

**MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT**

**March 23, 1989  
Regular Meeting**

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

**Councilors Absent:** Roger Buchanan

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

**1. INTRODUCTIONS**

None.

**2. CITIZENS COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS**

None.

**3. EXECUTIVE OFFICER COMMUNICATIONS**

**3.1 Presentation of the Executive Officer's Recommended Budget for FY 1989-90**

Executive Officer Cusma presented her budget message which was printed in the document entitled "Proposed Budget 1989-1990." She explained the focus of the proposed budget was to implement projects that had been initiated the previous year. Implementing projects, she said, would include construction of the Oregon Convention Center, starting the operations phase of the Convention Center, closing the St. Johns Landfill, opening the new landfill in Gilliam County, aggressive solid waste reduction programs, constructing a solid waste composting facility, operating the new Metro Zoo Africa Exhibit, planning new Zoo exhibits, managing the Urban Growth Boundary and development of an Urban Growth Management Plan, providing transportation planning services to local governments, operating the Regional Land Information System, and expanding financial and program capabilities provided by a newly installed computer system. Finally, Executive Officer Cusma explained that Ordinance No. 89-294, scheduled to receive a first reading at this Council meeting, was the formal vehicle for consideration and adoption the FY 1988-89 budget.

**EXECUTIVE SESSION**

at 5:45 p.m., Presiding officer Ragsdale called the meeting into executive session under the authority of ORS 192.660(1)(h) to discuss litigation matters with legal counsel. All Councilors were present at the executive session except Councilor Buchanan who was absent. Executive Officer Cusma, Ray Phelps and Andy Cotugno were also present. Presiding Officer Ragsdale called the meeting back into regular session at 6:00 p.m.

**4. CONSENT AGENDA**

**Motion:** Councilor DeJardin moved, seconded by Councilor Bauer, to approve items 4.1, 4.2 and 4.3 of the consent agenda.

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

The motion carried and the following items were approved:

4.1 Minutes of February 23, 1989

4.2 Resolution No. 89-1063, Amending the Transportation Improvement Program to Allocate Interstate Transfer Funds for the King-Harrison 42nd Avenue Project

4.3 Resolution No. 89-1064, Allocating Federal-Aid Urban Funds for FY 1989-90

**5. ORDINANCES, FIRST READINGS**

**5.1 Ordinance No. 89-291, Amending Ordinance No. 88-247, Revising the FY 1988-89 Budget and Appropriations Schedule for Computer Purchases and System Reconfiguration for the Public Affairs Department**

The Clerk read the ordinance by title only for the first time. Presiding Officer Ragsdale announced he had referred the ordinance to the Finance Committee.

**5.2 Ordinance No. 89-292, Amending Ordinance No. 88-247, Revising the FY 1988-89 Budget and Appropriations Schedule for Zoo Operations and AfriCafe Basement Improvements**

The Clerk read the ordinance by title only for the first time. Presiding Officer Ragsdale announced he had referred the ordinance to the Finance Committee.

5.3 Ordinance No. 89-294, Adopting the Annual Budget for Fiscal Year 1989-90, Making Appropriations and Levying Ad Valorem Taxes

The Clerk read the ordinance by title only for the first time. Presiding Officer Ragsdale announced he had referred the ordinance to the Finance Committee.

6. ORDINANCES, SECOND READINGS

6.1 Consideration of Ordinance No. 89-284, Amending the Urban Growth Boundary for Contested Case No. 88-1; Zurcher Property

The Clerk read the Ordinance by title only for a second time. Presiding Officer Ragsdale announced the Council would consider the ordinance in its capacity as a quasi-judicial body and that the ordinance had first been read before the Council on January 26, 1989. Dan Cooper, General Counsel, then reviewed the history of the Zurcher case. He explained the Council had previously adopted Resolution No. 88-987 on September 22, 1988, which expressed the Council's intent to amend the Urban Growth Boundary (UGB) for the petition. Prior to acting on this ordinance the applicants had successfully annexed their property to Metro, a process which had required Boundary Commission approval. Finally, Mr. Cooper advised the Council that the legal description of the property had changed due to the annexation process and the Council was now considering Ordinance No. 89-284 as amended.

Motion: Councilor Devlin moved, seconded by Councilor Knowles, to adopt Ordinance No. 89-184 to included the amended property description (Attachment A).

Councilor Knowles declared staff had responded to his information request of January 26 and he was now prepared to vote.

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

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

Nays: Councilors Collier, Gardner and Wyers

Absent: Councilor Buchanan

The motion carried and the ordinance was adopted as amended.

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6.2 Consideration of Ordinance No. 89-290, Amending the 1986 Waste Reduction Program and the Regional Solid Waste Management Plan

The Clerk read the ordinance by title only a second time. The Presiding Officer explained the ordinance had been introduced by the Solid Waste Committee and received a first reading before the Council on March 9, 1989, after which it was referred to the Solid Waste Committee. The Committee conducted a public hearing on March 14.

Councilor Hansen, Chair of the Solid Waste Committee, summarized the Committee's written report and recommendation to the Council. The Committee, he explained, recommended the Council adopt the ordinance and that no action be taken to secure a stipulated order with the Environmental Quality Commission (EQC) regarding the Waste Reduction Program. He said both the Council Solid Waste and Finance Committees had recognized the importance of regional waste reduction efforts by recommending allocation of additional resources to implement an aggressive waste reduction program. Adoption of Ordinance No. 89-290 would amend the 1986 Waste Reduction Program as shown in Exhibit A of the Ordinance. It would also amend the Waste Reduction Chapter of the 1988 Solid Waste Management Plan, he said.

Motion: Councilor Hansen moved, seconded by Councilor Bauer, to adopt Ordinance No. 89-290.

In response to Councilor Knowles' question, Councilor Hansen explained the Waste Reduction Work Program would remain essentially the same regardless whether the EQC issued a stipulated or unilateral order to Metro. It was understood that if the Council took no formal action to adopt the stipulated order, the EQC would issue a unilateral order. Bob Martin, Solid Waste Director, concurred that the differences between the two types of orders were more form than substance.

Councilor Van Bergen supported the amended Waste Reduction Plan although he was concerned staff not repeat mistakes made by not carrying out the initial, 1986 version of the plan. He requested that progress on the Plan be tracked.

Councilor Hansen acknowledged that Councilor Van Bergen's concerns were warranted and he had asked Council staff to prepare a chart of specific dates where action and project completion would be required. He said he would consider the Waste Reduction Program schedule a top priority.

Peter Spendilow of the Department of Environmental Quality commented that the Department would have preferred the Council

approve the stipulated order. However, he said, he looked forward to moving on and working with Metro to accomplish the work plan.

Vote: A roll call vote on the motion to adopt the ordinance resulted in all eleven Councilors present voting aye. Councilor Buchanan was absent.

The motion carried and the ordinance was unanimously adopted.

Because the Council was ahead of the printed meeting schedule, Presiding Officer Ragsdale determined that item 7.2 would be considered ahead of Item 7.3, the hearing on Resolution No. 89-1053.

## 7. RESOLUTIONS

### 7.2 Consideration of Resolution No. 89-1040, Supporting the Establishment of the Oregon Convention Center Urban Renewal District and Development of a Convention Headquarters Hotel Near the Oregon Convention Center

Convention Center Committee Chair, Councilor Knowles, reported the Committee had recommended adoption of the resolution Councilor Kelley, however, had voted against that recommendation. He summarized the resolution would encourage the City of Portland to form an urban renewal district and plan a headquarters hotel in a designated area surrounding the Convention Center.

Motion: Councilor Knowles moved, seconded by Councilor Van Bergen, to adopt the resolution.

Councilor Kelley said she had originally intended to file a minority report but had concluded it was in the Council's best interests to support the urban renewal district. She explained she had several reservations about the plan including using hotel/motel tax funds to subsidize the proposed headquarters hotel which could be perceived by the hotel/motel industry as creating unfair competition. The Councilor declared she would abstain from voting on the motion.

Councilor Van Bergen said he endorsed the resolution because a headquarters hotel was needed. He further explained he was not an advocate of tax increment financing so he supported this action which would place a lid on increased valuation.

Councilor Gardner said was convinced a headquarters hotel was needed after reading a report recently prepared by the Portland/Oregon Visitors' Association. He was concerned that the report had not addressed why a subsidy of the project was

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necessary. He said he would support the resolution, however, and leave the subsidy issue for the City of Portland to deliberate.

Councilor Knowles concurred it was the City's proper role to decide if a subsidy was needed for the proposed headquarters hotel.

Vote: A vote on the motion resulted in all Councilors voting aye except for Councilor Kelley who abstained from voting. Councilor Buchanan was absent.

The motion carried.

7.3 Consideration of Resolution No. 89-1066, Opposing Senate Bill 455 and House Bill 3401 Relating to Metro Governance

Councilor Gardner, Chair of the Legislative Task Force and the Intergovernmental Relations Committee, reported that at its February 17 meeting, the Task Force voted unanimously to recommend the Council take a formal position against SB 445 and HB 3401. He said the two bills were identical and addressed Metro governance issues including: 1) reducing the Council from 12 to 7 members; 2) requiring the Secretary of State to reapportion subdistricts for six Councilors; 3) electing the Council Presiding Officer from the District at large; 4) requiring the appointment of a Metro "advisory committee" to serve at the budget committee; and 5) appointing the Metro Administrative Officer. He reported that the above positions were all contrary to the Council's stated position on governance issues.

Motion: Councilor Gardner moved, seconded by Councilor Devlin, to adopt Resolution No. 89-1066.

In response to Councilor Devlin's question, Councilor Gardner briefly discussed the evolution of the two bills.

Vote: A vote on the motion to adopt the resolution resulted in all nine Councilors present voting aye. Councilors Buchanan, Knowles and Myers were absent.

The motion carried and the resolution was adopted.

Presiding Officer Ragsdale called a recess at 6:55 p.m. The meeting reconvened at 7:05 p.m.

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7.1 Consideration of Resolution No. 89-1053, Awarding a Contract for Waste Transport Services to Jack Gray Transport Services, Inc. (Public Hearing)

Presiding Officer Ragsdale outlined by rules by which the public hearing would be conducted. Each individual would be asked to limit his or her testimony to three minutes and to not repeat testimony already given by someone else. Groups were encouraged to appoint one spokesperson to testify for the entire group.

Solid Waste Committee's Report and Recommendation

Councilor Hansen, Chair of the Council Solid Waste Committee, emphasized that the central feature in bidding the project was to keep all transportation options open in order to achieve the lowest possible disposal rates for the public. He then read the entire written report and recommendation of the Committee, dated March 15, 1989, which had been printed in the meeting agenda packet. The report discussed a brief history of the project, the dates of Committee discussion and hearings, key questions and issues raised by Committee members and the public during hearings, and the Committee's formal recommendation concerning Resolution No. 89-1053. The Committee had voted 4 to 1 to recommend Council adoption of the resolution, Councilor Wyers casting the no vote.

Staff's Report and Recommendation

Bob Martin, Solid Waste Director, summarized staff's written reports dated February 6 and 17, 1989, which were printed in the meeting agenda packet. He also pointed out that all phases of the transportation project had been carried out in an open, public forum beginning with hearings before the Department of Environmental Quality (DEQ) in 1987. Hearings had also been conducted in Gilliam County as part of the process for granting a conditional use permit for the Arlington Landfill. Mr. Martin was concerned the local media were under the mistaken impression that Metro would entertain the single option of rail transport to the Arlington Landfill. He said Metro had never stated any preference for rail transportation and had always discussed options for rail, barge and trucking modes.

Mr. Martin then reviewed the process by which staff had developed bid documents, advertised for bids, conducted public hearings, and analyzed the five bids received. He also explained staff had recommended the transportation contract be awarded to Jack Grey Transport, Inc. (JGT) because it had bid the lowest fixed price element and the lowest price per load.

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Mr. Martin described key features of the 20-year transportation contract. He explained that most elements had been developed to tie in with the 20-year landfill operations contract. Waste would be compacted and loaded into totally sealed transport truck trailers. Mr. Martin then presented graphics to illustrate the configuration of the transport trucks and trailers proposed to be used for the project. Although the contract had specified a maximum 32 tons per load, average weights per load would more likely be about 28 tons. He deemed JGT's proposed equipment and plans safe and explained the contractor was required to provide a specific operations plan upon execution of the agreement.

Mr. Martin pointed out that Addendum No. 4 (the "fuel price adjustment factor") to the request for bids had been issued in order to separate out the cost of fuel costs from other factors. This action had been taken because of the volatile nature of fuel prices, especially over the 20-year term of the agreement. Staff had determined the fuel price adjustment factor would create a more competitive bidding situation between rail, barge and truck transportation modes.

Mr. Martin said staff had conducted a background check on JGT and had determined the company was in sound financial condition and had an excellent safety and deliver record.

Gary Goldberg, Executive Vice President of JGT, discussed the company's background and the fact it had ample experience carrying solid waste over long distances with no problems. He said if JGT were awarded the contract, a transport schedule would be worked out so that waste could be hauled at times other than during rush hours. If I-84 were closed during periods of inclement weather, waste could be stored in containers, although he did not think such delays would pose serious problems based on research of road closures. Mr. Goldberg noted that during the term of the contract, JGT would be contributing approximately \$35 million for the maintenance of I-84 and I-205 via taxes. He also thought if his company were awarded a contract for hauling waste from the Seattle area to Eastern Oregon, it would be hauled over I-90 rather than along I-84. The contract with Metro, he said, would contribute to Oregon's economy by creating more than 100 new jobs, which was a "win-win" situation for Eastern Oregon.

Concluding staff's report, Mr. Martin said staff had analyzed the impact of truck traffic related to this project on the total traffic load along I-84. Staff had concluded that traffic would increase about 3-1/2 percent a year and, given JGT's commitment to haul waste during off-peak hours, I-84 could easily handle the additional traffic.



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Responding to Councilor DeJardin's questions, Mr. Goldberg explained that with Metro's authority, JGT could arrange to haul back other types of loads when returning from Gilliam County to Portland.

In response to Councilor Hansen's question, Mr. Martin said he was not aware of any local government councilors in the Columbia River Gorge area taking formal action against Metro's recommendation. He had attended some hearings in The Dalles area and was aware that Cascade Locks had not adopted a resolution against the project, that The Dalles was split on a recommendation and that Rufus and Gilliam County supported the project.

Councilor Bauer asked the price difference over the 20-year life of the contract between JGT's bid and the second lowest bidder, Knappton Barge. Mr. Martin reported that Knappton's bid was about \$21.7 million higher than JGT's.

#### Public Hearing

Don Clark, representing the Columbia River Gorge Commission, testified the bi-state commission thought it poor public policy to truck garbage through the Columbia River Gorge to the Gilliam County Landfill. Metro's recommendation, he said, would "fly in the face" of other public policies. He urged Metro to pursue a transportation option that would reserve the Gorge area for tourism, conserve energy, de-emphasize automotive vehicles, and reduce air pollution. He challenged the Council to change its policy and to look into the future.

Richard Benner, Executive Director of the Columbia River Gorge Commission, asked the Council to consider factors other than contract price into its decision. He asked the Council to make a unique choice by selecting rail or barge as the transportation option. He explained that both those options would allow for one daily shipment versus many truckloads. He also cautioned that Metro's decision would have an influence on how other communities would choose to transport waste to Eastern Oregon landfills.

Jack Mills, Commissioner, Hood River County, testified the Commission had sent a letter to Metro requesting the trucking option not be used to transport Waste to Eastern Oregon and that Metro rebid the contract. Acknowledging that rail and barge bids had come in much higher and truck bids, he explained that recent discussions with rail and barge people had led him to believe if the project were rebid, rail and barge bids would be lower.

Ken Rosemont, Commissioner, Hood River County, explained the Commission had unanimously opposed Metro's proposal to truck solid

waste through the Gorge area. He said the Commission was against that option because transport trucks would be detrimental to the experiences of tourists traveling through that area. Commissioner Rosemont discussed the hazards of trucks through the Gorge in inclement weather, the fact that trucks were prone to accidents, and that Portland's garbage trucks would encourage Seattle to transport its waste to Eastern Oregon landfills in the same way. He strongly encouraged the Council to reject all bids and to employ safer and more environmentally sound transport modes.

Adele Newton, 7700 S.W. Alden, Portland, President, Columbia River League of Women Voters, reported her organization had adopted a position paper in support of the most efficient transportation mode. She thought that trucking would be the most inefficient mode over the long term due to high oil and highway maintenance costs, creation of air pollution, and the fact that tourists would be deterred by transport trucks on I-84. Ms. Newton suggested the Council shorten the term of the contract and dispose of waste in landfills that were closer to Portland until alternative transportation modes could be arranged.

Ken Jenstedt, Mayor, Hood River, said he agreed with Ms. Newton's testimony.

Kate Mills, a member of the boards of the Friends of the Columbia River Gorge and the Hood River Residents Committee, urged the Council to consider transportation modes other than transport trucks.

Nancy Moller, representing the Friends of the Columbia River Gorge and the Hood River Residents Committee, asked the Council not to use trucks to transport waste through to Eastern Oregon because she was concerned that increased use of fossil fuels would have an effect of global warming.

John Smalley, a resident of Arlington, said he favored trucking waste to Eastern Oregon because of the beneficial economic impact on the Arlington area.

Nancy N. Russell, 4921 S. W. Hewett Boulevard, Portland, founder of the Friends of the Columbia River Gorge, testified she had been a tour guide in the Gorge area for a number of years and considered herself an expert on travel conditions in that area. She then discussed specific safety statistics for the three modes of transportation. In the same three year period, 8 trains had derailed, no barge accidents had occurred, but 192 truck accidents had been reported in the Gorge area. She was concerned about the special, large loads of waste that JGT would be hauling and pointed out they had not yet received special permits from the state for

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this project. She thought it could be a potential problem for Metro if a PUC hearing would be required as part of that permit process.

Ms. Russell pointed out that barges could be scheduled to haul waste in a way that would not interfere with wind surfing activity. Trucks, however, would be subject to hazardous road conditions such as high winds, ice and rain. She noted that I-84 had recently been closed to mobile homes due to black ice conditions. She also said I-84 had been intermittently closed on March 2, the day the Council Solid Waste Committee conducted its hearing on the transport project. Road closures and safety considerations would not be an issue if the transport contract were awarded to a barge or rail company, she said.

Ms. Russell said she was concerned that no one had yet seen JGT's proposed trucking plan and that no direct answers had been given to her questions. She questioned where truck stops would be located.

In summary, Ms. Russell thought the Council's argument of saving money by awarding the contract to JGT was weak. She thought if each citizen paid just a little more money for garbage disposal, the region would benefit in many ways. Advocating that the project be rebid, she said it was her understanding that Knappton could be on line within six months after a contract were awarded. Finally, she pointed out the public was overwhelmingly opposed to trucking waste from Portland to Eastern Oregon, citing recent media polls.

Rick Hayden, 222 S. W. Columbia, 1400 KOIN Center, Portland, representing Trans-Industries, the second low bidder for the transportation project, asked the Council not to approve the JGT contract because of legal, economic and environmental aspects. He pointed out Metro's bid specifications were potentially unconstitutional. He thought money could be saved by rebidding the project and removing the unconstitutional elements from the bid requirements. He also thought if the project were rebid, more weight could be given to fewer trips per day. Finally, Mr. Hayden said that if Metro decided to rebid the contract, his company could be prepared to submit a bid within two weeks of receiving the bid invitation and could commence the project by January 1, 1990. He said the Council would be foreclosing any future environmental options and would be taking a lot of major risks by not rebidding the project.

Steve Hadley, 12405 S.E. Schiller, Portland, asked the Council to postpone its decision and to conduct hearings in the effected communities along the Gorge. He thought an oversight committee could be established to resolve some of the problems discussed at

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this meeting. He suggested JGT could pay mitigation fees which could be used to enhance tourism in the Columbia River Gorge. Mr. Hadley submitted a letter for the record.

Dick Grup, 6116 N. Detroit, Portland, said he agreed with Don Clark's earlier testimony and asked Metro to make a decision based on what the general public wanted. The public, he said, wanted traffic off roads along the Columbia River Gorge.

John Thornton, 1416 Dodge Street, Omaha, Nebraska, an attorney for Union Pacific Railroad, testified he was of the opinion that JGT's bid came in lowest because of the last minute provisions of Addendum No. 4 ("fuel cost escalator"). He cautioned that those provisions could result in higher costs over the long run and that Metro should therefore rebid the contract.

Mr. Thornton explained he had prepared Union Pacific's bid Metro for the transport project. He said when the fuel cost escalator had first been discussed, he had submitted a written protest to Metro because he thought the escalator would pose a disadvantage to rail and barge transportation modes. He said his objections received little response from Metro staff. Mr. Thornton testified it was unfair of Metro to change the bidding rules after he and others had done their initial bid calculations. He also thought it unfair to Metro taxpayers because the fuel escalator provision would result in a higher contract sum due to fuel cost increases.

Joseph Wraber, Mayor, City of Cascade Locks, 207 4th Avenue, Box 308, Cascade Locks, said the City of Cascade Locks was not taking a position for or against a particular transportation mode. The City wanted to be involved, however, in Metro's plans for transporting waste to Eastern Oregon because the plans would have an impact on the Cascade Locks area. Mayor Wraber pointed out that many serious traffic accidents had occurred in the Cascade Locks area and the City wanted to know how Metro planned to minimize and mitigate potential problems. He recommended Metro establish a telephone hotline and a steering committee comprised of impacted communities to oversee transport project activities. He suggested Metro also develop contingency plans in case roads were closed due to inclement weather or other conditions.

Estle Harlan, 222 Lake Road, Milwaukie, representing the Tri-County Council of haulers, read a statement which she submitted for the record. The Tri-County Council, she testified, supported Council adoption of Resolution No. 89-1053 for two reasons: 1) awarding the contract to the lowest bidder, JGT, would keep disposal costs at a minimum; and 2) any major delay in awarding the contract would have the likely effect of increasing disposal costs and creating

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significant disposal problems because St. Johns Landfill would be closed.

Tom Mallory, 7308 S. W. LaView Drive, representing the Teamsters Union, testified in support of trucking waste to Eastern Oregon. He said trucking would generate jobs and would tax revenue for improving state highways.

John Howell, representing the Association of Citizens for Better Transit, testified in support of transporting waste by rail. He said that railways paid taxes to government and paid their share for the fixed infrastructure while trucking companies did not. He advised Councilors to get a copy of the pamphlet entitled "Why Our Highways Wear Out and Who Should Pay for the Upkeep" and quoted from the booklet. Referring to another pamphlet on highway safety, Mr. Howell discussed the potential hazards of road transport, saying that trucking accidents caused about three times as many deaths as did automobiles in a year. In summary, he said that by voting to approve the JGT contract, the Council would be voting to kill 15 people a year.

David Utzinger, 2237 S. ER. 32nd Place, Portland, explained that Don Clark's earlier comments echoed his concerns. He was also concerned that empty transport trucks returning from Eastern Oregon would pose a traffic hazard due to high winds along the Columbia Gorge area.

Jerry Blake, 1625 N.W. 27th, Portland, 97210, concurred with the previous testimony of Don Clark, Richard Benner, Nancy Russell and Jack Mills. He said the Columbia River Gorge was a natural resource and the back road to the dump. He asked Metro to take time and examine the big picture, keeping national interests in mind.

Michael Santacroce, 9943 S.E. Woodstock Court, Portland, testified he had lived in Hood River County 15 years and thought County residents did not want waste transport trucks in their area. He said roads were already unsafe and Metro's project would make a bad situation worse. He asked the Council to reconsider awarding the contract to a rail or barge company.

Carla Van Cleave, P.O. Box 2282, Portland, President, Transit Riders' Association, said the Association favored other transit alternatives to trucking. She thought it odd that Metro, the region's transportation planner, should select trucking as the mode of transporting solid waste to Eastern Oregon. She said many taxpayers were willing to pay more for the transport project and that the extra money would be recovered by an improved environment.

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Senator Wayne Fawbush, 5000 Clear Lake Road, representing himself, said he could not recall any discussion at early landfill hearings about which mode of transportation would be used. He said Don Clark had spoken to the issue earlier when he had discussed how train transport would be much safer for the environment, equipment and people. He also noted that truck transport contained hidden costs to taxpayers. Senator Fawbush challenged the Council to show leadership by making the hard decision.

In response to JGT's earlier claim that truck transport would create new jobs in the Arlington, Oregon area, the Senator said only half of those jobs would be for Arlington residents due to truck turn-arounds. He said if the waste were transported by rail, more local jobs would be created due to the need to transfer waste from the train to the landfill.

In conclusion he asked the Council to question whether awarding the contract to JGT would be a good policy given the traffic and environmental impacts of that decision.

Lennart Swenson, 38909 E. Crown Point Highway, Corbett, testified he had moved from Brooklyn, New York, and had seen "the best and the worst." Any impact on the Columbia River Gorge was a factor to consider, he said. He cautioned it had been over 20 years since the last real blizzard in the Gorge area and traffic problems could be significant. Hidden costs such as road maintenance also had to be taken into consideration in the cost of the truck transport bid. Based on his engineering experience with the Bonneville Power Administration and experience in procuring major equipment, he advised that the contract could be rebid at a lower price.

Sam McKinney, 0302 S.W. Nebraska, Portland, Executive Director, Columbia River Heritage Association, testified he had not been paying close attention to the transport project because he had assumed Metro would pursue a rail or barge transport option. He noted that many communities were starting to pay a high price in damage to the environment because they had opted for the cheapest disposal solution. He also noted that tourism would bring in more dollars in one year than the trucking contract would cost for 20 years. Finally, Mr. McKinney questioned the risk of trucking garbage through the Gorge area when many weather and road hazards could cause problems.

Jim Dutoit, 600 S.W. Market, Portland, representing motorist members of the Oregon Automobile Association of America (AAA), thought the weight of the trucks proposed for use by JGT had been underplayed. He was concerned that truck weights would pose a hazard to bridges and would cause road damage. The State of Oregon could not keep up with road repairs, he said.

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William Robinson, 6404 S.E. 40th, Portland, testified his ancestors had arrived in Oregon in 1844 by way of the Columbia River. He discussed the hazards of traveling through the Gorge area and thought that transporting waste by truck was neither safe nor wise.

George Starr, 909 N.E. 114th, Portland, a retired railroad employee, recalled times when his train had stopped to pick up truckers in the Gorge area who had been stranded due to inclement weather. He asked the Council to refer back to the Solid Waste Committee records when the Committee had discussed the option of Metro owning its own rail cars.

Barbara Robinson, 16861 Hattan Road, Oregon City, had to leave the meeting early but left her written testimony for the meeting record.

Robert C. Smith, 5856 N.E. 57th, Portland, Chair, Columbia Group of the Sierra Club, testified he was concerned about the aesthetics of awarding the contract to a trucking company, was concerned about the impact of truck traffic on small towns along the Gorge, and was concerned that trucks caused pollution, were less safe than other transportation modes, and less reliable. He was also concerned about the hidden costs of trucking waste. Mr. Smith thought it unfair that the railroad bid had factor in the cost of a transfer facility while trucking companies did not have to factor in that expense. He strongly urged the Council to reject all bids and to award the contract to a rail or barge company which would be in keeping with the overwhelming public sentiment. In conclusion, he said if Metro did accept bids from trucking companies, they should be made to include the cost of a transfer facility in their bids.

Bruce Ansberry, 522 S.W. 5th, Suite 1050, Portland, representing the Oregon Natural Resources Council, said the ONRC's position was that Metro should not truck waste through the Columbia River Gorge. The increased potential for truck traffic was significant, he explained, when compared to the fact that the same amount of waste could be hauled by one barge per day. He was also concerned about the negative impacts of truck traffic on tourism. The additional cost per household for barge or train transport was insignificant when detrimental factors were considered, he said. He said the ONRC recommended Metro eliminate trucking from all further consideration.

Presiding Officer Ragsdale called a recess of the Council at 9:40 p.m. The meeting was reconvened at 9:50 p.m.

Paul Tolhofer, P. O. Box 177, Troutdale, a member of the Troutdale City Council representing himself, testified the city council had

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adopted a neutral position on the trucking/transport issue. He was concerned there was a lot of misinformation and lack of information about the facts. He urged Metro to conduct meetings with all communities along the Gorge, and with the City of Troutdale because of its proximity to Burns Brothers Truck Stop. He supported the testimony of Mayor Wraber from the City of Cascade Locks that citizen involvement was needed and that the transport contract should include mitigation clauses before the contract was signed.

Janet Tobkin, 2637 S.W. Water, Portland, founder of the Friends of Mount Hood and speaking for herself, said she was concerned about the effects of transport trucks on traffic in the Gorge area. She was also concerned that I-26 and I-30 were being considered as a transport route for trucking waste from the Seattle area to Eastern Oregon. That activity, she explained, would compete with recreational interests. Ms. Tobkin thought scenic areas needed to be preserved to maintain the area's status as magnets for attracting tourists. She asked the Council to listen the public and to learn from them. She favored rail for transporting waste to Eastern Oregon.

Marie Holeman, asked the Council to transport waste by train rather than by truck.

Trudie Wilson, P.O. Box 544, Arlington, 97812, member of the Arlington Chamber of Commerce, said she favored trucking waste to Eastern Oregon and supported Metro's contractor selection process. She asked the Council not to set the precedent of limiting the use of a public roadway. The Arlington area needed the jobs the JGT contract would bring, she testified.

Hazel Seavey, Route 4, Box 580, Woodland, Washington, said she and her friends were very surprised Metro had considered trucking as a option for waste transport. She had assumed other modes would be used. Ms. Seavey said she travelled through the Gorge often and was concerned about bad conditions truckers would have to encounter. She did not believe trains and barges would cost more than trucks in the long term. She said, however, even if the cost were higher, it would be worth it if the beauty of the Gorge were preserved.

Judge Laura Pryor, representing the Gilliam County Commission, introduced the following people who addressed the Council in support of awarding the transport contract to JGT: City of Arlington Mayor Dennis Gronquist; Gilliam County Commissioner Alfred B. Clough; and Jeff Bachrach, attorney for Gilliam County.

Mayor Dennis Gronquist, City of Arlington, pointed out that the transport component of the landfill project had been discussed in



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detail and Metro had now achieved what it had set out to do. He said the City had spent a lot of time with Gary Goldberg of JGT and was confident Mr. Goldberg was interested in working things out with the community. He thought it "crazy" that citizens were asking Metro to regulate traffic on an interstate highway.

Judge Alfred B. Clough, Gilliam County Commissioner, testified that the County had worked long and hard on the project and was protective of its land. He said Gilliam County residents had also heard a lot about tourism but to them it had turned out to be a cruel hoax that only amounted to minimum wage jobs. JGT, however, would bring in 100 new jobs and \$3.5 million in wages a year. He said that amounted to real economic development and Metro's solid waste had become Oregon's comeback.

Judge Clough reminded the Council that I-84 was selected as an interstate transport route because it was a feasible, all-weather route. It was also built to serve as a commercial highway and anyone with a properly licensed vehicle was free to use that road.

Jeff Bachrach, attorney for Gilliam County, urged the Council to take a more prudent course by following its contract procedures versus the dramatic new step advised by those testifying earlier. He commended Metro's staff for responding to Gilliam County's concerns and said there had been plenty of public forums to debate the issues. He then discussed the two-year public decision-making process and the fact that truck transport had never been excluded as an option for transporting waste to Eastern Oregon. Time was too short, he said, for Metro to back-track now. He also questioned how anyone other than the Governor could request the major east-west vehicle transport corridor be closed to business.

Judge Laura Pryor concluded the group's testimony by suggesting that another east-west highway was needed. She reminded the audience that I-84 was built by the Federal Government for national defense and commerce. She questioned whether Oregon would really be open for business if citizens successfully convinced the Council to restrict truck transport along I-84. Finally, she commended Metro for coming to grips with the important issue of solid waste disposal and supported its decision-making process.

David Chambers, speaking for the Democratic Central Committee, said the Committee had adopted a resolution supporting rail transport earlier in the evening. He applauded the leadership of Councilor Wyers and said that trains were clearly cheaper when all costs were considered. He submitted a copy of the Committee's resolution for the record and urged the Council to reject all transport bids.

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Charles Ahlers, 26 S.W. Salmon, Portland, Executive Director, Portland/Oregon Visitors Association, said the P/OVA Executive Committee was concerned about the impact of increased truck traffic in the Columbia River Gorge and that traffic could compete with Metro's other interest of attracting visitors to its new Convention Center. He thanked the Council for its support of a headquarters hotel for the Convention Center by adoption of Resolution No. 89-1040 earlier in the evening.

Dan Whitter, The Dalles resident, pointed out that many trucks traveled on I-84 and people did not know the contents of those trucks. Garbage, however, was a known commodity produced in people's homes and yet citizens were alarmed about the effects of transporting that material on the roads. He also noted that tourists traveling in cars through the Gorge would cause the same types of pollution problems as trucks and they created trash along the roads. Trucks, he said, had more stringent safety standards than cars. He did not think road closures due to inclement weather would be a significant factor and he thought that the ratio of truck accidents to cars was probably very low. He favored trucking, saying it would have a positive economic impact on the City of Arlington.

There was no other testimony and Presiding Officer Ragsdale closed the public hearing.

#### Council Deliberation

Motion: Councilor Kelley moved, seconded by Councilor Devlin, the Council meet in executive session to consult with legal counsel about whether the proposed contract with JGT could be successfully challenged in a court of law as unconstitutional.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Devlin, Hansen, Kelley, Knowles, Wyers and Ragsdale

Nays: Councilors Bauer, DeJardin, Gardner and Van Bergen

Absent: Councilor Buchanan

The motion carried.

#### EXECUTIVE SESSION

The Presiding Officer called the meeting into executive session under the authority of ORS 192.660(1)(h) at 10:35 p.m. All

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Councilors were present at the session except for Councilor Buchanan who was absent. Other persons present included Executive Officer Cusma, Dan Cooper, Vickie Rocker, Jessica Marlitt, and Don Carlson. Presiding Officer Ragsdale called the meeting back into regular session at 10:40 p.m.

#### Council Deliberation, Regular Session

At Councilor Kelley's request, Bob Martin, Solid Waste Director, reviewed how the fuel price adjustment factor (Addendum No. 4) would effect the long-term price of the JGT transport contract. Mr. Martin concluded that staff had carefully analyzed all bids and determined, using extreme conditions to Metro's disadvantage, that JGT's bid was still the lowest responsive bid.

Referring to Mr. Martin's memo to Councilor Gardner regarding the fuel escalator clause, Councilor Devlin asked Mr. Martin to explain staff's fuel assumptions. Mr. Martin responded that staff had used numbers supplied by transportation consultants.

In response to Councilor Collier's question, Dan Cooper, General Counsel, said that the issuance of Addendum No. 4 did not pose a legal impediment to awarding the contract to JGT.

Councilor Collier asked Mr. Goldberg to respond to citizen concerns about day versus night truck transport and asked if any decisions had been made regarding trucking schedules. Mr. Goldberg said JGT was exploring the best option that would have the least impact on Gorge communities and I-84 traffic. He said the operations plan would probably involve spreading out traffic between day and nights.

In response to Councilor Collier's question, Mr. Goldberg said no plans had yet been developed to bring back trucks from the Gilliam County Landfill with loads of other materials ("back-hauling").

Mr. Martin reported the contract would require JGT to submit an operations plan within 90 days after execution of the agreement. He said the process for developing a plan would provide an opportunity for an open dialogue with communities along the Columbia River Gorge.

Councilor Van Bergen questioned Mr. Goldberg about a rumor that his company had filed for bankruptcy. Mr. Goldberg responded that JGT had filed in the late 1960's, had recovered financially and had not filed a bankruptcy claim since that time.

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David Douthwaite, attorney for JGT, answered Councilor Van Bergen's question by explaining JGT would file papers to do business in the State of Oregon once the contract was executed.

Councilor Van Bergen asked questions concerning the ownership of JGT and its relationship to Oregon Waste Systems and Browning-Ferris Industries. Mr. Goldberg responded that JGT was in no way tied to OWS and B-FI and that he did not serve on the boards of either of those two companies.

Responding to Councilor Van Bergen's question, Mr. Cooper, Metro's counsel, said Metro's contract with JGT prohibited assigning the contract over to any other party without Metro's prior approval.

Councilor Van Bergen asked counsel about the legal consequences of rejecting the bid and rebidding the contract to exclude trucks from transporting waste to Gilliam County. Mr. Cooper said if the contract were rebid Metro would be about 60 percent likely to succeed in sustaining its ability to rebid the project.

Councilor Wyers asked JGT to explain how the proposed operations plan would address state and federal regulations regarding allowable driving time. Mr. Goldberg answered the regulations limited driving time to 10 hours a day which would require trucks to leave Arlington in the morning.

Councilor Wyers asked Mr. Goldberg to describe operations plans that would impact The Dalles. Mr. Goldberg said he could not reveal truck rest sites prior to negotiating contracts but he could say that the Port of The Dalles was promoting a 150 acre site. Other sites were also being considered. Mr. Cooper added that Metro had required all bidders to answer general questions about operations plans in order to determine if they were qualified to perform the work. That information, he said, had to be kept confidential until the contract negotiation phase was complete.

Councilor Wyers asked if the jobs created by JGT would be union jobs. Mr. Goldberg said that decision would be made by JGT at a later time.

Councilor Wyers asked what criteria would be used to determine when a community was impacted by Metro's solid waste activities and when mitigation fees would be appropriate. Mr. Martin explained the Council had adopted a host fee plan and rules for administering that plan. He said although the Gorge area would be effected by Metro's solid waste activities, the host fee program would probably not apply to that area.

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Councilor Wyers asked if there was time to rebid the project. Mr. Martin responded he did not concur with the opinion of others who had testified that the project could be rebid at this time. He explained that before the initial bid opening, rail representative had told him it would take one year from the time a contract was awarded to start transporting waste. He said both barge and rail operations would require a loading facility. He also reminded the Council it took six months to bid the first transport contract and that failure to start transporting waste by January 1, 1990, would mean Metro could be in default of its contracts with Oregon Waste Systems for the operation of the Gilliam County Landfill and with the City of Portland for operation of the St. Johns Landfill.

Councilor Devlin asked staff to explain the specific type of truck proposed for use by JGT. Jim Watkins, Engineering Manager, said five-axle trucks would be used.

Councilor Devlin said he would not support Resolution No. 89-1053, explaining it was a major, 20-year policy decision and not a simple decision about awarding a bid. He had also received about 100 letters from citizens opposed to trucking waste to Eastern Oregon. He was concerned that many of the major issues had not been investigated and that the trucking option was not consistent with the environmental goals of the Regional Solid Waste Management Plan.

Councilor Hansen supported the integrity of Metro's bid process, saying it had been lengthy and thorough. He regretted that citizens had not commented earlier in the decision-making process. He was also concerned that two vendors who had bid on the project had told the Council if it rebid the project, they could submit lower bids. Councilor Hansen advised those bidders to submit their best bids the first time around. Finally, the Councilor said he was not convinced that traffic created by the transport trucks would have a major impact on Gorge area traffic. He thought it unfair that Metro's garbage was being singled out as the one commodity unfit to be transported on I-84. He also thought that was placing an unfair restriction of Eastern Oregon's economic growth.

Councilor Wyers challenged the Council to listen to what the public was telling them. Over 13,000 people had called KATU-TV to register their opinion about the proposed trucking contract and over two-thirds of those callers were against trucking, she reported. She also pointed out that most of the testimony received at this meeting was against the trucking option.

Councilor Kelley said she did not think any Councilor wished to pollute the environment. However, she explained, the cost

difference between the trucking and barge or rail options was a significant factor. That cost savings was needed to close the St. Johns Landfill and to build the new Metro East Station. The Council had to carefully consider its priorities, given it had limited financial resources. She said there were no easy solutions to garbage and challenged the Council and citizens to meet Metro's 50 percent recycling goal by the year 2000 in order to reduce the quantity of waste landfilled. She agreed that meetings between JGT, Metro and Columbia River Gorge communities should be arranged in order to work out an operations plan.

Councilor DeJardin explained that I-205 went by West Linn, his home town, and trucks transporting waste to Metro South Station traveled on that highway with no problems. He said the testimony he had heard was part of a pattern of citing the worst possible cases which never actually happened.

Vote: A vote on the motion to adopt Resolution No. 89-1053 resulted in:

Ayes: Councilors Bauer, Collier, DeJardin, Gardner, Hansen, Kelley, Knowles, Van Bergen and Ragsdale

Nay: Councilors Devlin and Wyers

Absent: Councilor Buchanan

The motion carried and Resolution No. 89-1053 was adopted.

Motion: Councilor Hansen moved that Resolution No. 89-1053 be reconsidered. Councilor Devlin seconded the motion.

Councilor Hansen explained that if the motion failed, all further options of reconsidering the resolution would be precluded. Mr. Cooper, General Counsel, concurred.

Vote: A vote on the motion resulted in:

Aye: Councilor Wyers

Nays: Councilors Bauer, Collier, DeJardin, Gardner, Hansen, Kelley, Knowles, VanBergen and Ragsdale

Abstain: Councilor Devlin

Absent: Councilor Buchanan

The motion failed to carry.

Presiding Officer Ragsdale called a recess at 11:50 p.m. The Council reconvened at 11:55 p.m.

8. Consideration of Ordinance No. 89-271E, Amending Metro Code Chapter 2.04 Relating to Contracting Procedures

The Clerk read the ordinance a second time by title only. Presiding Officer Ragsdale gave a chronological history of the process by which the ordinance had been developed and referred to the Council. The original version of the ordinance had been introduced by the Council Finance Committee and read before the Council a first time on October 27, 1988. The ordinance was then referred to the Internal Affairs Committee (IAC) where a series of work sessions and hearings were conducted on December 7, 8 and 22, 1988. On December 22, the IAC recommended that consideration of the ordinance be deferred 30 days so that a task force could study specific issues and recommend a course of action to the Committee. Members of the task force had included Executive Officer Cusma and Councilors Ragsdale, Knowles, DeJardin and Bauer. The task force had presented its recommendation to the IAC on January 27, 1989, in the form of a revised version of Ordinance No. 89-271. The Committee continued consideration of the ordinance on February 7, February 21 and March 9.

The Presiding Officer referred Councilors to a version of the ordinance that had been recommended for Council adoption earlier in the evening by the IAC. Councilor Collier then explained that her minority report consisted on the IAC's recommendations plus the proposed amendments listed in her motion below. She said if the Council adopted those amendments, she would support adoption of Ordinance No. 89-271E. She still thought the ordinance would result in a convoluted contracting process but acknowledged the proposed legislation represented political compromise. She thought the ordinance would give the Council the fiscal and political oversight it needed.

Motion: Councilor Collier moved, seconded by Councilor Gardner, that the Council adopt the minority recommendation which consisted of Ordinance No. 89-271E as recommended by the Internal Affairs Committee and the following amendments:

- 1) Section 2.04.020(d) be changed to read: "The Executive Officer shall provide to the Council during the annual budget process a list of proposed contracts [for] to be entered into the ensuing fiscal year . . ."

2) Section 2.04.045(a)(5) be changed to read: "In addition to the requirements of this subsection, any contract amendment or extension exceeding [\$10,000] the amounts provided in subsection (2) shall not be approved unless . . ."

3) Section 2.04.045(a)(6) be changed to read: "In addition to the requirements of this subsection, individual change orders for a public improvement contract may be approved by the Executive Officer if they[:

[(A) do not exceed on a cumulative basis more than five (5) percent of the initial face value of the contract; and]

[(B)] do not materially add to or delete from the original scope of work included in the original contract.

Change orders exceeding [10,000] the amounts provided in subsection (2) which materially add to or delete from the original scope of work shall not be approved unless the Contract Review Board has specifically exempted the change order from the public bidding procedure. [Change orders exempted by the Contract Review Board shall not be considered part of the five (5) percent limit of this subsection.]"

Councilor Van Bergen said he would support the motion because agreement had been reached with the Executive Officer. He explained, however, he disagreed with General Counsel's legal opinion that the Council could not authorize contracts. He said the Council was Metro's Contract Review Board and could get another legal opinion if it so desired.

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

The motion carried the ordinance was amended.

Motion: Councilor Collier moved, seconded by Councilor Kelley, to substitute the minority report as amended for the majority report.

Councilor Devlin said he agreed with Councilors Van Bergen and Collier that Ordinance No. 89-271E as amended was far from perfect.



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He thought, however, the ordinance was preferable to Ordinance No. 89-249.

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

The motion carried.

Motion: Councilor Collier moved, seconded by Councilor Devlin, to adopt Ordinance No. 89-271E as amended.

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

The motion carried and the ordinance was unanimously adopted as amended.

Councilor Devlin suggested the Council pursue legislation to clarify the Council's role in contracting. Councilor Collier agreed, explaining the new contracting rules were convoluted and the reporting process was complicated.

Councilor Knowles thought the matter should be referred to the Council Legislative Task Force so that a strategy and the implications of legislative intervention could be deliberated.

Motion: Councilor Knowles moved, seconded by Councilor Kelley, to have the Legislative Task Force recommend to the Council whether it should seek state intervention/legislation on the matter of Metro contracting authority.

Councilor Wyers was not in favor of referring the matter to the task force, calling the proposed action a "stalling tactic."

Executive Officer Cusma strongly recommended Metro avoid taking the matter to the legislature because it could jeopardize other issues. She also pointed out the staff lobbyist could not assist the Council with its effort if she did not support its position.

Councilor Gardner doubted Metro could resolve the contracting matter internally and thought Ordinance No. 89-271D dodged the fundamental issue of contracting authority. He supported taking the matter to the legislature because a definitive decision would finally be made and a resolution could be reached.

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**Vote:** A vote on the motion to refer the matter to the  
Legislative Task Force resulted in:

**Ayes:** Councilors DeJardin, Gardner, Hansen, Knowles and  
Ragsdale

**Nays:** Councilors Collier, Devlin, Van Bergen and Wyers

**Absent:** Councilors Bauer, Buchanan and Kelley

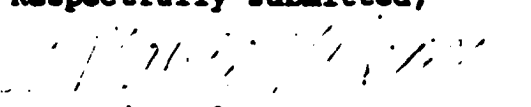
The motion carried.

**9. COUNCILOR COMMUNICATIONS & COMMITTEE REPORTS**

Councilor Collier, Chair of the Budget Committee, thanked the  
Executive Officer and her staff for submitting the proposed budget  
on time.

There was no other business and the meeting was adjourned at 12:35  
a.m.

Respectfully submitted,

  
A. Marie Nelson  
Clerk of the Council

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