council. Presiding Officer Ragsdale said he would introduce a resolution to address that need.

Councilor Bonner explained he did not support the provision that the Presiding Officer could appoint the Deputy Presiding Officer.

Councilor Waker pointed out the ordinance provided for the removal of the Presiding Officer and temporary presiding officer but not the removal of the Deputy Presiding Officer. As such, he thought it necessary for any Councilor campaigning for the Presiding Officer position to announce his or her intended Deputy in advance of an election.

Councilor Ragsdale explained the appointed Deputy position would mirror the state legislative model. Councilor Van Bergen responded that the Metro Council was much smaller and much different than the State Legislature and he was having difficulty supporting the new legislative committee system.

Motion: Councilor Bonner moved, seconded by Councilor Kirkpatrick, to restore the original language in Section 2.01.010 of the ordinance that would provide for the Council to elect the Deputy Presiding Officer.

In response to Councilor Knowles' question, Presiding Officer Ragsdale said rather than eliminate the Deputy position, he had chosen to downplay the position.

Vote: A vote on the motion resulted in:

Ayes: Councilors Bonner, DeJardin, Gardner, Kirkpatrick, Knowles and Van Bergen

Nays: Councilors Collier, Cooper, Hansen, Kelley, Ragsdale and Waker

The motion failed.

Vote on Main Motion as Amended: A roll call vote resulted in:

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

Nay: Councilor Van Bergen

The motion carried and Ordinance No. 88-241A was adopted as amended.

ORDERS

8.1 Consideration of Order No. 88-18, in the Matter of Contested Case No. 87-5, a Petition for a Major Amendment of the Urban Growth Boundary by BenjFran Development Company

Dan Cooper, General Counsel, reviewed staff's written report and the procedures by which the Council would consider the case. The "Report and Recommendations of the Hearings Officer" document was distributed to the Council for review. Mr. Cooper announced the Council would be considering the Case on April 14, 1988. (NOTE: the consideration date was later rescheduled to April 28, 1988.)

9.1 Consideration of Resolution No. 88-891, for the Purpose of Authorizing Two New Positions (Council Department Secretary and Analyst), Amending the Pay and Classification Plans, and Amending the FY 1987-88 Budget and Appropriations Schedule

Donald Carlson, Council Administrator, reviewed staff's written report and the Internal Affairs Committee recommendation. The Committee recommended adoption of the resolution.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Cooper, to adopt Resolution No. 88-891.

Motion: Councilor Collier moved, seconded by Councilor Kirkpatrick, to require Council staff to conduct an outside recruitment process for the Secretary and Analyst positions.

Discussion followed about the motion. Mr. Carlson explained the District's personnel rules allowed for an initial in-house posting. If sufficient, qualified applications were received, an in-house candidate could then be hired. Outside recruitment, however, could be initiated at the discretion of Department Heads. Councilor Collier said she wanted an outside recruitment process to be conducted for both positions to ensure hiring the best possible people and affirmative action.

Presiding Officer Ragsdale said at issue was whether the Council would require staff to follow Code provisions or establish its own personnel rules.

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Vote: A vote on the motion to require outside recruitment resulted in:

Ayes: Councilors Bonner, Collier, Cooper, Kelley and Kirkpatrick

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

Absent: Councilor Hansen

The motion failed.

The Council then discussed the responsibilities of the new analyst position. Mr. Carlson explained the proposed job descriptions included in the agenda packet were generic in nature and did not describe specific areas to be assigned. He had planned for the analyst to staff the Planning & Development and Intergovernmental Relations Committees. The Council generally agreed it would be important the analyst position maintain flexibility in order to adjust to changes in Council priorities.

Vote: A vote on the motion to adopt Resolution No. 88-891 resulted in all eleven Councilors present voting aye. Councilor Knowles was absent.

The motion carried and Resolution No. 88-891 was adopted.

#### 9.2 Consideration of Resolution No. 88-892, for the Purpose of Classifying the Employment Status of Council Staff

Don Carlson, Council Administrator, reported the Internal Affairs Committee had reviewed the resolution and supported its adoption.

Motion: Councilor Waker moved, seconded by Councilor Knowles, to adopt Resolution No. 88-892.

Councilors discussed the fact that a specific job description needed to be developed for the analyst position. Councilor Waker suggested he and Councilor Knowles would develop one with the understanding that as the Council's needs changed, the job would change.

Councilor Van Bergen was concerned the secretary position had been posted in-house before the Council had approved the position. Presiding Officer Ragsdale explained the Internal Affairs Committee had authorized staff to proceed with in-house posting under the condition no hiring or outside recruitment could take place without the Council's adoption of Resolution No. 88-891.



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

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

Nay: Councilor Van Bergen

The motion carried and Resolution No. 88-892 was adopted.

9.3 Consideration of Resolution No. 88-893, for the Purpose of Authorizing Solicitation of Bids for the Oregon Convention Center Bid Package 2: Site Work

Councilor Knowles reported the Council Convention Center Committee unanimously recommended adoption of the resolution.

Motion: Councilor Knowles moved, seconded by Councilor Van Bergen, to adopt Resolution No. 88-893.

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

The motion carried and Resolution No. 88-893 was adopted.

9.4 Consideration of Resolution No. 88-894, for the Purpose of Authorizing an Agreement with the City of Portland for Management and Funding of Transportation Improvements for the Oregon Convention Center

Councilor Knowles explained the Convention Center Committee had voted unanimously to recommend adoption of the resolution.

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

Councilor Van Bergen thought it important the District get assurances from the Oregon Department of Transportation the project would be funded.

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

The motion carried and Resolution No. 88-894 was adopted.

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COMMITTEE REPORTS

Councilor Waker, Chair of the Intergovernmental Relations Committee, requested Councilors submit names for potential Boundary Commissioners. The Committee would then evaluate and recommend nominees for Council consideration.

EXECUTIVE SESSION

Presiding Officer Waker called the Council into executive session at 10:00 p.m. under the authority of ORS 192.660(1)(h) to discuss litigation matters with General Counsel concerning the Land Use Board of Appeal's (LUBA) opinion concerning Metro's petition to review a final order of the City of Oregon City denying Metro's application to remove the 700 tons per day limit at the Clackamas Transfer & Recycling Center (CTRC). All twelve Councilors were present. Executive Officer Cusma was present as was Dan Cooper, Donald Carlson, Bob Applegate and Rich Owings. The Presiding Officer called the meeting back into regular session at 10:20.

Motion: Councilor Gardner moved, seconded by Councilor Bonner, to authorize the General Counsel to petition for reconsideration of LUBA's decision concerning CTRC and the City of Oregon City's imposition of a tonnage limit and to file other appeals if necessary.

Councilor DeJardin explained he would support the motion because he did not wish to participate in any attempt by the City of Oregon City to "extort" revenue from the District.

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

The motion carried unanimously.

Councilors Kirkpatrick and Hansen requested Mr. Cooper advise the Council advice on the legality of Oregon City assessing a fee for waste entering CTRC.

There was no other business and the meeting adjourned at 10:25 p.m.

Respectfully submitted,



A. Marie Nelson  
Clerk of the Council