

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

Regular Meeting  
January 26, 1989

Councilors Present: Mike Ragsdale (Presiding Officer),  
Sharron Kelley (Deputy Presiding Officer),  
Lawrence Bauer, Roger Buchanan, Tanya  
Collier, Richard Devlin, Jim Gardner,  
Gary Hansen, David Knowles, George  
Van Bergen and Judy Wyers

Councilor Absent: Tom DeJardin

Others Present: Rena Cusma, Executive Officer  
Dan Cooper, General Counsel  
Don Carlson, Council Administrator

Presiding Officer Ragsdale called the meeting to order at 5:40 p.m. He announced that agenda items 8.1 and 8.2 would be considered immediately after item 6.1.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

A representative from the League of Women Voters informed Councilors she would be attending all the Council's meetings in order to observe Metro's activities for the League.

3. COUNCILOR COMMUNICATIONS

Councilors Knowles and Collier reported on the current activities of the Finance and Convention, Zoo & Visitor Facilities Committees.

4. EXECUTIVE OFFICER COMMUNICATIONS

Executive Officer Cusma invited Greg McMurdo, Government Relations Manager, to report on the status of Metro legislation that had been or soon would be introduced before the State Legislature. Mr. McMurdo said all the bills introduced by the Metropolitan Task Force on Regional Government (Senator Glenn Otto's Committee) were already scheduled for committee hearings. Councilors would receive a weekly written report on the status of Metro and related legislation. (Note: At the February 9, 1989, Council meeting, Councilor Gardner pointed out SB 211 had not been scheduled for a hearing.)

**5. CONSENT AGENDA**

**Motion:** Councilor Hansen moved, seconded by Councilor Collier, to approve item 5.1 of the Consent Agenda.

**Vote:** A vote on the motion resulted in all ten Councilors present voting aye. Councilors Knowles and DeJardin were absent.

The motion carried and the following item listed on the Consent Agenda was approved:

**5.1 Resolution No. 89-1044, for the Purpose of Reappointing Pamela Arden and Steven Roso and Appointing Michael Vernon to the North Portland Rehabilitation and Enhancement Committee**

**6. ORDINANCE, SECOND READING**

**6.1 Consideration of Ordinance No. 89-269, for the Purpose of Amending Chapters 2.02, 4.01 and 5.02 of the Metro Code Relating to the Names of Metro Facilities**

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, 1988. The ordinance was then referred to the Internal Affairs Committee where a hearing was conducted on December 22. The ordinance, he explained, would amend the Metro Code to reflect the new names of the Zoo (Metro Washington Park Zoo) and Clackamas Transfer & Recycling Center (Metro South Station). The Committee had unanimously supported adoption of the ordinance.

**Motion:** Councilor Ragsdale moved, seconded by Councilor Gardner, to adopt Ordinance No. 89-269.

Vickie Rocker, Public Affairs Director, presented slide photographs of new signs recently installed at the Zoo and Metro South Transfer Station bearing the facilities' new names.

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

The motion carried and the ordinance was unanimously adopted.

B.1 Consideration of Resolution No. 89-1030, for the Purpose of Accepting Talbot & Korvola, Certified Public Accountants, "Report on Performance Auditing Plan for the Metropolitan Service District"

Councilor Collier, Chair of the Finance Committee, reported the Committee had unanimously recommended adoption of the resolution. The firm of Talbot & Korvola had been charged with the task of providing a performance auditing plan for Metro and determining if there were any impediments to performing such an audit. Talbot & Korvola had determined there were no impediments to the audit and an audit plan had been developed on time and within the project budget.

Jack Talbot and Karl Meeuswen explained their primary recommendations to the District:

1. Adopt the U.S. General Accounting Office's Government Auditing Standards as its guide for performance auditing work;
2. Contract for the professional services to perform this function for at least the first two years and provide for continuing contract service if appropriate.
3. Budget \$80,000 to \$100,000 for each of the first two years for the performance audit function.
4. Establish a risk analysis system based on nine key criteria to identify areas for performance reviews; and
5. Assign the audit oversight responsibility to the Council's Internal Affairs Committee.

Motion: Councilor Collier moved, seconded by Councilor Devlin, to adopt Resolution No. 89-1030.

Councilor Bauer expressed concern about the estimated annual expense of the performance audit. He said he would vote for the motion but would be closely monitoring the program to ensure it was good expenditure of public money. Councilor Collier explained Talbot & Korvola's estimate was based on what other jurisdictions were currently spending. Metro's audit budget could cost less than projected. She added that the contractor selection process would be competitive.

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

The motion carried and Resolution No. 89-1030 was unanimously adopted.

**8.1 Consideration of Resolution No. 89-1031, for the Purpose of Supporting Certain Recommendations of the Task Force on Metropolitan Regional Government**

Councilor Gardner, Chair of the Legislative Task Force, reported the resolution included expressed Council support for two bills: 1) Senate Bill 258 concerning Metro's governance structure; and 2) Senate Bill 207 which would remove impediments to a merger of Metro and Tri-Met. He explained SB 258 had already been introduced by Senator Glenn Otto.

**Motion:** Councilor Gardner moved, seconded by Councilor Devlin, to adopt Resolution No. 89-1031.

In response to the Presiding Officer's question, Councilor Gardner said Tri-Met had expressed some general concerns about SB 207. Councilor Knowles pointed out the legislation had been initiated by the Task Force on Metropolitan Regional Government and as such, Tri-Met had had ample opportunity to comment before the Task Force.

Councilor Gardner asked counsel if SB 207 were essential to a merger of Metro and Tri-Met. Dan Cooper responded that although the bill, if adopted, would resolve possible problems, the legislation would probably not be essential to a merger.

Councilor Wyers spoke in favor of the resolution, explaining it was important not to derail the Task Force on Metropolitan Regional Government at this point in the process.

**Motion to Amend:** Councilor Ragsdale moved, seconded by Councilor Collier, to amend Resolution No. 89-1031 as follows (language to be added is underlined and language to be deleted is in brackets):

Amend the fourth "whereas" paragraph to read: "The Council supports Task Force proposals SB 258 and SB 207 with amendments as outlined in Exhibit[s] A [and B] attached;"

Amend the "be it resolved" paragraph to read: "That the Council of the Metropolitan Service District supports SB 258 as amended by the Senate Government Operations and Elections Committee and SB 207 of the

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Task Force on Metropolitan Regional Government as amended in Exhibit[s] A [and B] attached hereto and seeks State adoption of the legislation as amended.

Presiding Officer Ragsdale explained the amendment would revise the resolution to reflect the current status of the legislation.

Vote on the Motion to amend: A vote on the motion to amend resulted in all ten Councilors present voting aye. Councilors Hansen and DeJardin were absent.

The motion to amend Resolution No. 89-1031 carried.

Councilor Van Bergen said he would not support the resolution because he was not prepared to endorse all its provisions at this time.

Vote on the Main Motion as Amended: A vote on the motion resulted in Councilors Bauer, Buchanan, Collier, Devlin, Gardner, Hansen, Kelley, Knowles, Wyers and Ragsdale voting aye. Councilor Van Bergen voted no. Councilor DeJardin was absent.

The motion carried and Resolution No. 89-1031 was adopted as amended.

## 7. ORDINANCE, FIRST READING

### 7.1 Consideration of Ordinance No. 89-284, for the Purpose of Amending Metro's Urban Growth Boundary for Contested Case No. 88-1; Zurcher Property (Public Hearing)

The Clerk read the ordinance by title only for a first time. The Presiding Officer announced the Council would consider the ordinance in its capacity as a quasi-judicial board. He explained the Council would conduct a public hearing at this meeting and all parties which had participated in the previous hearing before Chris Thomas, hearings officer for the case, could address the Council at this meeting. Parties were told to limit their comments to issues already on the record. The Presiding Officer explained the Council would make its decision on the case at the second reading of the ordinance. Dan Cooper, General Counsel, explained that the Zurcher case was an application for a major amendment to the Urban Growth Boundary (UGB) and would therefore be determined according to the State land use procedures.

Councilor Devlin declared he had received one ex parte contact from Mayor Clifford Clark of the City of Forest Grove but no discussion had occurred concerning the merits of the case. The Councilor was

confident he could judge the case with objectivity.

Presiding Officer Ragsdale announced the second reading of the ordinance was originally scheduled for February 9 but because four Councilors would not be able to attend that meeting, the second reading had been rescheduled to March 9.

#### Hearings Officer's Report and Recommendation

Chris Thomas, Hearings Officer for the case, reviewed the "Report and Recommendations of the Hearings Officer" document which was included in the meeting record. Mr. Thomas reported he had recommended the applicants' petition to amend the UGB be granted because they had successfully demonstrated the need for more land in the Forest Grove area suitable for industrial development. New industry would correct the situation of low assessed property values, low per capita income and high tax rates, he said. The applicant had successfully demonstrated no other land existed in the Forest Grove area suitable for the type of industrial development that would revitalize the Forest Grove area. Mr. Thomas concluded the applicants had successfully demonstrated the need requirement and that the livability of the Forest Grove area would improve if the UGB were amended for this case.

Councilor Bauer asked the Hearings Officer to explain the Zurcher property's ranking as prime agricultural land. Mr. Thomas said the U.S. Department of Agricultural ranked land soils into eight classes -- 1 being the highest ranking and 8 being the lowest. A ranking of 1 or 2 meant the soil was considered prime for agricultural use. The Zurcher property soil was ranked 2 which meant the hearings officer had to take into consideration whether benefits of using the land for other than agricultural purposes would outweigh using the land for farming. If the land had received a lower USDA ranking, the land's value for agricultural purposes would be much less of a consideration in evaluating need for other purposes, he explained.

#### Applicants' Testimony

Mary Dorman, a planning consultant representing the Zurcher family and the City of Forest Grove, explained the property in question consisted of 38 acres that had been annexed to the City of Forest Grove. The applicant's original application had included 44 acres. Ms. Dorman discussed how the applicant had successfully demonstrated need for industrial land in the Forest Grove area and that need was the strongest factor in determining the case.

Clifford Clark, Mayor of the City of Forest Grove, 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 complete economically. In closing, Mayor Clark challenged the Council to approve the UGB amendment in its capacity as "stewards of the future."

Dick Bewersdorff, Forest Grove Planning Director, presented information to demonstrate the unsuitability of land already zoned for industrial use in the Forest Grove area. The Zurcher property, he explained, was suitable for the City's needs because it was available, accessible to urban services and large enough to accommodate important industry. Other parcels were not suitable because they were improperly zoned as industrial, were not accessible to urban services or were not large enough to accommodate important industry. The Zurcher property represented the City's only opportunity for large industrial development, he said.

Bob Alexander, Executive Director of the Forest Grove/Cornelius Economic Development Council, explained the Development Council had been formed to help solve the situation of low assessed values, high property taxes and the lack of suitable industrial land. He urged the Council to approve the amendment application in order to help Forest Grove help itself.

Tim Schaueremann, President of the Forest Grove/Cornelius Economic Development Council, said he would first speak on behalf of the Forest Grove School District Superintendent who was unable to attend the meeting. The School District was concerned because Forest Grove's property tax rate was one of the highest in the state while its assessed property value was the fifth lowest. Mr. Schaueremann urged the Council to approve the application in order to provide an opportunity for the Forest Grove Community to experience economic recovery.

#### Opponents' Testimony

Paul Ketchum, Senior Planner with the 1000 Friends of Oregon, first explained that Doug Kraemer, who had previously testified before the Council in opposition to the Zurcher application, had asked him to refer Councilors to his written exception statement that was included in the record.

Mr. Ketchum, speaking on behalf of the 1000 Friends of Oregon,

thought Metro's primary role was to administer the Urban Growth Boundary and not to decide whether tax levels and assessed values were adequate. He did not think those factors should be considered to determine livability as it related to land use goals. It was not appropriate, he said, to amend the UGB based on a short-term need.

Reviewing points raised in his written exceptions statement, Mr. Ketchum pointed out that: 1) expansion of the UGB for a short-term versus long-term need was not consistent with state land use Goal 14; 2) even if the application could be approved based on short-term need, there was nothing in the record to show how livability would improve for Forest Grove residents if the Zurcher property were added to the UGB; 3) there were no facts in the record to indicate that the land within the UGB currently zoned industrial and owned by the Zurcher's could not be served in an orderly and economic manner; 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 accommodate those industries as opposed to the 51 acres already within the UGB.

Councilor Van Bergen asked Mr. Ketchum if he was suggesting the Council should not be in the position of defining what livability meant in the Zurcher case. Mr. Ketchum responded it was the Council's duty to define livability in this case but the Council should also be mindful there was no precedent for defining it on the basis presented by the Hearings Officer. He thought Metro's primary responsibility was to maintain the integrity of the UGB and to carefully weigh reasons for amending the boundary in light of land use laws. He cautioned that if Metro approved this amendment based on the Hearings Officer's recommendation, it would be stepping into a grey area and future amendments would be difficult to judge.

Councilor Collier asked if the term livability had ever been defined as lower property taxes. Mr. Ketchum replied he had attempted to research that in preparing for the case and could find no past instance where livability had been defined according to those terms. Councilor Devlin thought property taxes were a means to an end -- taxes were used to pay for urban services such as fire protection, police protection and schools, which resulted in improved livability. Mr. Ketchum agreed a relationship existed between taxes and livability but questioned at what point a reduction in property taxes would result in a more livable community.



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Jim Sitzman, representing the Department of Land Conservation & Development (DLCD), distributed a letter dated January 11, 1989, from Acting Director Graig Greenleaf and signed by himself. Mr. Sitzman objected to the application and discussed deficiencies in the applicants' data. He explained that livability was a broader topic than the applicants' analysis had presented. For example, data on total tax rates, not just combined school and city rates, and comparison with areas in addition to comparably sized cities would have been appropriate. Information on comparative environmental and social conditions and other cost of living factors affecting livability should also have been provided.

Mr. Sitzman said the application implied that the Zurcher site was the only opportunity for industrial development in Forest Grove. He questioned why -- considering Oregon's rating as the nation's largest small business state -- the many smaller land parcels in the Forest Grove area were not considered equally suitable for development. He thought there was little evidence to support the assertion that 200 acres of 20+, 10+ and smaller acreage parcels could not be serviced for development. Further, he said, there was no rationale provided for concluding that the 95 acre Zurcher site would develop more quickly than smaller sites already within the UGB.

Mr. Sitzman concluded that because suitable land already existed within the UGB and because the amendment was based on short-term need, the applicant should have provided more complete information concerning whether existing land within the UGB could have been used for industrial development; a more complete commercial and industrial development analysis and policy base; and a more discerning evaluation of how the addition of more land would solve the livability problem.

Councilor Bauer questioned why the issues raised in the DLCD's letter, dated January 11, 1989, weren't raised last May when the case was before the Hearings Officer. Mr. Sitzman replied that a letter was sent to the Hearings Officer in May. The January 11 letter was in response to the Hearings Officer's final report and recommendation, he said.

In response to Presiding Officer Ragsdale's question, Mr. Sitzman explained that the 130 acres of suitable land already within the UGB referred to in the DLCD letter was currently in the form of 2 to 20 acre parcels and not one large parcel.

Applicants' Rebuttal to the Opponents' Presentation

Ms. Dorman, referring the Councilor Bauer's question about the timing of the DLCD's letter, noted the applicants had not received the January 11 letter until this evening and had not been given the opportunity to comment on it. Ms. Dorman said the applicants had clearly shown the need for the UGB amendment and the issue was much broader than high tax rates and the livability of the Forest Grove area. The primary issue, she said, was that the current inventory of land within the UGB zoned for industrial use was clearly not adequate.

Mr. Schauer mann recalled the deliberative process when the original UGB had been formed. People in the Forest Grove area had been assured, he said, that the Boundary was flexible and could be changed if a valid application was submitted. He pointed out this application was valid in that other land zoned for industrial use had been clearly demonstration to be unsuitable for sizeable developments.

Councilor Bauer suggested the City of Forest Grove update its inventory of land and change designations of land not suitable for industrial development. Mayor Clark assured Councilor Bauer the City would soon commence that process.

Mayor Clark objected to the lateness of the DLCD's response to the Hearings Officer's recommendation and to the fact that the applicants did not receive the January 11 letter until 5:00 p.m., January 26. He also pointed out it was the City of Forest Grove's decision -- not the state's -- regarding how industrial land should be used. Mayor Clark questioned to what degree taxes would have to increase before a city was deemed to be unlivable. He thought taxes were a very big issue in this case because it was clear that no one would want to live in an area where taxes were extremely high. He again discussed how the current taxing situation was detrimental to development and noted that no new housing subdivisions had been installed since 1981. A significant change had to be made, he said. The Mayor also pointed out that 1000 Friends of Oregon and the Farm Bureau, opponents to the application, had also opposed widening roads that would provide access to the Sunset Highway. He said this lack of support for growth and development was very restrictive to the Forest Grove area.

In response to Presiding Officer Ragsdale's question, Mr. Thomas, Hearings Officer, said his report and recommendations document had discussed why parcels currently zoned industrial were not suitable for development.

### Council Discussion

Councilor Knowles asked whether the applicants could provide a written response to specific questions of Councilors. Mr. Cooper said the Council's request was appropriate as long as all parties were given a chance to comment on the questions.

Councilor Knowles requested the applicants respond to the following questions: 1) Considering that tax rates are a primary issue concerning the livability of the area, at what point would an area be deemed livable? and 2) What criteria, other than tax rates, were presented in the application? He asked the applicants to confine their answers to information included in the Hearings Officer's Report and the case record. The applicants could refer to page numbers in the record in preparing their response.

Councilor Van Bergen thought the response to Councilor Knowles' questions should be provided by either the Hearings Officer or staff. After discussion it was agreed staff would respond to the questions.

Presiding Officer Ragsdale closed the hearing and announced the Council would make its decision on the case at the second reading of the ordinance. He date of the second reading would be announced later.

The Presiding Officer called a recess of the Council at 8:50 p.m. The meeting reconvened at 9:00 p.m.

### 8. RESOLUTIONS

#### 8.1 Consideration of Resolution No. 89-1030, for the Purpose of Accepting Talbot & Koryola, Certified Public Accountants, "Report on Performance Auditing Plan for the Metropolitan Service District

The resolution was considered and adopted earlier in the meeting.

#### 8.2 Consideration of Resolution No. 89-1031, for the Purpose of Supporting Certain Recommendations of the Interim Task Force on Metropolitan Regional Government

The resolution was considered and adopted earlier in the meeting.

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8.3 Consideration of Resolution No. 89-1046, for the Purpose of Authorizing an Exemption to the Public Contracting Procedure Set Out in Metro Code Section 2.01.010 et seq. for the Extension of the Metro South Station Contract

Council Buchanan presented the report and recommendation of the Solid Waste Committee. He explained the Council had previously adopted Resolution No. 89-1026A which authorized the Executive Officer to negotiate a draft extension contract with Wastech, Inc., for operation of Metro South Station. Negotiations were completed on January 20 and the increase for new services was about 2 percent over the previous contract payments. That increase reflected the Portland Consumer Price Index. Staff recommended the contract extension and reported it would result in a cost savings to Metro. The Committee voted 4 to 0 to recommend the Council adopt Resolution No. 89-1046.

Motion: Councilor Buchanan moved, seconded by Councilor Wyers, to adopt Resolution No. 89-1046.

There was no discussion on the resolution.

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

The motion carried and the resolution was adopted.

9. COMMITTEE REPORTS

9.1 Report from the Contracting Task Force

Presiding Officer Ragsdale reported the task force had concluded its work and had reported its recommendations to the Internal Affairs Committee. The task force was concerned about meeting its commitment to the Council to reach a resolution by January 30. The Presiding Officer acknowledged it would take more time than anticipated to reach agreement and asked for Council cooperation in meeting that objective. He urged all Councilors to attend the February 2 meeting of the Internal Affairs Committee concerning the task force's recommendations (Note: that meeting was later rescheduled to February 7 due to inclement weather).

Council Brochure

Presiding Officer Ragsdale asked Councilors to review the final draft of a brochure on the Metro Council and to report changes relating to Councilor biographies to Marie Nelson, Council Clerk.

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Meeting Concerning Council and Council Committee Agendas

The Presiding Officer announced he had scheduled a meeting with all committee chairs for January 31, 4:00 p.m., concerning the Council's process for developing meeting agendas. The meeting had been scheduled in response to concerns expressed by former and current Councilors.

Convention, Trade and Spectator Facility Consolidation

Don Carlson announced a meeting was scheduled at 4:00, January 27, concerning the current status of negotiations to consolidate facilities operations.

Regional Crime Issues

Councilor Van Bergen discussed his concerns about the dramatic increase of crime in the metropolitan area and requested the Council consider whether Metro could have a role in resolving problems related to crime. After discussion on the matter, the Presiding Officer said he would confer with the Executive Officer and appoint a task force or group which would include interested Councilors. The group could facilitate communication among local government law enforcement officials, among other things, he said. He also pointed out that the Metro Planning & Development Department would soon conduct a work session for small cities on low cost solutions to crime prevention. In response to the Presiding Officer's request for volunteers, Councilor Wyers said she would serve on the task force.

There was no other business and the meeting adjourned at 9:30 p.m.

Respectfully submitted,



A. Marie Nelson  
Clerk of the Council

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