

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

April 26, 1990
Regular Meeting

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

Councilors Absent: Lawrence Bauer and Judy Wyers

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 consideration:

- 4.1 Resolution No. 90-1234, Approving the FY 1991 Unified Work Program (UWP)
- 4.2 Resolution No. 90-1235, Certifying that the Portland Metropolitan Area is in Compliance with Federal Transportation Requirements
- 4.3 Resolution No. 90-1244, For the Purpose of Approving a Contract with Grimm's Fuel Company and McFarlane's Bark, Inc. for a Yard Debris Compost Coupon Campaign
- 4.4 Resolution No. 90-1249, Approving the Request for Proposals Documents for Construction of the Research and Propagation Center and Owl Mews at the Metro Washington Park Zoo

Motion: Councilor Ragsdale moved, seconded by Councilor Hansen to adopt the consent agenda.

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Vote: The eight councilors present voted in favor of the motion. Councilors Bauer, Knowles, McFarland and Wyers were absent.

The motion carried.

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 90-347, For the Purpose of Amending Metro Code Chapter 2.08, Office of General Counsel

The Clerk read the ordinance for a first time by title only. The Presiding Officer announced that the ordinance had been referred to the Intergovernmental Relations Committee for public hearing.

5.2 Ordinance No. 90-345, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 89-1: Gravett

The Clerk read the ordinance for a first time by title only. The Presiding Officer announced that the Council, in its capacity as a quasi-judicial board would consider the ordinance. She said that the procedure would be to entertain a motion to adopt the ordinance, hold a public hearing and continue consideration at the next meeting.

Motion: Councilor Hansen moved, seconded by Councilor Devlin to adopt Ordinance No. 90-345.

General Counsel Dan Cooper explained that the ordinance was a request for a locational adjustment of the Urban Growth Boundary (UGB) southeast of the City of Gresham. Mr. Cooper advised the Council that their decision must be based solely on the evidence contained in the record. He said that a hearing had been held before a hearings officer, and the hearings officer had recommended approval of the request. Mr. Cooper also stated that no exceptions to the hearings officer's recommendation had been filed.

General Council Cooper described the site as a total of 5.8 acres in two tax lots located immediately south of the Gresham City boundary along the west side of Hogan Road. He said that the existing UGB abutted the site on the north, south and west. He said that the petitioners had requested the UGB be adjusted to include this 5.8 acres and that the City of Gresham supported the petition. Mr. Cooper said that Metro Hearings Officer Chris Thomas in his Report and Recommendation on the matter had concluded that the proposal met all applicable standards and recommended approval. Mr. Cooper said that Hearings Officer Thomas concluded that this amendment to the UGB would result in a

net improvement in the efficiency of public facilities and services, that the amendment would facilitate needed development on adjacent existing urban land, that the amendment would have no impact on regional transit corridor development, that there would be no incompatibility between the likely urban development on the site and existing agricultural activities in proximity to the site, that the proposed UGB would be superior to the existing UGB, and that the petition included all similarly situated contiguous land.

The public hearing was opened and closed. No testimony was offered. The Presiding Officer announced that consideration would be continued on May 10.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 90-343 Amending Ordinance No. 89-294A Revising the FY 1989-90 Budget and Appropriations Schedule for Increased Zoo Operations

The Clerk read the ordinance for a second time by title only. The Presiding Officer announced that the ordinance had been first read before the Council on March 22 and referred to the Zoo and Finance Committees for public hearing. She said that the Zoo Committee held a public hearing on the ordinance on April 5, and the Finance Committee held a public hearing on the ordinance on April 19. She said that both committees had recommended the Council adopt the ordinance.

Councilor Gardner said that the Zoo Committee had unanimously recommended the Council adopt the ordinance. He said that the ordinance would transfer funds from Zoo Operating Contingency to various operating categories. Councilor Gardner explained that due to higher than projected attendance at the Zoo, additional staff, food services and retail services were necessary to accommodate the public. He said that changes in the non-represented pay plan and minimum wage resulted in unanticipated increases in personal services. He also said that additional personal services expenses were incurred because of a retroactive pay increase due to a delinquent evaluation and use of temporary help due to illnesses and jury duty. Councilor Van Bergen said that the Finance Committee had unanimously supported the Zoo Committee's recommendation.

Motion: Councilor Van Bergen moved, seconded by Councilor Gardner to adopt Ordinance No. 90-343.

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

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

The motion carried.

7. RESOLUTIONS

7.1 Resolution No. 90-1246, For the Purpose of Adopting the Annual Waste Reduction Program for Local Governments and the "Metro Challenge"

Councilor Hansen presented the Solid Waste Committee's report and recommendations. He said that the Committee had voted unanimously on April 17 to recommend the Council adopt the resolution. Councilor Hansen explained that in lieu of a certification program, Metro provided local governments within the District an opportunity to develop their own waste reduction program provided the program complied with the Regional Solid Waste Management Plan.

Additionally, Councilor Hansen said that if Resolution No. 90-1246 were adopted, Metro would be authorized to allocate \$681,000 in grant funds for the "Metro Challenge." Councilor Hansen explained that Metro had issued a challenge to itself and local governments within the District to achieve a goal of a 50 percent recycling rate by 2000. He said that the grant funds would be used to help fund and manage waste reduction programs. Councilor Hansen noted that the grant funds were based on estimates of savings that would be realized by avoiding landfill disposal costs. He said that the grant fund allocation formula was based on population, with the exception that the minimum grant would be \$1,500.

Motion: Councilor Hansen moved, seconded by Councilor Devlin that the Council adopt Resolution No. 90-1246.

Vote: The vote resulted in the ten councilors present voting aye. Councilors Bauer and Wyers were absent.

The motion carried.

7.2 Resolution No. 90-1248, For the Purpose of Adopting a Policy to Require Weighing of All Vehicles at Metro Transfer Facilities

Councilor Hansen said that adoption of Resolution No. 90-1248 would require all vehicles hauling waste to Metro transfer facilities to be weighed to determine disposal costs. Councilor Hansen pointed out that the resolution sought to adopt a policy to be instituted in February, 1991. He said that the flat fee for self-haul vehicles had been deemed inequitable.

Motion: Councilor Hansen moved, seconded by Councilor Buchanan to adopt Resolution No. 90-1248.

In response to questions raised by Councilor Van Bergen, Councilor Hansen said that due to the limited life span of the St. Johns Landfill, it would not be cost effective to retrofit St. Johns with weighing equipment. Councilor Van Bergen pointed out that he felt there were additional policy issues to evaluate in regard to administering the program. He said that those included determining if and how much deposit would be requested upon entering the facility, staffing and money handling. Mr. Martin said that those issues along with others would be addressed at such time a rate ordinance request was submitted to the Council.

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

The motion carried.

7.3 Resolution No. 90-1251, For the Purpose of Supporting and Approving a Grant Award for KINK Radio/SOLV (Stop Oregon Litter and Vandalism) Clean-Up Day

Councilor Hansen reported that SOLV and KINK radio had approached him soliciting support for a neighborhood and illegal dump site clean-up. He said the clean-up day was scheduled for May 19, and KINK and SOLV expected to mobilize 5,000 to 10,000 volunteers. Councilor Hansen said that the proposal was consistent with Metro policies to acknowledge and promote waste reduction efforts and that the Solid Waste Committee had recommended the Council adopt the resolution.

Motion: Councilor Hansen moved, seconded by Councilor Buchanan to adopt Resolution No. 90-1251.

Councilor McFarland said that she supported the resolution and requested particular assurance that the clean-up day include illegal dump sites and that the dump sites be monitored in the future.

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

The motion carried.

7.4 Resolution No. 90-1231, For the Purpose of Amending Contract with Zimmer Gunsul Frasca Partnership for Additional Services for Oregon Convention Center Project

The Presiding Officer recessed the Council and convened the District's Contract Review Board. Councilor Knowles said that the resolution requested an amendment to an existing contract with Zimmer Gunsul Frasca for additional costs. Councilor Knowles said the major portion of the amendment would fund construction administration costs and that cost savings in other areas such as insurance and the Turner Construction contract would be transferred to the appropriate line items.

Motion: Councilor Knowles moved, seconded by Councilor DeJardin to adopt Resolution No. 90-1231.

Councilor Devlin noted that much of the work contained in the amendment had been completed. He said that he had some concern about retroactively approving the work. The Presiding Officer asked Councilor Knowles to explain why the work had been performed before the amendment had been approved. Councilor Knowles said that it had been anticipated that this would be the last amendment to this contract and that staff had wanted to present the amendments in aggregate. He said that the contractor had anticipated that the contract administration portion of the work would require three staff, and had actually required five staff.

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

The motion carried.

7.5 Resolution No. 90-1239, For the Purpose of Amending Contract No. 900590 with KPMG Peat Marwick for Audit Services Required in the Metro ERC Consolidation Agreement

Councilor Knowles reported that the consolidation agreement between the City of Portland and Metro required Metro to conduct an audit of the ERC facilities and accounts that were to be merged into the Metropolitan Exposition-Recreation Commission.

Motion: Councilor Knowles moved, seconded by Councilor DeJardin to adopt Resolution No. 90-1239.

In response to a question regarding the scope of work for the audit, Councilor Knowles said that the audit would be of cash accounts and accounting procedures and controls. The Presiding Officer requested Councilor Knowles, as chair of the Convention

and Visitor Facilities Committee, to have the Committee review the audit report.

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

The motion carried.

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

7.6 Resolution No. 90-1256, For the Purpose of Endorsing Ballot Measure #1

Motion: Councilor Ragsdale moved, seconded by Councilor Gardner to suspend the Council's rules requiring resolutions introduced at the Council level to be referred to a committee.

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

The motion carried.

Councilor Ragsdale explained that Ballot Measure #1 was part of the Transportation 2000 legislative package the Council endorsed to request that the Legislature approve referral to the voters of a constitutional amendment that would allow vehicle registration taxes and fees collected locally to be used for purposes other than highway construction and maintenance. Councilor Ragsdale said that the measure would be on the ballot in May, and that Resolution No. 90-1256 merely formalized the Council's already stated support of the measure.

Motion: Councilor Ragsdale moved, seconded by Councilor Devlin to adopt Resolution No. 90-1256.

Councilor Devlin pointed out that the Intergovernmental Relations Committee had unanimously recommended the Council adopt the resolution. He also noted that the Voters' Pamphlet contained twelve arguments in favor of the measure.

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

The motion carried.

The Presiding Officer recessed the Council and convened an Executive Session Pursuant to ORS 192.660(1)(h) for the purpose of discussing litigation regarding Jack Gray Transport. Councilors and staff present for the Executive Session were: Councilors Devlin, McFarland, Knowles, DeJardin, Gardner, Hansen, Ragsdale, Buchanan, Van Bergen and Collier; Executive Officer Cusma, General Counsel Cooper, Solid Waste Director Martin, Council Administrator Carlson, Council Analyst Barker and the Clerk of the Council.

The Presiding Officer adjourned the Executive Session and reconvened the Council.

Motion: Councilor Gardner moved, seconded by Councilor Hansen for the Council to consent to the Office of General Counsel filing an appropriate motion to intervene as a plaintiff in Jack Gray Transport, Inc. v. Vicki Ervin to protect the District's interests in the circuit court.

Vote: The nine councilors voted aye. Councilor McFarland voted nay, and Councilors Bauer and Wyers were absent.

8. COUNCILOR COMMUNICATIONS & COMMITTEE REPORTS

Councilor Van Bergen announced that the line item budget recommendations would be distributed after the meeting, and the Budget Committee's report and recommendations would be mailed to the Council the following day. He also announced that the Council would consider the Budget Committee recommendations at a special meeting May 3.

Councilor Knowles announced that the Portland City Council had adopted a resolution April 25 approving the Metro proposed budget for the Metro ERC facilities subject to Metro's approval of an amendment to add a Personnel Manager, Personnel Clerk, Purchasing Contract Coordinator and \$30,000 for legal expenses to the Metro ERC budget. Councilor Knowles said that under the consolidation agreement, if Metro adopted the budget as proposed by the Council, the City could either initiate termination of the consolidation agreement or seek dispute resolution which would involve appointing a committee to mediate a proposal. Councilor Knowles also advised that the Council could also submit an amended proposal to the City. He said that he had discussed the matter with the Executive Officer and would also speak with the Presiding Officer and members of the Budget Committee in an attempt to develop strategy.

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Councilor Devlin requested a written legal opinion regarding which areas of the budget the City Council had purview over and what the legislative intent of the purview was. General Counsel Cooper said that he would provide the written opinion prior to the following Thursday. Councilor Gardner requested information on the Council's discussion and intent of budget review prior to adoption of the consolidation agreement and the City's intent on wanting to retain that review authority. Councilor McFarland said that she strongly supported the Budget Committee's recommendations on this issue.

There was no other business, and the meeting was adjourned at 7:00 p.m.

Respectfully submitted,



Gwen Ware-Barrett
Clerk of the Council