

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

Regular Meeting
December 22, 1988

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

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

Presiding Officer Ragsdale called the meeting to order at 5:50 p.m.

1. RECONSIDERATION OF ORDINANCE NO. 88-273, for the Purpose of Amending Ordinance No. 88-266 (Relating to the Adoption of the Solid Waste Management Plan) by Establishing Host Fees for Solid Waste Facilities and Adding Land Use Goal Findings

Presiding Officer Ragsdale explained at the December 8 Council meeting he had served notice he might possibly move to have Ordinance No. 88-273 reconsidered. He announced, however, he would not move to reconsider the ordinance. The ordinance was considered adopted effective December 8, 1988.

2. INTRODUCTIONS

Councilor Kirkpatrick introduced Sue Clark, newly appointed member of the Boundary Commission.

3. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Berna Plummer, 13740 N.E. Fremont Court, Portland, Oregon 97230, explained she was a Portland business woman and was concerned about a possible conflict of interest problem with a member of the Metropolitan Exposition-Recreation Commission. She questioned whether it was proper for a commissioner to serve as a consultant to businesses seeking contracting opportunities related to the Convention Center project. Dan Cooper, General Counsel, responded that Metro's Code prohibited Metro E-R Commissioners from being directly involved in Metro contracting. The Oregon Revised Statutes also prohibited public officials from using information gained from their public offices for personal, economic advantage. Councilor Knowles asked Mr. Cooper to investigate Ms. Plummer's concerns and report back to the Council on the matter.

4. EXECUTIVE OFFICER COMMUNICATIONS

Executive Officer Cusma announced that Councilor Waker, who would retire from the Council at the end of December, had agreed to serve Metro in the capacity as member of the Advisory Committee on Design and Construction (ACDC) for the Convention Center Project. She looked forward to working with the Councilor and said his professional knowledge would be an asset to the Committee.

The Executive Officer gave an award to the Presiding Officer which had been presented to Metro from the International Association of Chiefs of Police in appreciation of Metro's support of the Association's recent conference in Portland.

5. COUNCILOR COMMUNICATIONS

Councilor Coleman referred Councilors to a written report regarding the activities of the One Percent for Recycling Committee. The Committee's recommended program guidelines had been presented to the Solid Waste Committee, she said, and the Council would soon be asked to adopt the Solid Waste Committee's recommendations.

Councilor Knowles announced that Councilor Waker had agreed to serve the Convention Center Committee in the capacity as an ex officio member for the purpose of offering technical advice.

Temporary committee appointments. Presiding Officer Ragsdale explained because the terms of Councilors Coleman, Cooper, Kirkpatrick and Waker would expire on December 31 and because committee meetings were scheduled in January before the January 12 swearing in ceremony of new Councilors, it would be necessary for the Council to confirm temporary committee appointments for the period of January 1 through January 12. He recommended the four Councilors-Elect be temporarily appointed to the same committees served by the outgoing Councilors from their respective districts. Councilors-Elect would be sworn into office by the Council Clerk before assuming committee assignments, followed by a formal swearing in before a circuit court judge at the ceremony scheduled for January 12.

Motion: Councilor Van Bergen moved, seconded by Councilor Coleman, to confirm the following temporary committee appointments for the period of January 1, 1989, through January 12, 1989:

Councilor-Elect Buchanan: Convention Center
Committee, Zoo Committee

Councilor-Elect Bauer: Convention Center Committee,
Intergovernmental Relations Committee

Councilor-Elect Devlin: Internal Affairs Committee,
Solid Waste Committee, Zoo Committee

Councilor-Elect Wyers: Finance Committee, Internal
Affairs Committee

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

The motion carried unanimously.

Councilors discussed plans for the swearing in ceremony. It was
agreed the ceremony should be rescheduled for the earliest possible
date after January 3.

6. CONSENT AGENDA

Motion: Councilor Waker moved, seconded by Councilor Cooper,
to approve items 6.1 and 6.2 of the Consent Agenda.

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

The motion carried and the following items were approved:

6.1 Minutes of November 22, 1988

6.2 Resolution No. 88-1020, for the Purpose of Amending the Transportation Improvement Program to Provide Funds for the Johnson Creek Extension

7. ORDINANCES, SECOND READINGS

7.1 Consideration of Ordinance No. 88-271A, for the Purpose of Amending Metro Code Chapter 2.04 Relating to Contracting Procedures

Presiding Officer Ragsdale announced the Internal Affairs Committee,
at its meeting earlier that evening, had voted to defer considera-
tion of the ordinance for 30 days and refer the matter to a task
force. Later in the meeting he announced that task force members
would include the Presiding Officer, Executive Officer Cusma, Coun-
cilor Knowles, Councilor DeJardin and Councilor-Elect Bauer. The
task force was charged with studying specific issues and recommend-
ing a course of action to the Internal Affairs Committee.

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Councilor Collier said she would support deferring the matter if the Council would extend the deadline date of Ordinance No. 88-249, previously adopted by the Council, from December 31, 1988, to January 31, 1989. Ordinance No. 88-249 would provide for the Executive Officer to approve contracts under specific conditions if no other contract rules were in place by December 31, 1988. Dan Cooper pointed out that Ordinance No. 88-249 could only be amended by adoption of an ordinance. It was the consensus of the Council that no further action was necessary at this time since Ordinance No. 88-271 had not been forwarded from the Internal Affairs Committee to the Council.

Later in the meeting the discussion continued about extending the effective date of Ordinance No. 88-249. It was generally agreed the Executive and Presiding Officers would keep the Council apprised of the Task Force's developments and contracting activities and that every effort should be made to conclude the task force's work by the end of January.

7.5 Consideration of Ordinance No. 88-279, for the Purpose of Amending Metro Code Chapter 2.04 Relating to Metropolitan Exposition-Recreation Commission Contract Procedures

The Clerk read the ordinance by title only a second time. Presiding Officer Ragsdale announced the ordinance was read before the Council a first time on December 8, 1988. It was referred to the Convention Center Committee and the Committee conducted a public hearing on December 13. The Presiding Officer explained the Council would be deliberating the ordinance in its capacity as the Metro Contract Review Board.

Councilor Knowles, Convention Committee Chair, reviewed the written Committee report. He explained Councilor Van Bergen had reviewed the proposed purchasing policies and changes recommended by the Councilor had been incorporated into the ordinance. The Committee unanimously recommended the Council adopt the ordinance.

Motion: Councilor Knowles moved, seconded by Councilor Waker, to adopt Ordinance No. 88-279.

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

The motion carried and Ordinance No. 88-279 was unanimously adopted.

7.2 Consideration of Ordinance No. 88-275, for the Purpose of Amending Metro Code Chapter 3.02, Amending the Regional Wastewater Treatment Management Plan, and Submitting it for Recertification

The Clerk read the ordinance by title only a second time. Presiding Officer Ragsdale announced the ordinance was read before the Council a first time on November 22, 1988. It was referred to the Intergovernmental Relations Committee and the Committee conducted a public hearing on December 13.

Councilor Gardner, Chair of the Intergovernmental Relations Committee, reported the Council had traditionally updated the Plan each year with little comment or discussion. During this annual review, however, questions were raised at the Committee level concerning Metro's role in solving wastewater management problems and whether language in the Plan committed Metro to a more active planning role. Councilor Gardner asked counsel to respond to that concern.

Dan Cooper said Metro was potentially liable under the Clean Water Act and referred Councilors to his memo dated December 22, 1988, prepared by Larry Shaw. The opinion stated that Metro's legal exposure would be very limited.

Referring to a letter in the Council meeting packet from U.S. Environmental Protection Agency (EPA) Office of Water Planning Chief Tom Wilson, Councilor Gardner noted the EPA had requested Metro take a more active role in Wastewater Management Planning. He had asked staff to prepare a response to the EPA and to determine whether existing staffing and resources were sufficient to assume that responsibility.

Motion: Councilor Gardner moved, seconded by Councilor Waker, to adopt Ordinance No. 88-275.

Councilor Kelley noted that Councilor Kirkpatrick had testified before the Intergovernmental Relations Committee that State funds might be available to assist Metro in taking a more active planning role. Councilor Kirkpatrick added that the State was spending planning funds that should more appropriately be passed through regional planning agencies.

Presiding Officer Ragsdale said he concurred with counsel's opinion that Metro's legal exposure was limited. He supported, however, efforts to fully comply with the Federal Clean Water Act. He thought this could be accomplished by persistent, gradual efforts.

Rich Carson, Planning Department Director, said staff would pursue whether State funding was available. He acknowledged that more

resources would certainly be needed if Metro were to take a more active role in waste water management planning.

Councilor Van Bergen requested staff include in its proposed fiscal year 1989-90 budget funds to address the problem. He was inclined not to support adoption of the ordinance until action was taken.

In response to the Presiding Officer's question, Mel Huie, Planner, responded that if this ordinance were not adopted by the Council, it was likely that regional agencies would not be eligible to receive funds for sewer construction projects.

Vote: A roll call vote on the motion to adopt the ordinance resulted in:

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

Nay: Councilor Ragsdale

Absent: Councilor Knowles

The motion carried and Ordinance No. 88-275 was adopted.

Motion: Councilor Collier moved, seconded by Councilor Kirkpatrick, to instruct staff to investigate the availability of State funds for waste water planning activities.

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

The motion carried.

7.3 Consideration of Ordinance No. 88-276, for the Purpose of Adding Section 5.01.085 to the Metro Code Relating to Franchise Agreements

The Clerk read the ordinance a second time by title only. Presiding Officer Ragsdale announced the ordinance was first read before the Council on November 10. It was then referred to the Solid Waste Committee and committee hearings were conducted on November 15, November 29 and December 6.

Committee Chair Councilor Hansen reviewed the written Committee report. He reported the ordinance would provide the flexibility needed to address various types of solid waste facility franchises

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on a case-by-case basis. The ordinance was consistent with the Solid Waste Management Plan.

In response to Councilor Coleman's question, Dan Cooper explained the ordinance would provide for Metro to award selected franchises for periods of longer than five years. The Councilor requested counsel to provide an opinion concerning the specific conditions under which contracts and franchises would be required for solid waste facilities.

Vote: A roll call vote on the motion to adopt the ordinance resulted in all ten Councilors present voting aye. Councilors Knowles and Waker were absent.

The motion carried and the ordinance was unanimously adopted.

7.4 Consideration of Ordinance No. 88-278, for the Purpose of Amending Metro Code Chapter 5.02 Relating to Solid Waste Rates

The Clerk read the ordinance a second time by title only. Presiding Officer Ragsdale announced the ordinance had received a first reading before the Council on November 22. It was referred to the Solid Waste Committee and the Committee had conducted a hearing on December 6.

Solid Waste Committee Chair Hansen reported the ordinance had been drafted at his request in order to resolve confusion created by the recently revised rate structure.

Motion: Councilor Hansen moved to adopt the ordinance. Councilor Coleman seconded the motion.

In response to Councilor Van Bergen's question, Solid Waste Director Bob Martin said he had received at least 11 written complaints about the new rate structure and many other verbal complaints. He said the new Code provisions were very difficult to interpret and had resulted in delays at disposal facility gates.

Councilor Van Bergen objected to the ordinance, explaining it would penalize the private self hauler.

Vote: A roll call vote on the motion resulted in:

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

Nay: Councilor Van Bergen

Absent: Councilors Coleman and Knowles

The motion carried and Ordinance No. 88-278 was adopted.

7.5 Consideration of Ordinance No. 88-279, for the Purpose of Amending Metro Code Chapter 2.04 Relating to Metropolitan Exposition-Recreation Commission Contract Procedures

The ordinance was adopted earlier in the meeting.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 88-1021, for the Purpose of Approving the Urban Growth Boundary Periodic Review Work Plan

Presiding Officer Ragsdale noted the Council had received a letter regarding the resolution from the City of Lake Oswego just before the start of the meeting. The City requested the Council not adopt the resolution until specific concerns had been addressed.

Councilor Gardner, Chair of the Intergovernmental Relations Committee, reported the Committee reviewed the resolution on December 13 and had unanimously recommended its adoption. In response to the letter from the City of Lake Oswego, he suggested the Council adopted the resolution at this meeting and the Council send the City a letter in response to its concerns.

Charles Hales, representing the Homebuilder's Association, supported the work plan. He explained the Urban Growth Boundary (UGB) was the heart of the region's land use planning system and had worked well for land inside the boundaries. The system had not worked well, however, for land outside the UGB and he urged the Council to carefully examine particular areas currently outside the boundary where development efforts were concentrated.

Councilor Van Bergen acknowledged the review process would address whether the region would be best served by more land for housing, industrial development or agriculture. He noted it did not appear that farming was a viable economic enterprise in the metropolitan area and thought the review process should take that fact into consideration.

Motion: Councilor Gardner moved to adopt Resolution No. 88-1021 and Councilor DeJardin seconded the motion.

Councilor Waker, addressing Councilor Van Bergen's statement, hoped the proposed work plan would create a vehicle for public awareness of those issues.

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Councilor Coleman said she hoped the review process would address the problem of urban "islands" such as the City of Forest Grove and the rapid urbanization of certain areas such as land around Clackamas Town Center. She suggested a land use committee modeled on the Joint Policy Alternatives Committee on Transportation (JPACT) be established to consider these land use matters.

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

The motion carried and the resolution was unanimously adopted.

8.2 Consideration of Resolution No. 88-1027, for the Purpose of Authorizing a Sole Source Solicitation Process as Set Out In Metro Code Section 2.04.060 et seq. for Construction of a Compaction System at the Metro South Station

The Presiding Officer announced the Solid Waste Committee had not yet forwarded a recommendation to the Council. The Committee would meet again on January 3 to consider the resolution.

9. COMMITTEE REPORTS

Executive Officer Cusma thanked outgoing Councilors Coleman, Cooper, Kirkpatrick and Waker for their willingness to serve as public officials and for their accomplishments while serving as Metro Councilors.

Other Councilors commended Councilors Coleman, Cooper, Kirkpatrick and Waker for their service.

There was no other business and the meeting was adjourned at 8:00 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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