

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

September 22, 1988

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

Councilors Absent: Larry Cooper

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

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

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS ON NON-AGENDA ITEMS

Robert J. Buelow, Vice President of Industrial Acoustics Company, Inc. (IAC), addressed the Council on behalf of IAC and another company, G.V.A. He explained his purpose was to state his concerns regarding the Council's adoption of Resolution No. 88-977 on September 8, 1988, which had awarded a general construction contract for the Convention Center Project to Hoffman (Oregon) - Marmolejo, a Joint Venture. In taking that action, the Council had adopted the Convention Center Committee's recommendation to go against the Metro Advisory Committee on Design & Construction's (ACDC) advice and Executive Officer Cusma's recommendation to select IAC as the provider of operable partitions for the Convention Center. He pointed out the recommendation to go with IAC had been made after extensive, knowledgeable review. IAC was prequalified as an acceptable bidder on the project and as a result, a great deal of time and expense had been incurred could prepare pricing on the operable partitions, he explained. Mr. Buelow discussed his company's extensive reputation as a provider of partitions to other, major facilities. In conclusion, he stated the Council's decision to award the contract to Hoffman-Marmolejo and to name IAC as the provider of operable partitions per alternates 9B and 10B would save the Metro taxpayers \$36,000. Mr. Buelow submitted a written copy of his testimony for the record.

3. EXECUTIVE OFFICER COMMUNICATIONS

3.1 Consideration of Resolution No. 88-898, for the Purpose of Designating the Week of October 3, 1988, as United Way Campaign Week

Presiding Officer Ragsdale reported the Internal Affairs Committee had considered the resolution at its meeting earlier in the evening and had recommended Council adoption.

Executive Officer Cusma invited Jim Shoemake, Metro United Way Campaign Chair, to address the Council concerning the resolution. Mr. Shoemake discussed campaign plans with the goal of increasing the level of staff contributions to the United Way Fund.

Motion: Councilor Kirkpatrick moved to adopt the resolution and Councilor Gardner seconded the motion.

Councilor Kirkpatrick expressed her strong support for the United Way agency and commended Mr. Shoemake on his ambitious efforts. She was pleased the Council to participate in the campaign.

Vote: A vote on the motion resulted in:

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

Nays: Councilors Waker and Ragsdale

Absent: Councilor Cooper

The motion carried and the resolution was adopted.

4. COUNCILOR COMMUNICATIONS

Consideration of Deferring Resolution No. 88-971, a resolution Approving a Request for Bids for Waste Transport Services to the Gilliam County Landfill

The Presiding Officer announced the above resolution, Item No. 7.3 on this meeting's agenda, had been considered by the Solid Waste Committee on September 20. The Committee had recommended Council adoption. Per the Council's procedures, Councilor Kirkpatrick had announced her intent at that meeting to file a minority report with the Council. Presiding Officer Ragsdale requested the Council defer consideration of the resolution until October 13 in order to give Councilor Kirkpatrick time to prepare and file the minority report.

Motion: Councilor Waker moved to defer consideration of Resolution No. 88-971 to October 13, 1988. Councilor Kirkpatrick seconded the motion.

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

The motion carried.

#### 4.1 Report on the Status of the Performance Auditing Program

Councilor Collier, Chair of the Council Finance Committee, briefly reviewed the history of the need for performance auditing and the contractor selection process. She explained the firm of Talbot & Korvala had been selected to assist Councilors and Council staff in developing a work program and schedule for performance auditing. She then introduced Jack Talbot who explained the project in more detail.

Mr. Talbot discussed the benefits of a performance auditing program including dollar savings, efficiency and clarification of agency goals. He intended to complete his work within 90 days which would include interviews with all Councilors and key staff. He also planned to distribute bi-weekly reports on project progress to Councilors.

#### 5. CONSENT AGENDA

Motion: Councilor DeJardin moved, seconded by Councilor Kirkpatrick, to approve items 5.1 and 5.2 of the Consent Agenda.

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

The motion carried and the following items were approved:

5.1 Minutes of August 25, 1988

5.2 Resolution No. 88-986, Approving the Tri-Met Section 9 Portion of the FY 1990 Unified Work Program

#### 6. ORDINANCES

6.1 Consideration of Ordinance No. 88-265, Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-4: Brennt Property (Public Hearing)

The Clerk read the ordinance a first time by title only. Dan Cooper, General Counsel, explained that the matter before the

Council was a major amendment to the Urban Growth Boundary (UGB) and must be decided according to state land use goals. He also reviewed a letter from himself to Presiding Officer Ragsdale, dated September 14, 1988, which outlined options and procedures for Council decisions relating to the case. He said because timelines for preparing alternative findings were substantial and because of expense and uncertainty to the parties, it could be desirable for the Council to indicate at this meeting its intentions regarding the case, even though a final vote for approval could not occur until after the second reading of the ordinance on October 13.

#### Hearings Officer's Report

Chris Thomas, Hearings Officer for the case, summarized the "Report and Recommendations of Hearings Officer" document which was included in the agenda packet. He explained this case was similar to the Blazer Homes case recently before the Council except that less acreage was involved. The applicant therefore had a lesser responsibility to prove the need for urbanization, he said. Mr. Thomas then discussed specific ways in which the applicant had proven that need. Water, sewer, and transportation services would all improve. No changes would result in storm water, fire and police protection services. Some overcrowding could result in schools (he pointed out the record relating to schools for this case was identical to the Blazer Homes case record). The Hearings Officer had also concluded that most of the Brennt property could be served by a gravity sewer system with the exception of a small portion which was not suitable for development. Contiguous land could also be served by a gravity system but some of the land was not suitable for development due to uneven topography, he said. Mr. Thomas concluded that an overall improvement in urban services would result by the land being included in the UGB and he recommended the Council approve the Petitioner's request.

#### Testimony of the Petitioner

John Shonkwiler, an attorney representing Willy and Thea Brennt, reviewed the opponents' objections to his client's application. He discussed problems with the opponents' arguments relating to the issues of road improvements, traffic, public services, sewers and schools. He thought proposed road improvements were sufficient to handle projected traffic on Riven Dell and Barton Roads. He also explained the applicant had clearly demonstrated the property would support a gravity flow sewer system. Regarding the impact of the application on nearby schools, Mr. Shonkwiler explained the development could result in the addition of as few of seven to ten students of various ages to local schools. He concluded the applicant had fully substantiated the need for the Boundary amendment and requested the Council's approval of the application.

In response to Councilor Van Bergen's question, Mr. Shonkwiler recalled the Brennt property had been recommended to be included in the UGB as originally recommended but the quantity of urban land was later cut back by about 20 percent. He said it was clear the land should be added because subsequent development in that area had been consistent with the Boundary as originally proposed.

Councilor Knowles asked Mr. Shonkwiler to explain why the Brennt petition met the "contiguous land" requirement. Mr. Shonkwiler explained that due to topographical problems, the land surrounding the Brennt property could not be developed and was not accessible by major roads.

Answering Councilor Kelley's question, Mr. Shonkwiler said the record relating to the issue of the applicant's proposal and its effect on local schools was identical to the record the Council recently reviewed by the Blazer Homes case. Councilor Kelley noted a letter from the Lake Oswego School District Superintendent was not included in the Brennt case record.

#### Testimony of Opponents

Bob Lyneis, 18495 Tamaway, Lake Oswego, testified that if the Brennt application were approved, Barton Road -- currently a little used, unpaved "shortcut" to I-205 -- would attract more traffic, especially from Lakeridge High School students. He was concerned Barton Road could not handle the additional traffic. He also thought the UGB should not be extended beyond Riven Dell Road and was concerned that "patchwork" development would result if the Brennt application were approved.

In response to Councilor Waker's question, Mr. Lyneis said although he did not support the Brennt's application at this time, he might support the amendment in the future if it were part of a larger, cohesive development plan for the area. He did not support piecemeal development of that area.

Ken Jensen, 18490 Tamaway Drive, Lake Oswego, was concerned about traffic that would result on Barton Road if the Brennt application were approved. Referring to a letter from James H. Schell, Assistant Superintendent of the Lake Oswego School District, he also pointed out that the area schools could not handle the additional students resulting from growth that would result if the property were developed. Mr. Jensen claimed the land surrounding the Brennt property could be developed in spite of claims to the contrary by the applicant. He requested the Council clarify its rules concerning contiguous land and piecemeal development. He urged the Council to overturn the Hearings Officer's recommendation.

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Councilor Waker questioned Mr. Jensen regarding whether schools could accomodate anticipated growth if the application were approved. Mr. Jensen said the schools could probably accomodate more children but the school district would then be in the risky position of increasing the tax base and asking the voters to pay for educating additional students.

Concerning the topography of land adjacent to the Brennt property, Councilor DeJardin said it appeared the land grade was too steep to support a housing development.

Gary Buford, 415 N. State Street, Lake Oswego, a consulting engineer practicing in Lake Oswego, testified he owned two land parcels near the Brennt property which were characteristically similar to that property. He said he came to the meeting to observe the Council's procedures in case he should decide to apply for an application to amend the UGB for his land parcels. He noted, however, after attending the Blazer Homes hearing, he wanted the Council to know that the contiguous land near the Brennt property was physically similar to the Blazer Homes property. He took issue with previous testimony there was no similar, contiguous land near the Brennt property.

Concerning Mr. Buford's questions about the possibility of his two land parcels being included in the UGB, Councilor Waker explained a Council subcommittee would soon begin discussions concerning the Council's process for performing an overall review of the Boundary.

#### Petitioner's Rebuttal of the Opponents' Testimony

Mr. Shonkwiler objected to concerns raised that traffic on Barton Road would be a problem if the application were approved. He explained a letter from Pete Harvey, Lake Oswego City Manager, stating that Barton Road was not needed had been included in the case record. He also thought the statement by Mr. Jensen that the Lake Oswego School District Assistant Superintendent was not in support of the Boundary change was misleading. He noted the letter had actually addressed the issue of bussing which the School District had to deal with on its own. Mr. Shonkwiler also discussed specific elevations of adjacent property in support of his earlier position that contiguous property was unsuitable for development due to topological problems.

#### Council Questions and Deliberation

In response to Councilor Kirkpatrick's question, Mr. Thomas, the Hearings Officer, said no testimony had been submitted during the hearing relating to Lake Oswego's long-term planning. The City, however, had testified they could serve the area in question.

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Councilor Waker asked if the Brennt property were included in the Lake Oswego School District. Mr. Thomas responded the property was included in the District and the record for this case concerning school issues was the same as the Blazer Homes case record.

Presiding Officer Ragsdale asked Counsel to comment on Mr. Buford's testimony. Mr. Cooper explained the Hearings Officer's findings had not relied on Mr. Buford's testimony. In response to Councilor Collier's question, Mr. Cooper said the Council could only consider Mr. Buford's testimony as it related to the record. Councilor Collier and the Presiding Officer expressed concern that a process needed to be established to monitor testimony before the Council concerning UGB contested cases.

Discussion followed on what evidence the Council could consider in determining the impact of the application on schools. Presiding Officer Ragsdale suggested that if the Council were to evaluate the Brennt case according to the Blazer Homes case record, the Council would have to adopt a motion to direct General Counsel to prepare findings to support that request. Councilor Knowles thought that action unnecessary.

There was no further discussion and the Presiding Officer announced the second reading of the ordinance was scheduled for October 13, 1988.

The Council recessed from 7:25 p.m. to 7:40 p.m.

## 7. RESOLUTIONS

### 7.1 Consideration of Resolution No. 88-987, for the Purpose of Expressing Council Intent to Amend Metro's Urban Growth Boundary for Contested Case No. 88-1: Zurcher Property

Dan Cooper, General Counsel, explained the Zurcher Property case was a request for a major amendment to the Urban Growth Boundary (UGB). As such, the Council would determine the case based on state land use criteria. He also noted the Council would hear arguments on exceptions at this meeting.

### Hearings Officer's Report and Recommendation

Chris Thomas, Hearings Officer for the case, reviewed the "Report and Recommendation of the Hearings Officer" document included in the meeting agenda packet. He reported the applicants -- the City of Forest Grove and Glenn, Theodore and Eva Zurcher -- had to determine that the amendment was needed. The applicants had successfully demonstrated the land was needed to attract business to the Forest Grove area that to correct a situation of low assessed property

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value, low per capita income and high property tax rates. He had also concluded the applicant had successfully demonstrated there was no other land available within the UGB to meet the applicant's needs. In conclusion, he explained that central to the applicant's argument was the liveability of the Forest Grove area and he recommended the application be approved in order to improve liveability.

In response to Councilor Waker's and Van Bergen's questions, Mr. Thomas explained that land outside of the Forest Grove area had been determined unsuitable for the applicant's purposes. A central issue was that the amendment was needed to improve the liveability of the Forest Grove area, he said. Mr. Thomas compared the Zurcher case with the recent BenjFran application which had been denied by the Council. He said that BenjFran had been unable to demonstrate their land parcel had to be in a specific area.

Councilor Van Bergen asked if the Hearings Officer had considered whether voter approval of special measures could solve Forest Grove's problems. Mr. Thomas said he had considered that but due to low per capita income, low assessed value, and high tax rates that solution would not enhance the liveability of the area.

Councilor Kirkpatrick questioned how the Hearings Officer could isolate the Forest Grove area from the rest of the UGB. She pointed out that the City of Oregon City could make the same claim as Forest Grove concerning low per capita income, low assessed values and high tax rates.

Councilor Knowles asked if there were previous UGB cases where a need had been demonstrated for land in a specific location. Mr. Thomas said the Kaiser case had demonstrated need for a large land parcel in the Sunset Corridor. A case had also been made for land to be added for a mobile home park in Clackamas County although Mr. Thomas did not think the Clackamas County case represented a good precedent.

Councilor Van Bergen questioned how "liveability" could be used as a measurement for need.

#### Applicant's Testimony

Al Benkendorf, representing the Zurcher family and Forest Grove, first pointed out the Forest Grove City Council ruled against its policy of neutrality on UGB matters in recognition of the importance of this decision. He then introduced Clifford Clerk, Forest Grove Mayor.

Mayor Clark discussed the history of economic problems in the Forest Grove area that had occurred in spite of new reports about economic



growth in Washington County. He referred to the Forest Grove area as the "other Washington County." He thought it very important that Forest Grove seek economic diversification. The Zurcher property would help provide that diversity, he said, without being insensitive to the needs of the farming community. The land would also help Forest Grove help itself and give the area a chance to compete economically.

Dick Bewvrsdorff, Forest Grove Planning Director, testified that the Zurcher property was suitable for the City's needs because it was available. Other parcels had been determined unsuitable because of reluctant owners or because they were too far removed from urban service access.

Bob Alexander, Executive Director of the Forest Grove/Cornelius Economic Development Council, pointed out the Zurcher land was needed in order to break the stagnant economic cycle in the area and to help create a better tax base for small industry.

Gary Lucas, Superintendent of Schools, Forest Grove School District, pointed out the District was currently caught in the State "safety net" program because of past school levy failures. The tax rate must be lowered, he said, or else Forest Grove's children would be short changed.

#### Opponents' Testimony

Paul Ketchum, Senior Planner with 1000 Friends of Oregon, reviewed points raised in his letter dated September 6, 1988, to Dan Cooper, Metro General Counsel. He explained Metro's role was to administer the Urban Growth Boundary: it was not Metro's role to decide whether tax levels and assessed values were adequate. Mr. Ketchum did not think the applicant had demonstrated need for the amendment and he pointed out the Boundary could not be amended to accomodate a short-term need.

Mr. Ketchum then reviewed in detail the points discussed in his letter to Mr. Cooper: 1) expansion of the UGB for a short-term versus long-term need was not consistent with Goal 14; 2) even if the application could be approved based on short-term need, there was nothing in the record to show how liveability of Forest Grove residents would be improved by the addition of 44 acres to the UGB; 3) there were no facts in the record to indicate that the 51 acres of developable industrial land already within the UGB and owned by the Zurchers could not be served in an orderly and economic fashion; and 4) the petitioners had not supplied an industrial needs assessment describing the type of industries they were attempting to attract, the land needs of those industries, and why a 95 acre parcel was needed to accomodate those industries as opposed to the

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51 acres already within the UGB. Mr. Ketchum recommended the Council deny the request.

Doug Krahmer, President of the Washington County Farm Bureau, 885 S.W. Baseline, Hillsboro, discussed his memorandum to Dan Cooper, Metro General Counsel, dated September 6, 1988. He noted the following objections to the Hearings Officer's report: 1) more urban land should not be added to the UGB because the City of Forest Grove had concluded (as part of its comprehensive plan update) it had a 45 percent surplus of industrial land and because the Zurcher property was currently prime farm land; 2) it would not be consistent with Goal 14 to incorporate prime farmland into the UGB when more urban land was not needed; 3) contrary to the Hearings Officer's conclusions, the assessed value of Forest Grove would probably increase as development moved westward from the Portland core; 4) perhaps Forest Grove residents were willing to pay higher property taxes for schools because they liked the area the way it is -- not as an industrialized urban area; and 5) additional development could have a negative impact on efforts to clean up the Tualatin River and would be counter to protecting wetland areas.

Councilor Waker asked Mr. Krahmer if there was a shortage of farm land in Oregon. Mr. Krahmer explained the Washington County Farm Bureau's goal was to protect existing Oregon farm lands.

Councilor Knowles then questioned Mr. Ketchum on the 1000 Friends of Oregon's position against the amendment. The Councilor asked Mr. Ketchum if, under state land use Goal 14 criteria, need had to be defined on an area-wide basis. Mr. Ketchum responded that need had to be based from a regional perspective but could also be site specific. He did not think the applicants had met the criteria of Goal 14 because the only argument advanced was for short-term need. He explained this case was different from the Kaiser and Riviera amendments: those amendments were granted because the applicants had successfully demonstrated the need to attract hi tech industry to a specific area. In the Forest Grove case, he said, there was no evidence land did not already exist that was suitable for the applicant's short-term needs. He added the Council had no legal basis on which to approve the Zurcher application.

#### Petitioners' Rebuttal

Mary Dorman, an attorney representing the applicants, pointed out the City of Forest Grove and the Zurcher family had satisfied the state land use Goal 14 requirement and had focused its application on the specific needs of Forest Grove. She also discussed the history of the UGB, saying Forest Grove had taken a conservative posture at the time the Boundary was created, believing Metro's promise the Boundary could be changed as needed. She thought the

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application was responsive to state land use goals. She further explained it would be impossible to expand the UGB in any other direction because of the 100 year flood plain designation. Finally, Ms. Dorman said the applicant had not conducted a sophisticated needs analysis because its needs were simple and easy to identify.

Presiding Officer Ragsdale, after questioning Ms. Dorman and Mr. Thomas, requested he be allowed to review administrative rules to evaluate the Hearings Officer's findings relating to short-term need. Mr. Cooper, General Counsel, then advised the Presiding Officer on the options available to the Council if it chose not to adopt the Hearings Officer's findings.

Motion: Councilor Waker moved, seconded by Councilor DeJardin, to adopt Resolution No. 88-987, a resolution expressing Council intent to amend Metro's Urban Growth Boundary for Contested Case No. 88-1: Zurcher Property.

Councilor Waker said he did not think approval of the amendment would jeopardize farm land. Rather, the UGB allowed farm land an opportunity to compete at the economic table, he explained.

Councilor Kirkpatrick disagreed, stating the UGB was created to protect farm land against urban sprawl. She also thought the boundary had been created to serve the needs of the entire metropolitan region, not just the Forest Grove area. She pointed out the amendment would not resolve school funding issues and the City of Oregon City could make the same claims made by Forest Grove about high taxes and low per capita income. Councilor Kirkpatrick said she was prepared to work with the 1000 Friends of Oregon and Mr. Cooper to prepare findings to support denial of the Petitioner's request.

Councilor Hansen supported adoption of the resolution. He thought the Council should respond to help balance economic inequities throughout the region. He said in order to start an "Oregon Come-back," the State would have to evaluate the way it did business.

Councilor Gardner thought Forest Grove's argument concerning economic issues was compelling but he was also influenced by the argument that the UGB was created to protect farm land against urban sprawl. He was concerned about the potential loss of 44 acres of prime agricultural land and possibly opening a "Pandora's box" to applications based on sub-regional need. He cautioned that the Council had to be consistent in evaluating UGB cases based on environmental factors. Fair evaluation would become difficult, he explained, if the "liveability" criterion were defined in terms of tax bases and economic factors.

In response to Councilor Knowles' question, Mr. Thomas explained the applicant had demonstrated all seven factors of Goal 14 had been considered. He questioned whether the case would be upheld in a higher court if the Council determined the application should not be granted because certain factors had not been considered. Councilor Knowles said he was uncomfortable granting the application when it seemed the only need criteria that had been met was that of "liveability."

Councilor Van Bergen supported the Hearings Officer's findings explaining that once all the tests had been met, he could interject a degree of compassion concerning the area's economic situation.

Councilor Kelley said she was convinced that Forest Grove needed the land for economic development because of its unique economic circumstances.

Councilor Knowles supported the resolution explaining the situation was unique, the community was economically isolated, the proposal had strong community support, and he did not believe the decision would diminish the integrity of the UGB.

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

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

Nays: Councilors Coleman, Collier, Gardner and Kirkpatrick

Absent: Councilor Cooper

The motion carried and Resolution No. 88-987 was adopted.

The Presiding Officer called a recess at 10:20 p.m. and the Council reconvened at 10:35 p.m.

7.2 Consideration of Resolution No. 88-975, for the Purpose of Acting on the Executive Officer's Request for Review of Metropolitan Exposition-Recreation Commission Resolution No. 8 Concerning Personnel Policies

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

Presiding Officer Ragsdale reported that per provisions of Metro Code Section 6.01.080, Executive Officer Cusma requested a review of the Commission's Resolution No. 8 which established Personnel Rules. The Presiding Officer had appointed a task force comprised

of members of the Council Convention Center Committee to review the matter. He introduced Councilor Knowles, Task Force Chair, to present the group's report and recommendation.

Councilor Knowles explained Resolution No. 88-975 would adopt the Commission's Personnel Rules as amended. The amendments allow for Metro's Personnel Officer and functions to be used instead of the Commission creating its own Personnel Officer position and performing its own personnel functions. The Councilor also noted staff had recommended other, minor changes to the Rules to be consistent with the Task Force's recommendation. He thanked Commission representatives for their cooperation and assistance and explained that once the resolution was adopted, the rules would immediately go into effect.

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

The motion carried unanimously.

7.3 Consideration of Resolution No. 88-971, for the Purpose of Approving a Request for Bids for Waste Transport Services (to the Gilliam County Landfill)

As reported under agenda item No. 4, the Council adopted a motion to defer consideration of this item until October 13 in order to provide Councilor Kirkpatrick an opportunity to prepare and file a minority report.

7.4 Consideration of Resolution No. 88-976, for the Purpose of Granting/Amending a Franchise for Operation of the Forest Grove Transfer Station

Solid Waste Committee Chair Councilor Hansen presented the Committee's report and recommendation. He said the City of Forest Grove had reviewed the franchise request and supported the franchise after resolving of litter pickup and abatement issues. The Committee had unanimously recommended the Council adopt the resolution which would grant a franchise to the Forest Grove Transfer Station.

Councilor Kirkpatrick asked if the agreement language would allow the Council to cancel the franchise in three years. General Counsel Dan Cooper said the language would not allow that action unless the franchisee were in violation of franchise terms. The agreement was for five years, he explained.

Councilor Knowles asked how the Forest Grove Transfer Station related to Metro's region-wide transfer station system. Councilor Hansen

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reported the franchise would not preclude Metro from building its own transfer station in Washington County. Per Metro's contract with Oregon Waste Management to operate the Gilliam County Landfill, 90 percent of the region's waste had to be delivered to Oregon Waste Management. That would leave 10 percent that could be delivered to Riverbend or McMinnville landfills, he said, and the Forest Grove Transfer Station was very conveniently located to deliver waste to McMinnville.

Councilor Knowles questioned whether the proposed franchise agreement would guarantee Forest Grove Transfer Station a portion of the solid waste flow. Ambrose Calcagno of FGTS explained the agreement contained no guarantees and his business would continue to compete with others in the industry. Mr. Cooper, Metro's Counsel, added that the agreement was a non-exclusive franchise, that Metro could site another transfer station in the area or could grant another franchise to a private transfer station operation.

Councilor Waker said he had supported the original franchise agreement on the basis it was a non-exclusive franchise. He supported a continued, non-exclusive agreement.

Vote: A vote on the motion to adopt Resolution No. 88-976 resulted in all Councilors present voting aye. Councilor Cooper was absent.

The motion carried and the resolution was unanimously adopted.

7.5 Consideration of Resolution No. 88-980, for the Purpose of Supporting State Legislation for a 13-Member Council and an Appointed Executive Officer

Councilor Gardner, Chair of the Intergovernmental Relations Committee, reported the Committee had reviewed the resolution and supported its adoption. He summarized the Committee's written report which was included in the agenda materials. He explained that the current "separation of powers" governance structure was inefficient and had resulted in a divided agency without common policy goals. The executive and legislative government branches were currently adversarial, he said, and Resolution No. 88-980 was an attempt to remedy that problem.

Councilor Waker pointed out the resolution also provided for the Council to reapportion Metro districts. He also explained the provisions concerning an appointed Executive Officer were not a reflection on the current Executive. He recalled earlier difficulties with former Executive Officer Rick Gustafson and thought the present structure was inefficient and not appropriate for a small, local government agency.

Main Motion: Councilor Waker moved, seconded by Councilor Kirkpatrick, to adopt Resolution No. 88-980.

Councilor Knowles said he would not support the resolution because he did not favor an appointed Executive Officer.

Councilor Kirkpatrick supported the resolution because the current system had resulted in spending more money and less effective governance.

Councilor Gardner reported the Council staff, after a preliminary examination, had determined about \$150,000 a year could be saved if the current separation of powers type government were eliminated.

First Motion to Amend: Councilor Knowles moved, seconded by Councilor Collier, to add a third "be it resolved" paragraph to read: "The Council further requests the Legislature refer any matter dealing with the governance structure of Metro to the voters of the region."

Vote on the First Motion to Amend: A vote resulted in:

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

Nays: Councilors Coleman, DeJardin, Hansen and Waker

Absent: Councilor Cooper

The motion carried.

Councilor Hansen said he opposed the main motion because he believed the Executive Officer should be elected by the District at large. It was important for the voters to be able to vote leaders out of office. He did not want "bland, in-bred" Metro leadership that could result if there were no ability to elect a leader district-wide.

Councilor Waker thought the public should identify with Metro's policy makers, not its chief administrator.

Councilor Van Bergen said he had served on many boards, most of which functioned under a system where the board appointed the chief executive. He therefore supported the resolution.

Councilor Coleman said she would not support the resolution because she favored an elected Presiding Officer rather than an elected

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Executive. Councilor Knowles suggested the resolution be amended to provide for an elected Presiding Officer.

Second Motion to Amend: Councilor Knowles moved to amend the resolution to provide for the Presiding Officer to be elected by the District at large. Councilor Coleman seconded the motion.

Councilor Knowles explained he agreed with Councilor Coleman that Metro needed an area-wide elected official to represent the agency and to give focus to Metro's activities.

Councilor Hansen did not think the Presiding Officer should be elected at large because an Officer at odds with the Council's objectives could paralyze the District's aims. He suggested one Councilor be elected to serve at large and the Presiding Officer continue to be appointed by all Councilors.

Councilor Gardner did not support an elected Presiding Officer. He also acknowledged that the current elected Executive Officer system gave District voters the illusion they were changing the direction of the agency when, in fact, they were not.

Councilor Van Bergen cautioned that the purpose of the resolution was to send a general message to the Otto Committee that the Council did not want an elected Executive Officer. He explained the Committee would then debate the issue and the State Legislature would amend the law as necessary.

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

Ayes: Coleman and Knowles

Nays: Councilors Collier, DeJardin, Gardner, Hansen, Kelley, Kirkpatrick, Van Bergen, Waker and Ragsdale

Absent: Councilor Cooper

The motion failed to carry.

After discussion, Council Administrator Don Carlson explained the Council had already adopted a resolution taking the position that the Council should have the authority to reapportion Metro districts. Resolution No. 88-980 did not address the reapportionment issue, he said, and the draft legislation regarding reapportionment included in the agenda packet was not an attachment or exhibit to Resolution No. 88-980.



Vote on the Main Motion as Amended: A vote resulted in:

**Ayes:** Councilors DeJardin, Gardner, Kelley, Kirkpatrick, Knowles, Van Bergen, Waker and Ragsdale

**Nays:** Councilors Coleman, Collier and Hansen

**Absent:** Councilor Cooper

The motion carried and Resolution No. 88-980 was adopted as amended.

7.6 Consideration of Resolution No. 88-974, for the Purpose of Authorizing a Public Contract with Safety Specialists, Inc. to Collect, Transport, Store, Recycle, Treat and Dispose of Hazardous Waste from Two Collection Day Events to be Held by Metro on October 1, 1988, and April 22, 1989

Councilor Hansen, Chair of the Solid Waste Committee, briefly summarized staff's report. He added that since the Committee had recommended approval of the resolution, staff had requested changes to the contract which would alter the contract sum.

Motion: Councilor Hansen moved, seconded by Councilor Kelley, to adopt Resolution No. 88-974 to include the three language changes recommended by staff per Bob Martin's memo to the Council dated September 15, 1988.

At Presiding Officer Ragsdale's request, Bob Martin, Solid Waste Engineering Manager, reviewed the three proposed changes to Attachment B to the resolution: 1) the cost of collecting oil based paints would be the same as for latex paints; 2) the cost to additionally insure Metro was not a fixed cost but was variable at 1 percent of the total contract amount; and 3) the contractor would be paid 10 percent of the total contract amount seven days prior to each event to cover his mobilization costs.

For all future actions, the Presiding Officer directed Metro staff to specifically refer to contracts, reports, RFPs, RFBs, and other types of attachments in the body of resolutions and ordinances as exhibits to the resolutions or ordinances. Any amendments to the attachments would require committee or Council approval.

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

The motion carried and Resolution No. 88-974 was adopted as amended.

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8. COMMITTEE REPORTS

Councilors announced various upcoming meetings.

There was no other business and the meeting was adjourned at 11:50 p.m.

Respectfully submitted,



A. Marie Nelson  
Clerk of the Council

amn  
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11/02/88