

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

May 11, 1989
Regular Meeting

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

Councilors Absent: Councilors Richard Devlin and Tom DeJardin

Also 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 COMMUNICATION

Rena Cusma, Executive Officer, requested that Agenda Item 8.1, Legislative Task Force Report, be considered under Executive Officer Communication to allow Greg McMurdo, Government Relations Manager, to be able to leave the Council meeting early to attend an out-of-town meeting the following morning. There were no objections, and Mr. McMurdo proceeded with his report.

8.1 Legislative Task Force Report

Greg McMurdo, Government Relations Manager, referred the Council to a report he had distributed titled "Briefing Book, Metropolitan Service District, Legislative Package, April, 1989." He said the Briefing Book had been provided to the State House of Representatives in preparation for "Metro Day" when the House would consider bills filed related to Metro. Mr. McMurdo then summarized the contents of the report which has been filed with the Clerk.

Following Mr. McMurdo's presentation, Presiding Officer Ragsdale asked Andy Cotugno, Transportation Director, to summarize the status of legislation proposed in the "Transportation 2000" package. Mr. Cotugno said HB 3447 which proposed a two cent gas tax increase, vehicle registration fee increase and truck weight mile tax increase had been amended to reduce the vehicle

Metro Council
May 11, 1989
Page 2

Following Mr. McMurdo's presentation, Presiding Officer Ragsdale asked Andy Cotugno, Transportation Director, to summarize the status of legislation proposed in the "Transportation 2000" package. Mr. Cotugno said HB 3447 which proposed a two cent gas tax increase, vehicle registration fee increase and truck weight mile tax increase had been amended to reduce the vehicle registration fee increase proposed from ten dollars per year to five dollars per year. He said that the bill had been passed out of the House Transportation Committee with no recommendation and forwarded to the House Revenue Committee. Mr. Cotugno said HB 3446 which provided for local option vehicle registration fees had not yet had a hearing and that SB 475 which would establish a State light rail construction fund had not received any major objections, however, Senator Glenn Otto, had proposed to appropriate monies to the fund, and until the appropriations matter was settled, the Committee would not act upon the bill. Mr. Cotugno said that SB 476 which proposed a payroll tax had been passed out of the Senate Government Operations to the Senate Revenue Committee and that there had been significant opposition to a payroll tax on school districts. Mr. Cotugno reported that Senate Joint Resolution 12, which would amend the State Constitution to allow locally-collected vehicle registration fees to be used for transit purposes had passed out of Committee unanimously and had been sent to the Senate floor. He also said that the Joint Policy Advisory Committee on Transportation (JPACT) had voted to support HB 3055 which proposed an excise tax on batteries and tires to fund routine transit capital operations and that HB 3209 which proposed a one cent cigarette tax had begun hearings and had been endorsed by several local governments. Councilor Ragsdale said that he felt Representative Hosticka had been instrumental in maintaining a separation between regional transportation bills supported by Metro and Metro governance bills and that he felt Representative Hosticka had an astute understanding of the role of regional government and had been helpful to Metro.

Councilor Ragsdale announced that agenda item no. 5.4 (Resolution No. 89-1096, For the Purpose of Remanding Proposed Order No. 89-21 to the Hearings Officer for the Purpose of Receiving New Evidence and Oral Argument) had been removed from the agenda at the request of the petitioner. He said Order No. 89-21 was scheduled to be before the Council on June 8, 1989.

4. CONSENT AGENDA

Motion: Councilor DeJardin moved, Councilor Collier seconded to approve consent agenda.

Metro Council
May 11, 1989
Page 3

Vote: The ten councilors present voted aye. Councilor Devlin was absent.

The motion carried, and the minutes of March 23, 1989 were approved and the following resolutions were adopted:

4.2 Resolution No. 89-1090. For the Purpose of Allocating FY 1989-1991 Federal-Aid Urban Regional Reserve Funds

4.3 Resolution No. 89-1094. For the Purpose of Withdrawing the I-205 Bus Lane

5. RESOLUTIONS

5.1 Resolution No. 89-1085. Authorizing an Exemption from Requirements of Metro Code Section 2.04.053 for an Amendment to Contract with Turner Construction Company for Construction Management Services for the Convention Center

Councilor Ragsdale recessed the Council meeting and convened the Contract Review Board. Councilor Knowles presented the Convention, Zoo and Visitor Facilities Committee report and recommendation. He said that Metro had contracted with Turner Construction Company on a cost plus fixed fee. He said that the resolution would increase the Turner contract by \$403,885 and exempt the amendment from competitive bid procedures.

Motion: Councilor Knowles moved, Councilor Van Bergen seconded to adopt Resolution No. 89-1085.

Vote: The ten councilors present voted in favor of the motion. Councilors DeJardin and Devlin were absent.

The motion carried unanimously.

5.2 Resolution No. 89-1086. Authorizing an Exemption from Requirements of Metro Code Section 2.04.053 for Amendment No. 15 to Contract with Zimmer Gunsul Frasca for Further Specified Services for the Convention Center Project

Councilor Knowles presented the Convention, Zoo and Visitor Facilities Committee report and recommendation. He said the Committee had reviewed each item in the amendment and had recommended the Contract Review Board adopt the resolution. Councilor Ragsdale asked if the department had a total of permit costs associated with the construction project. Neil McFarlane,

Metro Council
May 11, 1989
Page 5

document. Councilor Collier said that she would not support the resolution because she had not heard Forest Grove citizens say that the City Council was close to the citizens and because she preferred the North Portland Enhancement Committee model and did not want to set a precedent where local governments acted as the enhancement committee because she felt that the enhancement committee should be made up of the citizenry.

Councilor Gardner said that he would not support the resolution. He said that he felt in a small jurisdiction, it may be appropriate to name the city council as the enhancement committee, however, he said that the resolution would do more than that. He said that the agreement would allow the City of Forest Grove to set up an enhancement program and that he preferred the North Portland model because not only had the program worked, but he felt it also had improved Metro's image in the North Portland community. He said that he did not know if that would be achieved if Metro merely collected the funds and the local jurisdiction administered the program. He said that the program could be administered following the North Portland model without an intergovernmental agreement and that he felt Metro should administer the program primarily because he felt that the program would earn good will for Metro.

Councilor Bauer said that he was in favor of the resolution because the City Council was the regulatory authority for planning and civic improvements for which it was likely the enhancement funds would be used. He said that he thought the City Council was the most capable body to give the most valid recommendation for the use of the fund and that they would not duplicate or overlap with other commitments within that community. He said that he felt the Metro Council should not be overly concerned with competing for praise, but rather should work cooperatively with the community. He said he felt that the City Council was accountable and would administer the fund in a fair and equitable manner.

Councilor Knowles noted the enhancement committee would be responsible for defining enhancement area boundaries and asked if the enhancement area extended beyond the City of Forest Grove, what assurance Metro would have that the interests of those outside the City boundaries would be met. Councilor Hansen replied that while the transfer station was located on the periphery of the City, the traffic impact was primarily in the industrial area of the City. He said that the facility was small and in order for the enhancement fund to have meaningful impact the enhancement area should be restricted. He said that he thought the City Council was in a good and fair position to draw the boundaries and that the precedent that would be set by

Metro Council
May 11, 1989
Page 4

Convention Center Project Management Analyst, said he would compile the information and provide a report.

Motion: Councilor Knowles moved, Councilor Van Bergen seconded to adopt Resolution No. 89-1086.

Vote: The ten councilors present voted in favor of the motion. Councilors DeJardin and Devlin were absent.

The motion carried unanimously.

Presiding Officer Ragsdale adjourned the Contract Review Board and reconvened the Council.

5.3 Resolution No. 89-1032A. Authorizing an Agreement with the City of Forest Grove Regarding an Enhancement Fee for the Forest Grove Transfer Station

Councilor Hansen said the resolution, if adopted, would institute a mechanism for administering the enhancement fund associated with the Forest Grove Transfer Station. He said the Solid Waste Committee had voted unanimously to recommend the Council adopt the resolution. Councilor Hansen said Clifford Clark, Forest Grove Mayor, had testified at the Solid Waste Committee meeting that the Forest Grove City Council was close to the citizens and could represent the citizens well as their enhancement committee. He also noted the agreement was not retroactive and urged the Council to act expediently on the resolution.

In further support of the resolution, Councilor Hansen stated Forest Grove's population was approximately 12,000 and the City Council had at least five members who represented approximately 2,000 citizens, each. He said that the City Council's feeling was that they were close enough to their constituents to adequately represent them as an enhancement committee. Councilor Hansen noted the enhancement fund would be small and was not anticipated to exceed \$30,000 per year. He said that Solid Waste policies allowed local governing bodies to be the local enhancement committee, and he felt that, in this instance, that would be the most sound way to administer the fund.

Main Motion: Councilor Hansen moved, Councilor Bauer seconded to adopt Resolution No. 89-1032A.

Councilor Collier said that the Councilors had been given copies of a document entitled "Forest Grove Host Fee: The Issue that Lives Forever" and asked Councilor Hansen if he knew who provided the document. Councilor Gardner said that he had authored the

Metro Council
May 11, 1989
Page 6

adopting the resolution would be that enhancement matters would be handled expeditiously and in the most reasonable manner for the specific situation. He also said that the method of administering the Forest Grove fund would not be the precedent used for major regional facilities in the future. He said that the North Portland model had worked well because it had been structured the way the community affected wanted and that there had not been any evidence presented to the Solid Waste Committee that the people of Forest Grove wanted anything different than the resolution before Council. He said that since he had heard neither support for nor opposition to the resolution from the citizens of Forest Grove, he assumed the community supported the agreement.

Councilor Knowles said that he did not think his question had been answered regarding the City Council's ability to represent the interests of citizens within the enhancement boundary, but outside the City limits. Councilor Ragsdale clarified that the transfer station was not located in the center of the City, but rather southerly and westerly toward the Urban Growth Boundary and that the number of people beyond the City limits was minuscule.

Councilor Kelley said that a policy committee, of which Mayor Clark had been a member, had met to develop an enhancement plan and had agreed that citizens should be a part of the process. She said that she was disappointed that citizen involvement was not reflected in the proposed agreement. She said that the Metro Council should deal with the policy issue of whether it was appropriate for any city council to administer enhancement funds. She noted that the idea of enhancement fees was not to supplement jurisdiction budgets, but rather to reimburse affected areas for a perceived loss due to the impacts of a facility.

Councilor Collier asked that the Metro Council not set a precedent by allowing a city council to administer the enhancement funds. She said that she thought it was very important that citizens serve on the enhancement committee and that it was important for Metro to build a positive image. She also stated that if an elected body were to administer the fund, the Metro Council could be that elected body.

Councilor Bauer said that he did not feel that Metro should play "big brother" to smaller communities within the jurisdiction. He said that the Forest Grove Council had citizens on the budget committee and planning commission who advised the mayor and council on the expenditure of municipal funds. He noted that these funds would have to go through the City budget process and that there would be citizen input built into the system

Metro Council
May 11, 1989
Page 7

consistent with Oregon Budget Law. He also said that he believed proper acknowledgement would be afforded to Metro as the source of the funds.

Councilor Gardner noted that the proposed agreement provided for the City Council to determine how the enhancement funds would be spent and report to Metro annually as to how they had decided to spend the money. Councilor Gardner said that he felt the enhancement funds would become a revenue stream to meet the City's priorities, which may not necessarily be the priorities the area impacted by the transfer station. Councilor Gardner said that regional identity was important and the enhancement fund should be readily identified as a Metro service.

Motion to Amend: Councilor Kelley moved, Councilor Collier seconded to amend Attachment "1" to Resolution No. 89-1032A in section "B." to read: "FOREST GROVE agrees: 1. That the City Council shall appoint a citizens' advisory committee which will determine and submit for Metro Council approval plans, programs and projects for the rehabilitation and enhancement of the area around the FACILITY."

Councilor Van Bergen said that he was opposed to the amendment and the agreement. He noted the North Portland Enhancement Fund had been mandated by the State Legislature and had an ending date for the collection of enhancement fees. He said that he felt it was important to have an ending date. He also said that he had opposed enhancement fees for the Metro South Station and would not support enhancement fees for Forest Grove. He said that if the City desired to use the transfer station as a revenue source, it should increase the franchise costs.

Councilor Collier said that she would vote in favor of the amendment, because if the resolution were adopted it was preferable to adopt the resolution with the amendment than without it. However, she said that she would continue to oppose the resolution.

Councilor Bauer said that he wanted to point out for the record that the agreement proposed stated in the resolution that the City Council of Forest Grove would come back to the Metro Council for approval of the disbursement of enhancement fees. Therefore, there were checks and balances on the fund's usage.

Councilor Collier said that often in the budget process, people lose sight of where the funds come from and that it would be easy for the enhancement fund to evolve into a City fund. She also

Metro Council
May 11, 1989
Page 8

clarified that she was not saying that the City Council would intentionally misuse the funds.

Councilor Gardner said that his interpretation of the proposed agreement was that initially, the City Council would determine and submit for Council approval the boundaries of the area in which the monies would be spent and the criteria for funding projects. He said that in subsequent years the City Council would decide the expenditures and submit an annual report to Metro showing how they had spent the money. He said that Metro could protest, but it would be after the fact. Councilor Gardner said he, too, would support the amendment but would oppose the resolution.

Councilor Hansen asked Council to vote against the amendment. He said that staff had spent a great deal of time working on the agreement; it had passed out of Solid Waste Committee unanimously; and he hadn't heard any objections to the agreement from community. He pointed out that the City Council was made up of citizens, too. He cautioned that if Metro administered the fund, Metro would need to budget the administrative cost and questioned whether that was wise for such a small fund.

Rena Cusma said that she would like the record to reflect that she strongly felt that to move away from this agreement would be to Metro's detriment, because Metro would be perceived as a government whose primary interest was control and a because she felt Metro would be viewed as a government that didn't keep its commitments. Ms. Cusma urged the Council to support the Solid Waste Committee's recommendation.

Councilor Wyers said that she supported the amendment but would vote against the main motion. She said that it should be a citizen choice as to how to spend the funds and that by causing the enhancement committee to be a citizen committee, one could call on a larger group of people rather than just the council itself.

Vote on Amendment: The Clerk took a roll call vote on the amendment as follows:

Aye: Councilors Buchanan, Collier, Gardner, Kelley and Wyers

Nay: Councilors Bauer, Hansen, Knowles, Van Bergen and Ragsdale

Absent: Councilors DeJardin and Devlin

The motion was defeated.

Metro Council
May 11, 1989
Page 9

Councilor Ragsdale advised the Committee that he had received a letter dated from General Counsel Cooper regarding an explanation of the intent of the language in the agreement in section B. 5. General Counsel Cooper's letter has been filed with the meeting record.

Councilor Ragsdale pointed out that the Solid Waste Management Plan permitted local governments to administer enhancement programs. Councilor Kelley noted that it was discretionary on the Council's part.

Vote on Main Motion: The Clerk took a roll call vote the result of which was:
Aye: Councilor Bauer*, Buchanan, Hansen, Kelley, Ragsdale
Nay: Collier, Gardner, Knowles, Van Bergen, Wyers
Absent: Councilors DeJardin and Devlin

Motion failed to carry. (* Changed vote to nay.)

Councilor Bauer announced that he was changing his vote to the prevailing side in order to serve notice of reconsideration of the matter at the next meeting. Therefore, he changed his vote to nay.

Presiding Officer Ragsdale announced that at the request of Councilor Knowles, who had to leave early, the next agenda item would be item number 6.2.

6.2 Ordinance No. 89-285A. Amending Code Chapter 2.02 by Adding Section 2.02.285 Establishing a Smoking Policy for Metro Facilities

The Clerk read the ordinance for a second time by title only. Councilor Ragsdale announced the ordinance was first read before the Council on February 23 and referred to the Internal Affairs Committee who conducted public hearings on April 13 and 27 and recommended the Council adopt the ordinance as amended.

Councilor Knowles presented the Internal Affairs Committee report. He said the purpose of the ordinance was to place into the Metro Code provisions consistent with State law regarding smoking in public facilities and public meetings.

Motion: Councilor Knowles moved, Councilor Gardner seconded adoption of Ordinance No. 89-285A.

Councilor Van Bergen said that he thought the ordinance was not necessary, therefore, he would vote against it.

Metro Council
May 11, 1989
Page 10

Councilor Wyers asked Metro was currently complying with state law. Councilor Knowles said that his intent was to standardize compliance throughout the organization.

Vote: The Clerk took a roll call vote on the motion as follows:

Aye: Councilors Buchanan, Collier, Gardner, Kelley, Knowles, Wyers and Ragsdale
May: Councilors Bauer, Van Bergen
Absent: Councilors Hansen, DeJardin and Devlin

The motion carried.

6.1 Ordinance No. 89-291A, Amending Ordinance No. 88-247, Revising the FY 1988-89 Budget and Appropriations Schedule for Computer Purchases, System Reconfiguration for the Public Affairs Department and Wage and Salary Adjustment for AFSCME Represented and Certain Non-Represented Employees

The Clerk read the ordinance for a second time by title only. The Presiding Officer announced that the ordinance was first read before the Council on March 23 and referred to the Finance Committee who conducted a public hearing on April 26 and May 4 and recommended the Council adopt the ordinance as amended.

Councilor Collier gave the Finance Committee's report. She said the ordinance would: authorize the Public Affairs Department to reconfigure their computer system, approve budget adjustments for AFSCME represented employees and authorize installation of an air conditioning system for new computer system.

Motion: Councilor Collier moved, seconded by Councilor Wyers to adopt Ordinance No. 89-291A.

Vote: Councilor Bauer, Buchanan, Collier, Gardner, Kelley, Van Bergen, Wyers and Ragsdale voted aye. Councilors DeJardin, Devlin, Hansen and Knowles were absent.

The motion carried.

6.3 Ordinance No. 89-288, Amending Code Chapter 2.01 Relating to Council Voting Procedures

The Clerk read the ordinance by title only for a second time. Councilor Ragsdale announced the ordinance had been first read before Council on March 9 and referred to the Internal Affairs

Metro Council
May 11, 1989
Page 11

Committee who conducted a public hearing on April 13 and 27 and recommended the Council adopt the ordinance. He turned the gavel over to Deputy Presiding Officer Kelley so that he could present the Committee report.

Councilor Ragsdale said that at a recent Council meeting, a question had been raised relative to procedures for changing votes. He said the ordinance provided that the presiding officer would announce the vote on a matter and prior to proceeding to the next agenda item any councilor may request that the clerk change his or her vote. Councilor Ragsdale said that once the next agenda item has started, all votes would be final unless the Council by unanimous consent agreed to the further request for a change.

Motion: Councilor Ragsdale moved, seconded by Councilor Van Bergen to adopt Ordinance No. 89-288.

Vote: The nine councilors present voted in favor of the motion. Councilors DeJardin, Devlin and Knowles were absent.

The motion carried.

Councilor Ragsdale recessed the meeting at 7:20 p.m. and reconvened at 7:25 p.m.

7. METRO EXPOSITION-RECREATION COMMISSION CONSOLIDATION FINANCIAL STUDY

Lee Fehrenkamp, General Manager of the Metro Exposition-Recreation Commission (Metro E-R Commission) said that at the urging of the Metro Consolidation Task Force, the Metro E-R Commission had published an RFP to solicit financial analysis of the consolidation of facilities. He said that as a result, the firm of Laventhol and Horwath had been selected and the work had been assigned to their Tampa, Florida, office which specialized in research and consulting in the hospitality and convention industry. Mr. Fehrenkamp said that the report had been distributed to the Council. The report has been filed with the Clerk and has been made a part of the meeting record. Mr. Fehrenkamp then introduced Ron Barton of the Tampa office of Laventhol & Horwath. Mr. Barton summarized the reports contents, made a slide presentation and responded to questions from the Council.

8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

None.

Metro Council
May 11, 1989
Page 12

There was no other business, and the meeting was adjourned at
8:45 p.m.

Respectfully submitted,

Gwen Ware-Barrett

Gwen Ware-Barrett
Clerk of the Council

gpwb
cn511.min