

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

October 27, 1988

Councilors Present: Mike Ragsdale (Chair), Corky Kirkpatrick (V. Chair), 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 5:30 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Executive Officer Cuama announced she would present agenda items 7.3 and 7.4 at this time rather than later in the agenda as originally scheduled.

7.3 Consideration of Resolution No. 88-1005, for the Purpose of Expressing Appreciation to Sue McGrath for Services Rendered to Metro

Councilor Collier, Chair of the Finance Committee, reported the Committee had unanimously recommended the resolution be adopted. The Executive Officer said that Sue McGrath had served on the Investment Advisory Board for five years and the resolution would acknowledge her valuable contribution to Metro.

Motion: Councilor Collier moved, seconded by Councilor Cooper, to adopt Resolution No. 88-1005.

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

The motion carried and the resolution was unanimously adopted. The Executive Officer presented Ms. McGrath with a plaque in recognition of her service.

7.4 Consideration of Resolution No. 88-1006, for the Purpose of
Confirming the Appointment of William Naito to the Investment
Advisory Board

Councilor Collier reported the Finance Committee had unanimously recommended William Naito be appointed to the Investment Advisory Board which would fill the vacancy created by Ms. McGrath's completed term. Executive Officer Cusma said she was very pleased Mr. Naito was willing to serve on the Board because of his excellent qualifications.

Motion: Councilor Collier moved to adopt Resolution No. 88-1006 and Councilor DeJardin seconded the motion.

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

The motion carried and the resolution was unanimously adopted.

4. COUNCILOR COMMUNICATIONS

None.

5. CONSENT AGENDA

Motion: Councilor DeJardin moved to approve items 5.1 through 5.6 of the Consent Agenda. Councilor Knowles seconded the motion.

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

The motion carried and the following items on the Consent Agenda were unanimously approved.

- 5.1 Minutes of September 22, 1988
- 5.2 Resolution No. 88-992, for the Purpose of Authorizing an Amendment to the Contract with Portland Bureau of Water Works for Relocation of Water Lines from the Oregon Convention Center Site
- 5.3 Resolution No. 88-1000, for the Purpose of Authorizing an Amendment to the Contract with Zimmer Gunsul Frasca Partnership for Further Specified Design Services for the Oregon Convention Center
- 5.4 Resolution No. 88-981, for the Purpose of Adopting Disadvantaged Business Program Goals for FY 1988-89

- 5.5 Resolution No. 88-994, for the Purpose of Adopting Affirmative Action Goals and Objectives for FY 1988-89
- 5.6 Resolution No. 88-1007, for the Purpose of Confirming the Appointment of Members to the One Percent for Recycling Advisory Committee

6. ORDINANCES, FIRST READINGS

6.1 Consideration of Ordinance No. 88-270, for the Purpose of Amending Ordinance No. 88-247, Revising the Budget and Appropriations Schedule to Provide Funding for Legislative Expenditures and Increased National Association of Regional Council (NARC) Dues

The Clerk read the ordinance a first time by title only. Presiding Officer Ragsdale announced he had referred the ordinance to the Council Finance Committee for a public hearing and recommendation.

6.2 Consideration of Ordinance No. 88-272, for the Purpose of Amending Ordinance No. 88-247, Revising the Budget and Appropriations Schedule to Provide Funding for an Increase in Oregon Laborer's Trust Health Care Premiums

The Clerk read the ordinance a first time by title only. Presiding Officer Ragsdale announced he had referred the ordinance to the Council Finance Committee for a public hearing and recommendation.

6.2a Consideration of Ordinance No. 88-271, for the Purpose of Amending Metro Code Chapter 2.04 Relating to Contracting Procedures

The Clerk read the ordinance a first time by title only. Presiding Officer Ragsdale announced he had referred the ordinance to the Council Internal Affairs Committee for a public hearing and recommendation.

ORDINANCES, SECOND READINGS

6.3 Consideration of Ordinance No. 88-268, Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-3: Blazer Homes

The Clerk read the ordinance by title only a second time. The Presiding Officer announced the first reading had been conducted before the Council on October 13, 1988, and no testimony had been received at that meeting. The ordinance had been prepared by Counsel because on September 8, 1988, the Council had adopted a motion to reject the Report and Recommendations of the Hearings

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Officer and to direct the Office of General Counsel to prepare findings of fact in support of the petition for locational adjustment of the Urban Growth Boundary (UGB).

Dan Cooper, General Counsel, reviewed the procedures by which the Council would consider the case. Referring to a letter to Presiding Officer Ragsdale from himself dated October 27, 1988, Mr. Cooper explained that pursuant to Metro Code Section 2.05.045(b), the Council must allow parties an opportunity to orally comment on the ordinance because it represented a revision from the order originally recommended by the Hearings Officer. He noted that unless the Council decided otherwise, the opportunity for oral comments was not intended to give parties the opportunity to re-argue the case previously considered by the Hearings Officer. Rather, comments should be confined to the narrow questions of whether the findings and ordinance in front of the Council would carry out the intent of the Council.

Counsel answered questions of Councilors concerning the procedures for this consideration of the ordinance. Mr. Cooper explained parties could not refer to matters of new evidence unless the Council took specific action to consider new evidence.

Councilor Knowles declared he had received a call from Jack Kane concerning the Blazer Homes matter and that Mr. Kane was not an official party to the case.

Councilor Kirkpatrick declared she had been contacted by several constituents living in her neighborhood who had questions about the Council's process for consideration of the Blazer Homes matter.

Councilor Collier declared she had engaged in a conversation with Jack Churchill concerning the Blazer Homes case.

Presiding Officer Ragsdale opened the public hearing after announcing the Council would only hear comments limited specifically to the findings prepared by counsel from official parties who had previously testified before the Hearings Officer on the Blazer Homes Case.

Kenneth H. Wright, 22560 S.W. Stafford Road, Tualatin, Oregon 97062, started to read a letter from Kenneth Fink of the Stafford/Lower Tualatin Valley Community Planning Organization. Presiding Officer Ragsdale asked Mr. Wright to discontinue reading the letter when it became apparent Mr. Fink's statement did not specifically address Counsel's findings. At the Presiding Officer's request, Mr. Cooper reviewed Mr. Fink's letter. Later in the meeting (after the completion of Ms. Griffin's testimony), Mr. Cooper declared the letter was not germane to Counsel's findings, but that it would be filed with the Blazer Homes case record.

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Wilma McNulty, 4100 Colts Foot Lane, began testimony concerning the lack of proper notice given by the City of Lake Oswego before its hearing on Blazer Homes. At the Presiding Officer's request, Ms. McNulty discontinued her testimony because it did not specifically address Counsel's findings.

Ed Oeltjen, 18785 West View Drive, Lake Oswego, Oregon 97034, started to read a statement concerning the case but discontinued his testimony when the Presiding Officer declared it did not specifically address Counsel's findings.

Carole Atherton, 1670 Fircrest Drive, Lake Oswego, Oregon, 97034, stated her objections to Metro's process. She said citizens had not been advised in advance that testimony before the Council had to be specifically limited to the Counsel's findings. She further stated that the Counsel's findings were arbitrary, capricious and flawed. She requested the case record be re-opened for the purpose of accepting a letter from James Schell of the Lake Oswego School District which related to Counsel's findings.

In response to Presiding Officer Ragsdale's questions, Mr. Cooper declared that Mr. Schell had standing because he had testified before the Hearings Officer on the case. The content of the letter appeared to constitute new evidence, he said. He then read the Council's procedures for hearing new evidence. After reviewing the rules, the Presiding Officer concurred that the letter was new evidence.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Gardner, to allow as additional evidence the letter from James Schell of the Lake Oswego School District.

Mr. Cooper then read Metro Code Section 2.05.035(c) relating to the acceptance of new evidence:

"A party may, in addition to filing written exceptions, file a written request to submit evidence that was not available or offered at the hearing provided for in Code Section 2.05.025. A written request to submit additional evidence must explain why the information was not provided at the hearing, and must demonstrate that such evidence meets the standards of Section 2.05.030 and would likely result in a different decision. Upon receipt of a written request to submit additional evidence, the Council shall:

- (1) Refuse the request; or

(2) Remand the proceeding to the Hearings Officer for the limited purpose of receiving the new evidence and oral argument and rebuttal argument by the parties on the new evidence; or

(3) If the nature of the new evidence to be submitted is such that remand would serve no useful purpose, proceed to hear and consider the evidence and argument and rebuttal from the parties on the evidence."

The Presiding Officer declared that after reviewing the Code, Councilor Kirkpatrick's motion did not appear to be in order. Councilor Kirkpatrick pointed out, however, that the Code rules did not specifically apply to cases where the Council had overturned the Hearings Officer's recommendation. The Presiding Officer thought the Council was restricted to its written rules concerning any new evidence.

Councilor Waker suggested Counsel edit Mr. Schell's letter to delete any material that would constitute new evidence. The Presiding Officer acknowledged that as an option but announced that Councilor Kirkpatrick's motion would have precedence over Councilor Waker's suggestion.

Councilor Knowles questioned whether Councilor Kirkpatrick's motion should include the specific reason why the new evidence was being submitted at this point in time.

At the Council's request, Mr. Cooper reviewed Mr. Schell's letter. He determined the letter amplified on the school district's position and went beyond commenting on Counsel's findings. The letter was new evidence, he said. He also determined the letter had not explained why the new evidence had not been submitted during the initial hearing.

Councilor Kirkpatrick again reminded the Council that Metro's rules did not specifically apply to circumstances where the Council had overturned the Hearings Officer's decision. She urged the Council to accept Mr. Schell's letter as new evidence.

Councilor Waker pointed out the process to date had included an extensive public hearing and ample opportunity to submit evidence.

Ms. Atherton urged the Council to receive Mr. Schell's letter as new evidence because the Council's decision would impact the Lake Oswego School District.

Councilor Van Bergen thought re-opening the case was unnecessary. Mr. Schell's letter had not explained why the evidence deadline had not been met, he said, and the time to decide was at hand.

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Councilor Gardner asked if Councilor Kirkpatrick's motion would limit new evidence to Mr. School's letter. Mr. Cooper answered that it would. Councilor Gardner thought the letter should be accepted as new evidence if indeed it addressed specific findings related to the Lake Oswego School District.

Vote: A vote on the motion to admit Mr. Schell's letter as new evidence resulted in:

Ayes: Councilors Gardner, Kelley and Kirkpatrick

Nays: Councilors Coleman, Collier, Cooper, DeJardin, Hansen, Knowles, Van Bergen, Waker and Ragsdale

The motion failed to carry.

Councilor Kirkpatrick suggested Mr. Cooper review Mr. Schell's letter and extract only the material that directly related to Counsel's findings. Ms. Atherton said she objected to the Council not receiving the entire letter. She then submitted the letter for the Blazer Case record even though it would not be distributed to the Council. Mr. Cooper declared the letter could not be read to Councilors because it did not address the findings.

Ms. Atherton continued her testimony as it related specifically to Counsel's findings. She observed that Metro's process had been difficult and confusing and that staff had not clearly communicated with the parties regarding the purpose of this hearing. She recalled that when the Blazer Homes matter was last before the Council, Councilor Knowles had stated he would not support the Hearings Officer's decision because it was "wishy-washy." Councilor Collier had said she would not support the Hearings Officer's decision because the Lake Oswego School District and City of Lake Oswego supported the locational adjustment.

Ms. Atherton was concerned that Counsel's findings relied heavily on the City of Lake Oswego's support of the UGB amendment. She pointed out the City's hearing process had not allowed for adequate notice or public debate. Had adequate notice been given, many parties would have testified before the City against the amendment and the City's position would most likely have been different, she said. She noted the Hearings Officer had appropriately given the City's decision minimal weight in his findings.

Councilor Van Bergen was concerned that Ms. Atherton's statements at this meeting had not addressed Counsel's findings.

Leonard G. Stark, 5050 S.W. Childs Road, Lake Oswego, Oregon 97035, testified that approving the petition would result in a depletion of

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valuable agricultural land. He was also concerned about possible increased traffic if the request were approved.

Karen Griffin, President, Lake Oswego Women Voters, 2855 Brookside Road, Lake Oswego, Oregon 97035, testified she wished the City of Lake Oswego's hearing on the case had been as strict as this hearing because the outcome of the case would probably be different.

Frank Josselson, an attorney representing the applicant, reminded the Council the case had undergone a long and extensive review process and it was now time for the Council to make a decision.

Motion: Councilor Waker moved, seconded by Councilor Cooper, to adopt Ordinance No. 88-268.

Councilor Kirkpatrick explained she had not attended the September 8 meeting when the Council had voted to overturn the Hearings Officer's original decision. She had reviewed the case materials, however, and did not think the Council's decision was proper because the Hearings Officer's findings had substantiated the 50 acre land requirement had been met.

Mr. Cooper said he was confident his findings in support of the locational adjustment would sustain an appeal before the Land Use Board of Appeals (LUBA).

Vote: A vote on the motion resulted in:

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

Nays: Councilors Gardner and Kirkpatrick

The motion carried and Ordinance No. 88-268 was adopted.

Presiding Officer Ragsdale announced to the audience that Metro was currently reviewing its UGB amendment process. He asked that anyone interested submit written comments and suggestions to Councilors or staff.

6.4 Consideration of Ordinance No. 88-261, for the Purpose of Amending Chapter 3.01 of the Metro Code to Clarify Standards and Procedures for Identifying Protected Agricultural Land (Second Reading)

The Clerk read the ordinance a second time by title only. Presiding Officer Ragsdale announced the first reading had been conducted before the Council on August 25, 1988. The ordinance was then

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referred to the Council Intergovernmental Relations Committee. The Committee conducted a public hearing on October 11, 1988.

Councilor Gardner, Committee Chair, summarized the Committee's written report and recommendation. He said Paul Ketchum of 1000 Friends of Oregon had indicated he viewed the change in procedures as a reasonable solution to the problems identified by staff.

Motion: Councilor Gardner moved to adopt Ordinance No. 88-261. Councilor Waker seconded the motion.

Councilor Van Bergen cautioned that problems could result if terms such as "school" and "church" could not be clearly defined.

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

The motion carried and the ordinance was adopted.

Presiding Officer Ragsdale called a ten-minute recess from 7:00 p.m. to 7:10 p.m.

6.5 Consideration of Ordinance No. 88-266B, for the Purpose of Adopting the Regional Solid Waste Management Plan and Rescinding Prior Solid Waste Plan Provisions

The Clerk read the ordinance by title only for a second time. Presiding Officer Ragsdale reviewed that the ordinance had received a first reading before the Council on October 13, 1988, before being referred to the Council Solid Waste Committee (CSWC). The Committee held a public hearing on October 18, 1988.

Councilor Hansen, Solid Waste Committee Chair, first thanked Executive Officer Cusma for her commitment to the Solid Waste Planning program. He discussed the extensive, cooperative process in which participants from local jurisdictions had, by consensus, worked out the Plan. He said the Solid Waste Committee had then reviewed the document forwarded to it by the Solid Waste Policy Committee (SWPC). Several amendments were recommended, the most significant of which was that the Host Fee program be administered by Metro rather than by local jurisdictions.

Motion: Councilor Hansen moved, seconded by Councilor Knowles, to adopt Ordinance No. 88-266B.

Bob Koch, 4215 N.E. 22nd Avenue, Portland, City of Portland Commissioner, agreed with Councilor Hansen that the SWPC process had been one of extensive cooperation and integrity. For that reason, he

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urged the Council not to adopt the CSWC's recommendation to place responsibility of the Host Fee program with Metro. He pointed out the SWPC had recommended local jurisdictions administer those program and to change that recommendation could result in a loss of confidence in the entire process. He then distributed copies of a resolution adopted unanimously by the Portland City Council and asked the Metro Council to reverse the CSWC's recommendation concerning Host Fees. He asked the Council to place its trust in the working class neighborhoods who were striving to control their own destinities. He cited a local North Portland film project as an excellent example of local neighborhood cooperation in producing a project that would benefit the entire community.

Councilor Hansen pointed out the film project mention by Commissioner Koch had come about because of the North Portland Enhancement Committee (NPEC) administered by Metro. The Committee was chaired by a Metro Councilor and comprised of North Portland citizens. Metro had initially tried to garner the participation of the City of Portland but the Commissioner in charge of public works at that time had opted not to participate after attending only a few meetings. Because the NPEC model was working well, he recommended it be used in other communities.

The Commissioner thought it appropriate for Metro to have representation on each local Host Fees committee but thought project control should rest with the host community.

Councilor Kirkpatrick asked Commissioner Koch if Metro did not reinstate the Host Fee Program as originally recommended by the SWPC, would the City of Portland endorse the Solid Waste Management Plan as a whole. The Commissioner responded that although the City of Portland had worked in a partnership with Metro, it was sometimes necessary for partners to separate if a trusting relationship could not be worked out. He added he understood from the Committee's inception that it was an advisory group but he was also concerned whether the efforts of SWPC members would have value. He had understood throughout the process the comments and compromises of members would be respected. He felt very strongly if the Council did not accept the SWPC's recommendation on the Host Fee issue, that trust would be violated.

Barbara Rutherford, representing the Wood Village City Council, testified in favor of local jurisdictions having control over the Host Fee programs. She recommended Section 12 be removed from the Solid Waste Management Plan and that it be brought back before the CSWC and the SWPC for consideration.

Clifford Clark, 1814 Douglas Street, Forest Grove, Oregon, Mayor of the City of Forest Grove, addressed the Council in favor of local

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control over the Host Fee program. He explained the SWPC had conducted a retreat meeting to develop cooperation and consensus. He read parts of the meeting summary which stated an objective of the retreat session was to be responsive to local solutions and to develop a regional partnership. He thought if the Council adopted the amendment to the Host Fee program as recommended by the CSWC, the spirit of the retreat would be "turned on its head."

Mayor Clark also explained the City of Forest Grove had supported granting a franchise to the Forest Grove Transfer Station with the understanding the City would administer the Host Fee program. The City had bargained in good faith. He requested the Council defer action of Ordinance No. 88-266B until the SWPC had reviewed the recommended amendments.

Councilor Hansen said the amendment language should not be interpreted to overturn good faith. He pointed out Metro had a proven track record of keeping good faith.

Mayor Clark noted the Host Fee program amendment language offered no comfort to the City of Forest Grove. He explained that when he entered into the Solid Waste Management Planning process he had no particular ax to grind. Other local officials, however, had warned him he might come out on the "short end." Mayor Clark thought the best process was one of negotiation. He said Metro had made good progress with local jurisdictions and he urged the Council to maintain that progress and trust.

Councilor Gardner pointed out the proposed amendment language would not preclude Metro from appointing an entire City Council from serving as a Host Fee committee. The purpose of the amendment, he explained, was to achieve a greater level of local control.

Mayor Clark said he had proposed an amendment to the SWPC which would allow the host fee fund be distributed on a neighborhood level for cities over 250,000 in population. He also pointed out the proposed amendment language did not guarantee him that a city council would be appointed as the Host Fee committee.

In response to Councilor Kirkpatrick's question, Rich Carson, Director of Planning & Development, said the SWPC had been advised of the October 18 hearing before the Council Solid Waste Committee.

Councilor Waker said after listening to testimony at this meeting he was confident that if the Council referred the ordinance back to the CSWC, language for the Host Fee program could be developed that would be acceptable to all parties.

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In response to Councilor Van Bergen's question, Mayor Clark said he was comfortable with all aspects of the Solid Waste Management Plan with the exception of the Host Fee Program language as amended.

Councilor Knowles declared he had a potential conflict of interest because he was working under a subcontract with Northwest Strategies who was working with Washington County on a Tualatin River project.

Steve Larrance, 150 North First, Hillsboro, Oregon 97124, Washington County Commissioner, testified that Metro would have ample control over Host Fee projects because it would approve the contracts and because it had flow control. He did not think a resolution could be reached by sending the ordinance back to the CSWC. He recommended the Council adopt the language recommended by the SWPC because it had been drafted after extensive discussion and negotiation. He explained that local solutions were a major step in the overall success of the Solid Waste Management Plan. Finally, he thanked staff for doing an excellent job on the project.

Commissioner Larrance read a letter from Washington County Commission Chair Bonnie Hays urging the Council to adopt the Host Fee program language recommended by the SWPC.

Commissioner Larrance said he was surprised the amendment proposed by Forest Grove Mayor Clark had not been incorporated into the Plan document. He did not think Metro would have the staff and time to monitor the activities of all the Host Fee committees. He advised the Metro Council not to jeopardize the entire Solid Waste Management Plan for the sake of a few dollars.

Councilor Cooper said he was concerned that if the Host Fee program were managed by local jurisdictions, the funds would become lost in a city's operating budget and no significant projects would result. Commissioner Larrance assured him that watchful citizen groups would not allow that to happen.

Ed Sullivan, an attorney representing the City of Oregon City, asked if Section 16.0 of the Plan would allow solid waste facilities to be located anywhere in the region or would they be limited to industrial zones. Rich Carson responded the Plan would leave that question to local jurisdictions and the jurisdictions would make that siting determination using clear and objective standards. Mr. Sullivan explained that Oregon City was concerned about the standard being applied uniformly.

Motion to Amend: Councilor Cooper moved, seconded by Councilor Coleman, to delete Section 12 of the Plan relating to the Host Fee Program and to send that portion of the Plan back to the Council Solid Waste Committee for further consideration and recommendation.

Councilor DeJardin supported the amendment, noting Metro and the local jurisdictions both wanted to accomplish the same objective. He was confident better language could be drafted to accomplish the objective.

Councilor Van Bergen was concerned the Host Fee Program funds would become lost in administrative budgets and not used for projects. As an alternative he suggested the funds be used to reduce solid waste rates or given to citizens with specific requirements.

Councilor Kirkpatrick recommended sending the entire ordinance back to the Committee rather than one portion of the Plan. She was concerned that local government officials had testified the integrity of the entire Plan was a stake over the single Host Fee issue. She was concerned that Host Fee Program money would become lost in a city of county budget unless neighborhood control was exercised.

Councilor Hansen was confident the Solid Waste Committee could reach consensus on the Host Fee Program issue in one meeting. All parties wanted strong local control, he explained.

Councilor Coleman noted it was a common budgeting practice to set up dedicated funds within local government budgets that would ensure the money would be spent for a specific purpose.

Councilor Gardner supported the amendment but was bothered that the partnership experience of compromise stopped at the point where the Plan was forwarded to the Solid Waste Committee. He hoped the SWPC could accept a third version of the Plan if the broad goal were accomplished. Councilor Gardner also thought an important issue was that the local community next to a solid waste facility realized the connection between that facility and the enhancement program.

Vote on the Motion to Amend: A roll call vote on the motion to amend Ordinance No. 88-266B resulted in all Councilors voting aye except Councilor Kirkpatrick who voted no. All Twelve Councilors were present.

The motion to amend carried.

Councilor Kirkpatrick announced she would vote against the motion to adopt the ordinance because she did not think the Host Fee Program issue should be separated from the rest of the ordinance.

Vote on the Main Motion as Amended: A roll call vote resulted in all Councilors voting aye except Councilor Kirkpatrick who voted no. All Twelve Councilors were present.

The motion carried and Ordinance No. 88-266B was adopted as amended.

6.6 Consideration of Ordinance No. 88-267B, for the Purpose of Revising Metro Code Section 5.04.040 Relating to the Membership of the Recycling Advisory Committee

The Clerk read the ordinance by title only a second time. Presiding Officer Ragsdale reported the ordinance had received a first reading before the Council on October 13, 1988. It was then referred to the Solid Waste Committee where a public hearing was conducted on October 18.

Councilor Hansen reported the Solid Waste Committee had unanimously recommended the ordinance be adopted.

Motion: Councilor Hansen moved, seconded by Councilor Kirkpatrick, that Ordinance No. 88-267B be adopted.

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

The motion carried and Ordinance No. 88-267B was unanimously adopted.

6.7 Consideration of Ordinance No. 88-263A, for the Purpose of Amending Ordinance No. 88-247, Revising the FY 1988-89 Budget and Appropriations Schedule for the Purpose of Additional Staffing and Capital Purchases within the Transportation Department

The Clerk read the ordinance by title only a second time. Presiding Officer Ragsdale announced the ordinance was first read before the Council on October 13, 1988. It was then referred to the Finance Committee where a public hearing was conducted on October 20.

Councilor Collier reported the Finance Committee had recommended the ordinance be adopted.

Motion: Councilor Collier moved, seconded by Councilor Waker, that Ordinance No. 88-263A be adopted.

Vote: A roll call vote on the motion resulted in all ten Councilors present voting aye. Councilors Coleman and Hansen were absent when the vote was taken.

The motion carried and Ordinance No. 88-263A was unanimously adopted.

7. RESOLUTIONS

7.1 Consideration of Resolution No. 88-991, for the Purpose of Approving a Contract with ESRI, Inc., for a Turnkey Geographic Information System (GIS)

Councilor Gardner reported the Intergovernmental Relations Committee had reviewed the resolution. The Committee's written report was distributed to all Councilors. Andy Cotugno, Transportation Planning Director, reported on the contractor selection process. The Committee had recommended the Council adopt the resolution as amended: the contract sum was authorized for up to \$135,628.

Motion to Amend: Councilor Kirkpatrick moved to amend the resolution to indicate that the contract sum be authorized for up to \$135,628. Councilor Collier seconded the motion.

Main Motion: Councilor Gardner moved, seconded by Councilor Waker, to adopt the resolution as amended.

Councilor Knowles strongly supported the Geographic Information System and said it would reflect very positively on Metro.

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

The motion carried.

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

The motion carried and Resolution No. 88-991 was adopted as amended.

7.2 Consideration of Resolution No. 88-997, for the Purpose of Confirming the Appointment of Bob Martin, P.E., to the Position of Director of Solid Waste

Councilor Hansen reported the Solid Waste Committee had unanimously recommended the resolution be adopted. Executive Officer Cusma said she was pleased to present Mr. Martin for confirmation.

Motion: Councilor Hansen moved, seconded by Councilor Kirkpatrick, to adopt Resolution No. 88-997.

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

The motion carried and Resolution No. 88-997 was unanimously adopted.

7.3 Consideration of Resolution No. 88-1005, for the Purpose of Expressing Appreciation to Sue McGrath for Services Rendered to Metro

7.4 Consideration of Resolution No. 88-1006, for the Purpose of Confirming the Appointment of William Naito to the Investment Advisory Board

Resolution Nos. 88-1005 and 88-1006 were considered at the beginning of the meeting under Item 3, "Executive Officer Communications."

7.5 Consideration of Resolution No. 88-1001, for the Purpose of Authorizing a Request for Proposals to Prepare an Analysis for a Publicly Owned East Transfer & Recycling Center

Councilor Hansen reported the resolution had been introduced in response to the Council's request that a publicly owned option be considered. The Solid Waste Committee recommended adoption of the resolution.

Councilor Van Bergen noted that some studies could already been completed for the project. He advised keeping the project as simple as possible. Councilor Hansen agreed.

In response to Councilor Knowles' question, Bob Martin, Solid Waste Director, explained the resolution would provide consultants to identify three site options for Committee and Council consideration.

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

The motion carried and Resolution No. 88-1001 was adopted.

7.6 Consideration of Resolution No. 88-996, for the Purpose of Transmitting District Legislative Proposals for the 1989 State Legislative Session to the Interim Task Force on Regional Metropolitan Government

Councilor Gardner reported the Intergovernmental Relations Committee had reviewed all the proposed legislation covered under the resolution. The Committee recommended the resolution be adopted.

Main Motion: Councilor Gardner moved, seconded by Councilor Kirkpatrick to adopt Resolution No. 88-996.

Executive Officer Cusma requested the Council consider all governance legislation separately and not include those matters with Resolution No. 88-996. She explained that would help to give a clear direction concerning issues with which she and the Council concurred.

Councilor Cooper supported the Executive Officer's request. He questioned whether the issue of the Council's contracting authority was valid or of an emergency nature. He said he would not vote for the resolution if that matter were part of the resolution.

Councilor Kelley concurred with Councilor Cooper, adding she thought it was unlikely Senator Glen Otto's Interim Committee on Regional Government would consider legislation other than what it had previously reviewed.

Councilor Collier supported including the contracting authority legislation in Metro's 1989 legislative package. She pointed out that when Councilor Knowles had lobbied in support of Senate Bill 629, it had been his understanding the Council would continue to have contracting authority similar to all other local governments. She said the issue was an emergency because it had to be settled as quickly as possible.

Councilor Gardner thought the Council should adopt the resolution with the understanding it would then be up to the Legislature to debate the issues and adopt final legislation.

Executive Officer Cusma requested the title of Resolution No. 88-996 be changed to read: "For the Purpose of Transmitting [District] Metro Council Legislative Proposals for the 1989 State Legislative Session to the Interim Task Force on Regional Metropolitan Government."

Motion to Amend: Councilor Kirkpatrick moved to amend the title of Resolution No. 88-996 to read: "For the Purpose of Transmitting [District] Metro Council Legislative Proposals for the 1989 State Legislative Session to the Interim Task Force on Regional Metropolitan Government." Councilor Gardner seconded the motion.

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

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

Nays: Councilors Cooper, Kelley, Knowles and Ragsdale

The motion to amend the resolution carried.

Presiding Officer Ragsdale said he had voted against the motion because he did not think separation of the legislative package was necessary.

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

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

Nays: Councilors Cooper and Kelley

The motion carried and Resolution No. 88-996 was adopted as amended.

Councilor Van Bergen requested General Counsel render an opinion concerning whether his legal opinions carried the weight of law. He explained he was especially concerned about Counsel's previous opinion that the Council did not have contracting authority.

Presiding Officer Ragsdale asked Mr. Cooper to consider Councilor Van Bergen's request official and to share the question with the Councilor before he rendered his opinion.

7.7 Consideration of Resolution No. 88-1002, for the Purpose of Supporting Proposed Solid Waste Bills and Concept for the 1989 Legislative Session

Councilor Hansen reported the Solid Waste Committee had unanimously recommended the Council adopt the resolution.

Motion: Councilor Hansen moved, seconded by Councilor Kirkpatrick, to adopt Resolution No. 88-1002.

Discussion followed about proposed legislation entitled "Internally Imposed Tipping Fee Surcharges." Greg McMurdo, Government Relations Manager, explained the legislation would give Metro the authority, by adoption of ordinances, to decide how to disburse tipping fee surcharges. Councilor Coleman questioned why the State of Oregon could not be added to the list of parties that could not impose fees. Mr. McMurdo and Executive Officer Cusma explained Governor Goldschmidt had advised Metro he would impose a state mandated fee if costs increased to an unacceptable level.

Motion to Amend: Councilor Coleman moved, seconded by Councilor Collier, to amend Exhibit B, "Legislative Concept: Externally Imposed Tipping Fee Surcharges", paragraph 1 of the "Proposal" section to read: "Prohibit counties, [and] cities and the state from establishing any new fees, surcharges or taxes upon the tipping fee. . ."; and to delete paragraph 2 of the "Proposal" section.

Councilor Waker thought it might be advantageous for the state to have collection authority to finance such projects as household hazardous waste collection drives. Mr. McMurdo explained that was why the initial draft had not listed the State.

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

Ayes: Councilors Coleman, Collier and Kirkpatrick

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

Absent: Councilor Kelley

The motion failed to carry.

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

The motion carried and Resolution No. 88-1002 was adopted.

7.8 Consideration of Resolution No. 88-998, for the Purpose of Approving Amendments to the Oregon Tourism Alliance Regional Compact

Councilor Knowles said the Convention Center Committee had reviewed the resolution and recommended its adoption.

Motion: Councilor Knowles moved, seconded by Councilor Coleman, to adopt Resolution No. 88-998.

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

Presiding Officer Ragsdale announced the Council needed to appoint a designee and one alternate designee to the Oregon Tourism Alliance. He asked Councilors to submit names for those positions.

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7.9 Resolution No. 88-999, for the Purpose of Authorizing the Finance Committee to Appoint Citizens to Metro's FY 1989-90 Budget Committee

Councilor Collier reported the Finance Committee had recommended adoption of the resolution which would authorize the Committee to appoint five members to the Budget Committee.

Motion: Councilor Collier moved, seconded by Councilor Van Bergen, to adopt Resolution No. 88-999.

Jessica Marlitt, Councilor Analyst, explained if the resolution were adopted, five of the six Budget Committee members who served last year would be asked to serve again.

Councilor Waker requested the Committee be comprised of a geographical representation of the region.

Councilor Knowles suggested new members be solicited in order to open up the selection process.

Councilor Hansen thought it was inappropriate to have any one member serve more than two years on the committee.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Kirkpatrick, to send Resolution No. 88-999 back to the Finance Committee and for the Committee to return to the Council with a resolution which would appoint citizens to the Budget Committee.

Councilor Waker agreed the Budget Committee appointments should be made by the Council rather than the Finance Committee.

Councilor Collier asked Councilors to submit names of potential citizen Budget Committee members to staff as soon as possible. Don Carlson, Council Administrator, said he would publish an invitation in the newspaper for citizens to apply for committee membership.

Vote on the Motion to Send the Resolution Back to the Committee:
A vote resulted in all eleven Councilors present voting aye. Councilor Kelley was absent.

The motion carried.

8. COMMITTEE REPORTS

Councilors reported on upcoming committee meetings and agenda.

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

Respectfully submitted,

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

A. Marie Nelson
Clerk of the Council

amn
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11/15/88