

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

**January 25, 1990
Regular Meeting**

Councilors Present: Tanya Collier (Presiding Officer), Gary Hansen (Deputy Presiding Officer), Lawrence Bauer, Roger Buchanan, Tom DeJardin, Richard Devlin, Jim Gardner, David Knowles, Ruth McFarland, George Van Bergen and Judy Wyers

Councilors Absent: Mike Ragsdale

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

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. CONSENT AGENDA

The Presiding Officer announced that the following items were on the Consent Agenda for Council consideration:

- 4.1 Minutes of September 14, 1989
- 4.2 Resolution No. 90-1203, For the Purpose of Approving the Appearance by Metro in Estate Proceeding -- In the Matter of the Estate of Stanley L. Smith, Tillamook County Circuit Court Docket No. 4454
- 4.3 Resolution No. 90-1210, For the Purpose of Approving a Metro Center Security Services Contract
- 4.4 Resolution No. 90-1177, Amending the Transportation Policy Alternatives Committee Bylaws
- 4.5 Resolution No. 90-1200, Allocating the Interstate Transfer Regional Reserve and Amending the Transportation Improvement Program Accordingly
- 4.6 Resolution No. 90-1181, For the Purpose of Renewing and Amending the Contract for Personal Services with Stoel, Rives, Boley, Jones & Grey for Assistance as Bond Counsel

- 4.7 Resolution No. 90-1195, For the Purpose of Approving a Request for Proposals Document for the Model Zoning Ordinance
- 4.8 Resolution No. 90-1198, For the Purpose of Supporting Earth Day Activities and Goals in the Metropolitan Region
- 4.9 Resolution No. 90-1205, Authorizing the Executive Officer or Her Designee to Dispose of Residential Property Bequeathed to the Metro Washington Park Zoo

Councilor Van Bergen requested that agenda item number 4.5, Resolution No. 90-1200, Allocating the Interstate Transfer Regional Reserve and Amending the Transportation Improvement Program Accordingly, be removed from the Consent Agenda. The Presiding Officer announced that agenda item number 4.5 would be considered immediately following the Consent Agenda.

Motion: Councilor DeJardin moved, seconded by Councilor Devlin to adopt items number 4.1, 4.2, 4.3, 4.4, 4.6, 4.7, 4.8 and 4.9 of the Consent Agenda.

Vote: The ten councilors present voted aye. Councilors Bauer and Ragsdale were absent.

The motion carried.

4.5 Resolution No. 90-1200, Allocating the Interstate Transfer Regional Reserve and Amending the Transportation Improvement Program Accordingly

Councilor Van Bergen explained that at a prior meeting of the Joint Policy Alternatives Committee on Transportation (JPACT), he had voted against the resolution because he supported funding projects.

Motion: Councilor DeJardin moved, seconded by Councilor Hansen to adopt Resolution No. 90-1200.

Andy Cotugno, Transportation Director, reported that the resolution sought a \$5 million allocation of Interstate Transfer Regional Reserve funds and a \$590,000 allocation of Federal Aid Urban funds for four projects one of which was improvements in the Convention Center area. He noted that while other arterial projects had been considered by the Transportation Policy Advisory Committee (TPAC) they had not been recommended for this funding.

Councilor Devlin said that he would vote in favor of the motion, however, he thought that the action would set a precedent whereby improvements of a local nature, required because of a regional action, were financed, at least in part, by regional funds and the regional funding was an implied commitment of that regional action.

Vote: Ten councilors voted in favor of the motion. Councilor Van Bergen voted against the motion, and Councilor Ragsdale was absent.

The motion carried.

5. ORDINANCES, SECOND READINGS

5.1 Ordinance No. 90-330A, For the Purpose of Adopting a Procedure to Include the Ballot Title, Explanatory Statement and Arguments Relating to Certain District Measures in the State Voters' Pamphlet

The Clerk read the ordinance for a second time by title only. The Presiding Officer announced that Ordinance No. 90-330 was first read before the Council on January 11, 1990 and referred to the Finance Committee. The Committee held a public hearing on January 18 and recommended the Council adopt the ordinance as amended.

Councilor Gardner, Finance Committee member, presented the Committee's report and recommendations. He said that the ordinance was needed as a result of SB 209 which allowed Metro access to the Voters' Pamphlet for its measures. Part of that legislation required Metro to adopt an ordinance which would set out procedures and timelines for developing and filing explanatory statements. Councilor Gardner said that the amendments the Committee had recommended to the ordinance required: 1) General Counsel to file an explanatory statement with the Council at the time Council acted on an ordinance or resolution referring a measure; 2) the Executive Officer to file ballot measure material with the Council Clerk at the time it was filed with the elections office; and 3) the Council Clerk to include the provisions of Ordinance No. 90-330A in the Metro Code.

Motion: Councilor Gardner moved, seconded by Councilor Devlin to adopt Ordinance No. 90-330A

The public hearing was opened and closed. No testimony was offered.

Vote: A roll call vote was taken resulting in the eleven councilors present voting aye. Councilor Ragsdale was absent.

The motion carried unanimously.

5.2 Ordinance No. 90-321, An Ordinance Enacted as a Supplemental Ordinance to Ordinance No. 89-319; Establishing a Plan for Financing the Metro East Transfer Station to Serve as Part of the Metropolitan Service District Solid and Liquid Waste Disposal System; Authorizing the Issuance of the Series A System Bonds for Such Purpose; and Establishing and Determining Other Matters in Connection Therewith

The Clerk read the ordinance for a second time by title only. The Presiding Officer announced that Ordinance No. 90-321 was first read before the Council on January 11, 1990 and referred to the Solid Waste Committee. The Committee held a public hearing on January 16 and recommended the Council adopt the ordinance.

Councilor Hansen, Solid Waste Committee Chair, requested the ordinance be returned to Committee in order to make technical revisions. Dan Cooper, General Counsel, explained it was appropriate for the Council to hold a public hearing because a public notice had been published stating the Council would hold a hearing on that date. Mr. Cooper said that in researching the answer to a question raised by Councilor Wyers at a recent Solid Waste Committee meeting it was discovered that the ordinance needed corrections.

Motion: Councilor Hansen moved, seconded by Councilor Buchanan to return Ordinance No. 90-321 to the Solid Waste Committee.

The public hearing was opened and closed. No one testified. Councilor Van Bergen noted that the ordinance referred to liquid waste, and it was not the intent of the District to assume the functions of sewer districts. Mr. Cooper said that all references to liquid waste had been removed from the ordinance text, and that it was an oversight that it had not been removed from the ordinance title.

Vote: A roll call vote was taken, and the eleven councilors present voted in favor of the motion to return the ordinance to Committee. Councilor Ragsdale was absent.

The motion carried unanimously.

5.3 Ordinance No. 90-326, For the Purpose of Amending the Metro Code Section 4.01.060 Regarding Admission Fees and policies at Metro Washington Park Zoo

The Clerk read the ordinance for a second time by title only. The Presiding Officer announced that Ordinance No. 90-326 was first read before the Council on January 11, 1990 and referred to the Zoo Committee. The Committee held a public hearing on January 18 and recommended the Council adopt the ordinance.

Councilor Knowles, presented the Zoo Committee's report and recommendations. He said that as a result of five-year projections, it was recommended that the Zoo increase admission fees for adults, youth and senior citizens by \$.50 in order to increase revenue. Fees for education groups and their chaperons would remain the same.

Motion: Councilor Knowles moved, seconded by Councilor Devlin to adopt Ordinance No. 90-326.

Councilor Knowles said that the Committee had received information that the Metro Washington Park Zoo had one of the lowest admission charges of zoos with which it competed. Councilor DeJardin stated that the

Committee had also received information that the Zoo compared favorably with other attractions in the region. The public hearing was opened and closed. No one testified.

Vote: A roll call vote was taken resulting in all eleven councilors present voting aye. Councilor Ragsdale was absent.

The motion carried.

5.4 Ordinance No. 90-329, For the Purpose of Submitting a Metropolitan Service District Tax Base Measure for the Metro Washington Park Zoo

The Clerk read the ordinance for a second time by title only. The Presiding Officer announced that Ordinance No. 90-329 was first read before the Council on December 14, 1990 and referred to the Convention, Zoo and Visitor Facilities Committee. The Committee held a public hearing on December 29 and recommended the Council adopt the ordinance as amended. As a result of Resolution No. 90-1207 which restructured Council committees, the Zoo Committee held an additional public hearing on January 18 and recommended additional amendments.

Sherry Sheng, Zoo Director, advised Councilors that since 1976, Zoo operations and capital expenses had been funded through a serial levy. Ms. Sheng said that a tax base would provide a stable source of funding for the Zoo. She said that the tax base would provide for approximately 50 percent of the Zoo's necessary operating funds, with the other 50 percent to be generated through admission fees, enterprising activities and donations. Ms. Sheng said that the tax base would levy a property tax of \$.15 per \$1,000 of assessed value. She said that the current serial levy which would expire in June collected \$.17 per \$1,000. Ms. Sheng also said that the tax base would be dedicated solely to Zoo operations.

Councilor Gardner noted that the Zoo Committee had recommended amending the ordinance to decrease the amount of the tax base by \$200,000. He explained that the \$200,000 represented anticipated expenditures for enrolling Zoo employees in the Public Employees' Retirement System (PERS). He said that the Committee had voted to remove the funds because they felt that the decision to move to PERS and how to fund the cost should be an agency-wide policy decision. He said that he did not feel that the reduction of the amount of the tax base affected any of the proposed programs.

Motion: Councilor Gardner moved, seconded by Councilor Buchanan to adopt Ordinance No. 90-329.

Motion to Amend: Councilor Van Bergen moved, seconded by Councilor Knowles to amend the ballot title contained in Section 7.A. of the ordinance to delete the word "For" and add the words "Dedicated To."

Councilors Van Bergen and Gardner said that they felt that the wording would clarify the purpose of the tax base, and would reflect the District's agreed upon use of the funds. Ms. Sheng also said that the amendment would be helpful to the voters.

Vote on Amendment: The ten Councilors present voted in favor of the amendment. Councilors Hansen and Ragsdale were absent.

The motion carried.

Councilor McFarland said that she was disappointed that the Committee had not recommended that the tax base requested be \$5.3 million. She said that after meeting with Zoo staff, she felt that \$5.3 million was the necessary level and that it would require the same amount of effort to be successful in getting a \$5.1 million tax base approved as a \$5.3 million tax base. Councilor Devlin asked if the budget figures used anticipated an excise tax. Mr. Carlson said that they did not anticipate an excise tax but did project an increased transfer to the general fund. Councilor DeJardin noted that the Friends of the Zoo had conducted a poll that indicated there was support for a tax base.

The public hearing was opened and closed. There was no public testimony.

Vote on Main Motion: A roll call vote was taken, and all eleven councilors present voted aye. Councilor Ragsdale was absent.

The motion carried.

6. RESOLUTIONS

6.1 Resolution No. 90-1194. Approving the Zoo Five-Year Financial Plan and Submitting a Metropolitan Service District Zoo Capital Serial Levy to District Voters

Councilor Gardner presented the Zoo Committee's report and recommendations. He said that the resolution was a companion to Ordinance No. 90-329, the tax base measure, and would be submitted to the voters concurrently. He said that the resolution would approve both the five-year financial plan upon which the tax base measure was premised and fund capital improvements to the children's zoo.

Ms. Sheng said that the proposal would allow the District to levy \$1.5 million dollars per year for three years. She said the funds would provide enhanced educational programs, double number of the exhibits in children's zoo and instill an understanding and appreciation of animals and people.

Motion: Councilor Gardner moved, seconded by Councilor Devlin to adopt Resolution No. 90-1194.

In response to Councilor Wyers' inquiry, Ms. Sheng advised that the levy would impose a \$.04 tax per \$1,000 assessed property value.

Vote: The eleven councilors present voted aye. Councilor Ragsdale was absent.

Councilor Devlin requested that in the future, as five-year financial plans were developed, they receive joint review by both the functional committee and the Finance Committee.

6.2 Resolution No. 90-1100, For the Purpose of Authorizing Issuance of a Request for Bids for Construction of Metro South Modification Operations

Councilor Hansen, Chair of the Solid Waste Committee, presented the Solid Waste Committee's report and recommendations. He said that the resolution would approve a building to house a dual compactor system, a staging area for transport vehicles, a new entrance for Jack Gray Transport vehicles, trailer storage area for Jack Gray Transport, a public parking area, landscaping and an irrigation system.

Motion: Councilor Hansen moved, seconded by Councilor DeJardin to adopt Resolution No. 90-1100.

Councilor DeJardin spoke in favor of the resolution and said that Oregon City was in favor of the modifications. Councilor Van Bergen said that it was the transport contractor's obligation to provide a storage area and said that he objected to Metro paying for those costs since they were to be included in the original contract. He said commercial annual rent for space to house the equipment would cost approximately \$71,000.

Councilor Van Bergen also pointed out that an amendment had been made to the transport contract whereby Jack Gray Transport was to haul not less than 4,000 tons of solid waste to St. Johns rather than the Arlington Landfill. He said that it was Jack Gray's obligation to haul the waste to the Arlington Landfill and to pay for his own storage facility. He said that he had requested that General Counsel provide him a citation of the Executive's authority to amend the transport contract in this matter.

Motion to refer: Councilor Van Bergen moved, seconded by Councilor McFarland to refer Resolution No. 90-1100 back to the Solid Waste Committee for additional review of the use of public property by a private firm and the Executive's ability to amend the existing transport contract.

Councilor Hansen said that he opposed the motion to refer, because he said that it was necessary to have the compactors operational in order for Metro to move the region's solid waste to disposal sites. He said

that it was necessary to "fast track" this request so that Metro would not be at risk of contract violation.

Bob Martin said that the Metro South modifications had been discussed with the DEQ and the City of Oregon City, from the time the plan was conceptual. He said that DEQ had advised that the staging area and installation of new compactor did not need another permit review. Mr. Martin also said that DEQ had determined that the modification plan in total was an activity that required DEQ permit authorization and that the permit would be obtained before the activities commenced. He said that the Oregon City Planning Commission had approved the design.

In response to councilors' questions, Mr. Martin said that Jack Gray would manage the shuttle operation that included positioning the trailers, loading, unloading and parking. He said that a fair market analysis of commercial rent for storage space and the cost of the shuttling operation had determined that they were approximately equal. Councilor McFarland said that she would vote in favor of referral and suggested that if approval of the construction of the building to house the compactors were under a crucial timeline, they be separated from the other modification requests for Metro South.

Councilor Van Bergen said that he had asked Council Analyst Ray Barker to ascertain why in early January, when he was at Metro South one of the pits was nearly filled to capacity with no materials being removed from the pit. Mr. Barker said that he had investigated the situation and that the compactor operator had explained to him that some of the trucks had flat tires on them and the tippers at St. Johns were not operational. Councilor Van Bergen asked Mr. Barker if the situation had reoccurred since then. Mr. Barker said that he had not been to the site again. Councilor Van Bergen said that he also had concerns about further construction because the transfer station was built upon a bog. He also raised liability and insurance questions.

Councilor Wyers questioned the cost figures and said that she was not convinced that the shuttling was a fair trade-off for the storage space. She also asked why councilors had not received notification of the contract amendment and how increased waste disposal at St. Johns affected the transport and operations contract with Arlington.

Bob Martin, Solid Waste Director said that there was possible ambiguity in the Oregon Waste Systems contract. He said that the contract stipulated that in 1990, Metro would send 90 percent of the region's waste delivered to a general purpose landfill to Arlington. He said that the intent was to send only waste collected at Metro South to Arlington because the St. Johns Landfill needed to be filled in order to close it on schedule. He said that he had discussed the matter with General Counsel Dan Cooper and Oregon Waste Systems and that they had reached an agreement in principle and arrived at the number of tons to be delivered at Arlington. He said that they had agreed that between 294,000 and 320,000 tons of waste per month would be delivered to Arlington in 1990. He also said that Jack Gray was transporting more than the 300,000 tons of waste per month committed to in the contract.

Councilor Wyers said that the contract had been modified a number of times and she did not feel it was fair to continue to expect rate payers absorb the costs. Councilor Gardner said that there is nothing before the Council that dealt with the contract amendment, and therefore, he felt that the discussion should be confined to the resolution to approve modifications.

Vote on motion to refer: Councilors McFarland, Van Bergen, Wyers and Collier voted aye. Councilors Bauer, Buchanan, Devlin, DeJardin, Gardner, Hansen and Knowles voted nay. Councilor Ragsdale was absent.

The motion failed to carry.

Motion to amend: Councilor Van Bergen moved, seconded by Councilor McFarland to amend the Request for Bid document to remove all consideration for storage area regarding the Jack Gray contract.

Councilor Hansen spoke in opposition of the motion saying that it would cause delays that would prove a hardship on the waste disposal system.

Vote on motion to amend: Councilors McFarland, Van Bergen, Wyers and Collier voted aye. Councilors Bauer, Buchanan, Devlin, DeJardin, Gardner, Hansen and Knowles voted nay. Councilor Ragsdale was absent.

The motion failed to carry.

Vote on main motion: A roll call vote was taken resulting in Councilors Bauer, Buchanan, Devlin, DeJardin, Gardner, Hansen and Knowles voting aye. Councilors McFarland, Van Bergen, Wyers and Collier voted nay. Councilor Ragsdale was absent.

The main motion carried.

6.3 Resolution No. 90-1199, Authorizing the Award of Furnishings Contracts for the Oregon Convention Center to Krueger, Inc. and Environetics, Inc.

The Presiding Officer recessed the Council and convened the Contract Review Board of the Metropolitan Service District and announced that in accordance with Metro Code Chapter 2.04.044(e), contracts awarded to any bidder other than the apparent low bidder must be approved by the Contract Review Board.

Councilor Knowles called upon Neil McFarlane of the Convention Center Project to explain the contract award. Mr. McFarlane said that staff

recommended a contract be awarded to Krueger, Inc. and Environetics, Inc. for supply of folding chairs and tables at the Convention Center. He said that although Virco Company had submitted the lowest bid, they were not the lowest responsive bidder because they had failed to comply with DBE/WBE requirements and had submitted a bid on products that had been previously rejected by the review committee as unacceptable substitutes for the specified materials.

Motion: Councilor Knowles moved, seconded by Councilor Devlin to adopt Resolution No. 90-1199.

Vote: The nine councilors present voted in favor of the motion. Councilors Gardner, Bauer and Ragsdale were absent.

The motion carried.

6.4 Resolution No. 90-1201. For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.043 Competitive Bidding Procedures and Authorizing a Sole Source Agreement with Dun & Bradstreet Corp. for the Purchase of Credit Reporting Services

Councilor Wyers, member of the Finance Committee, explained the Committee's recommendation. She said the contract was for management of the solid waste account collection system. She said that the Committee agreed that a sole source contract with Dun & Bradstreet was appropriate, as they were the only company capable of performing the work. Councilor Wyers also noted that concerns had been raised during the Committee meeting about confidentiality and reliability of reports. She said that General Counsel would be reporting back to the Finance Committee on those issues.

Motion: Councilor Wyers moved, seconded by Councilor Devlin to adopt Resolution No. 1201.

Vote: The ten councilors present voted in favor of the resolution. Councilors Bauer and Ragsdale were absent.

The motion carried.

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

7. COUNCILOR COMMUNICATIONS & COMMITTEE REPORTS

Councilor Devlin announced that while he was in Washington D. C. attending the National Association of Regional Councils Conference, he would be meeting with legislative staff persons regarding the Parks and Natural Resources Program. The Presiding Officer also announced that she would be meeting with Oregon Congressional delegation staffpersons regarding other Metro programs.

Councilor Van Bergen announced that selection of a performance auditor was proceeding and thanked staff for their work.

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The Presiding Officer announced that she had directed General Counsel to assign a Hearings Officer in the matter of a contested case filed by Rose City Plating.

There was no other business and the meeting was adjourned at 7:35 P.M.

Respectfully submitted,

Gwen Ware-Barrett

Gwen Ware-Barrett
Clerk of the Council

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