

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

**October 11, 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, David Saucy, Jr. and Judy Wyers

COUNCILORS ABSENT: George Van Bergen

1. INTRODUCTIONS

1.1 Recipients of Recycling Achievement Awards in the Metro Region (Resolution No. 90-1319 Adopted by the Council September 27, 1990) (Action Requested: Introduction and Presentation)

The Presiding Officer announced that the Council had adopted Resolution No. 90-1319 on September 27, 1990 recognizing recycling efforts. She said that the resolution was a method of acknowledging individuals and businesses who had made a significant impact in waste reduction in the region. Councilor DeJardin presented six awards in five categories as follows: Individual Recycling Recognition Award to Ken Adams for organizing a paper recycling program and KOIN-TV; Organization/School Recycling Award to Phil Lewis Elementary School for a recycling program initiated and implemented by school custodian Mike Meinecke and Hillsboro High School for a paper recycling program; Business Award (Recycling Related) to Smurfit Recycling for being the first West Coast operation to turn magazines into newsprint; Business Award (Non-Recycling Related) to Watermark Press for being the first local print shop to proclaim the use of recycled paper as a preference and Special Projects Award to PayLess Drug Stores for integrating recycling into most areas of its operation.

2. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

3.1 Parametrics Presentation Regarding St. Johns Landfill Closure Plan

Councilor DeJardin and Solid Waste Director Bob Martin introduced Mr. Doug Drennan, representing Parametrics. Councilor DeJardin explained that Metro had awarded a contract to Parametrics to develop a closure plan for the St. Johns Landfill. Mr. Drennan said that the design was approximately 60 percent complete and

then made an audio visual presentation on the technical details of the closure design.

Mr. George Ward, Portland, Oregon, said that he felt that it was important to incorporate existing materials and technologies into the closure plan. He said that he also felt it was important to use self-healing materials.

4. CONSENT AGENDA

4.1 Minutes of June 28, 1990

Motion: Councilor Devlin moved, seconded by Councilor DeJardin to adopt the Minutes of June 28, 1990.

Vote: The nine councilors present voted in favor of the motion. Councilors Bauer, Buchanan and Van Bergen were absent.

The motion carried.

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 90-367, Approval of Natural Resources Management Plan for Smith and Bybee Lakes

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.

6. RESOLUTIONS

6.1 Interview Ron Kawamoto and Consideration of Resolution No. 90-1333, For the Purpose of Confirming the Appointment of Ron Kawamoto to the Metropolitan Exposition-Recreation Commission

Motion: Councilor Knowles moved, seconded by Councilor DeJardin to adopt Resolution No. 90-1333.

Councilor Knowles introduced Mr. Kawamoto and reviewed his resume which was contained in the agenda packet. Mr. Kawamoto was interviewed by the Council.

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

The motion carried.

6.2 Resolution No. 90-1325, Authorizing Completion of the Skyview Terraces at the Oregon Convention Center

Motion: Councilor Knowles moved, seconded by Councilor DeJardin to adopt Resolution No. 90-1325.

Councilor Knowles presented the Convention and Visitor Facilities Committee's report and recommendations. Councilor Knowles said that after satisfying project claims, approximately \$3.5 million of additional funds available to the project had been identified. He said that in the recent past, he had been made aware of concerns that the Convention Center did not meet the needs of the disabled. He said that the Executive Officer had directed the building architects to review with the City of Portland and Metro's design committee whether the Convention Center was in compliance with all applicable building code requirements in effect at the time the building plans were approved. Additionally, he said that the Executive Officer had directed the architects to examine any building enhancements that may have a demonstrated need or be desirable from an environmental access perspective. Councilor Knowles distributed the Executive Officer's letter to Zimmer, Gunsul, Frasca and a letter from Environmental Access outlining requested modifications. Both letters have been filed with the meeting record and are incorporated in these minutes by reference.

The public hearing was opened. Robert Pike, President, Environmental Access, said that Environmental Access had participated in meetings with Zimmer, Gunsul, Frasca during the planning. He alleged that their recommendations had not been incorporated in the building design. Mr. Pike specifically commented on the ramps for handicapped access, accommodations for hearing impaired, number, location and size of restroom stalls, elevators and height of bank machines, telephones and counters.

Grady Landrum, Programs Coordinator, Access Oregon, testified in favor of including a disabled/handicapped advocate in design and construction phases of public projects and urged the Council to retrofit Convention Center to be more usable for handicapped and to assure the Skyview Terraces were fully accessible to handicapped patrons.

The Presiding Officer instructed the Council Convention and Visitor Facilities Committee to examine the allegations in Mr. Pike's letter, investigate the code compliance issues and explore a process for public involvement in the design phase. Councilor Knowles said that if it were determined that design flaws existed, the Committee would attempt to determine who was at

fault and what remedies are available. Councilor Knowles said that he had been given information from staff and at the Committee level that adequate funds were available to both complete the Skyview Terraces and effect many of the modifications that Environmental Access had proposed.

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

The motion carried.

The Presiding Officer recessed the Council at 7:30 p.m. and reconvened the Council at 7:45 p.m.

7. NON-REFERRED ORDINANCES

7.1 Ordinance No. 90-363, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-3: Blazer Homes

The Presiding Officer announced that the Council, in its capacity as a quasi-judicial review board would consider Ordinance No. 90-363. She said that the proceedings would be conducted in accordance with Metro Code Chapter 2.05.

Councilor Bauer declared a conflict of interest, in that his firm had performed services for Blazer Homes and excused himself from the proceedings.

Legal Counsel Larry Shaw advised the Council that the ordinance before them was the result of a remand of an appeal from a former Metro order. He said that public hearing and testimony on the matter had already been held. Council considered amended findings proposed by the applicant. Mr. Shaw said that parties had received notice of the ordinance consideration and copies of the proposed findings and exceptions to those proposed findings in the ordinance. He said that under the Council's rules, no public hearing was required, however, the Council could hearing argument on the findings and exceptions on the existing record, hear arguments adding the proponents additional evidence after opponents motion or make a decision on the existing motion without hearing further argument.

Motion: Councilor DeJardin moved, seconded by Councilor Gardner to deny the Blazer Homes Petition without further hearing because the record and the amended findings did not contain sufficient evidence to show

a substantial improvement in sewer and transportation services that meet the level of proof required for this petition and to direct General Counsel to prepare written findings on this decision for the next Metro Council meeting.

Councilor Devlin asked that the record reflect that he had received several letters regarding this matter, and that the contents of those letters were not a part of the basis for his decision. Councilor Gardner also declared that he had received correspondence that would not be a part of his consideration on the matter. In response to a question from the presiding officer, Mr. Shaw said that contacts on the matter should be declared if they contained factual material that was new or would be used in making a decision on the matter. Mr. Shaw said that material already in the record need not be declared.

Attorney Roberts representing Blazer Homes asked that the record reflect that the proponents had requested an opportunity to testify at this meeting and were prepared to do so, but that opportunity had been denied.

Vote: A roll call vote was taken resulting in ten councilors voted in favor of the motion. Councilor Knowles dissented, and Councilor Van Bergen was absent.

The motion carried.

6.3 Resolution No. 90-1306A, For the Purpose of Approving an Invitation to Bid for Automobile Lease Program

Motion: Councilor Gardner moved, seconded by Councilor Devlin to adopt Resolution No. 90-1306A.

Councilor Gardner said that the Intergovernmental Relations Committee had unanimously agreed to recommend that the Council adopt the resolution. He said that adoption of the resolution would approve release of an invitation to bid for Metro fleet vehicles. He noted that the resolution as amended by the Committee authorized release of the subsequent contract providing the contract amount did not exceed \$58,500 and that the terms of the lease conform in all material aspects to the bid specifications.

Vote: The eleven councilors present voted in favor of the motion. Councilor Van Bergen was absent.

The motion carried.

**Executive Session Held under the Authority of ORS 192.660(1)(e)
to Discuss Real Property Transactions**

The Presiding Officer recessed the Council and convened an Executive Session in Conference Room 240 at 8:02 p.m. In attendance were Councilors McFarland, Hansen, Collier, Bauer, Gardner, Knowles, Devlin, DeJardin, Buchanan, Saucy and Wyers; Staff: Don Carlson, Dick Engstrom, Dan Cooper, Neil Saling, Jennifer Sims, Vickie Rocker and Gwen Ware-Barrett; Brokers Mark Madden and Brad Pihaus; Oregonian reporter Ted Mayer. The discussion was regarding negotiations for acquisition of the Sears building.

The Presiding Officer recessed the Executive Session and reconvened the Council at 8:30 p.m.

6.5 Resolution No. 90-1338, For the Purpose of Authorizing the Execution of a Sale Agreement for Acquisition of the Sears Facility Exempting Due Diligence Contracts and Bond Counsel Services from Metro Code 2.04.053

Motion: Councilor Devlin moved, seconded by Councilor McFarland to suspend the Council rules to allow introduction of the resolution and consideration by the Council as a whole.

Finance and Administration staff Jennifer Sims said that adoption of the resolution would authorize the Executive Officer to execute a sale agreement with Pacific Development, Incorporated (PDI) for the Sears facility at 524 N. E. Grand Avenue. She said that the agreement provided for a 67-day due diligence period for inspection and testing in the building and conducting market feasibility studies; the purchase price would be \$5.15 million; Metro would assume obligation to provide up to 346 parking spaces to the State of Oregon; PDI would provide up to 86 additional off-site parking spaces to Metro if needed in the future.

Ms. Sims said that adoption of the resolution would also exempt due diligence contracts and bond counsel services from Metro Code contracting procedures. She also pointed out that the resolution directed the Executive Officer to prepare a work plan and staffing and funding recommendation for Council consideration. Ms. Sims said that the resolution gave notice of the Council's intent to finance the project at a future date.

Vote: The eleven councilors present voted in favor of the motion. Councilor Van Bergen was absent.

Motion: Councilor Bauer moved, seconded by Councilor DeJardin to adopt Resolution No. 90-1338.

Councilor Bauer said that the four most important reasons he supported the resolution were the strategic location of the site, the timeliness of the proposal, the ample due diligence period and ability for future expansion. Councilor Knowles declared a potential conflict of interest. He said that he had previously performed professional services for PDI but had not done so within the past two years.

Vote: The eleven councilors present voted in favor of the motion. Councilor Van Bergen was absent.

The motion carried.

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

6.4 Resolution No. 90-1335, Approving a Sole Source Purchase of Hewlett Packard Upgrade Equipment and Providing for Exemption from Metro Code Chapter 2.04.060(a)

Motion: Councilor Devlin moved, seconded by Councilor Wyers to adopt Resolution No. 90-1335.

Councilor Devlin said that an additional microchip was need for the RLIS system. He said that Hewlett Packard was the vendor for the equipment and the only source for the microchip needed to upgrade the system.

Vote: The eleven councilors present voted in favor of the motion. Councilor Van Bergen was absent.

The motion carried.

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

8. COUNCILOR COMMUNICATIONS & COMMITTEE REPORTS

8.1 Tri-Met Merger

Councilor Gardner said that consultants were gathering information regarding cost and benefits analysis of the merger. He said meetings of the Tri-Met Merger Subcommittee had been suspended until after the November 6 election. The Presiding Officer reported that meetings to brief State legislators had begun and a fact sheet was under development.

8.2 Metropolitan Exposition-Recreation Commission Resolutions
91, 92, 93, 94 and 95

Councilor Knowles reported that the Convention and Visitor Facilities Committee would reviewed Metro ERC Resolutions and report to the Council. Councilor Devlin asked that General Counsel provide a legal opinion on Resolution 93 regarding complimentary tickets. He asked that General Counsel include in the opinion a statement of compliance with Oregon Ethics Standards, potential conflict with Metro Code and guidance to commissioners and councilors regarding inclusion within statements of economic interest.

Councilor Devlin announced that the Finance Committee had considered and released an RFP for a data processing plan. He said that due to the short timeframes, the Committee had not presented the plan as a full Council action item.

There was no other business, and the meeting was adjourned at 8:56 p.m.

Respectfully submitted,



Gwen Ware-Barrett
Clerk of the Council

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