

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

February 28, 1991

Council Chamber

Councilors Present: Presiding Officer Tanya Collier, Deputy Presiding Officer Jim Gardner, Larry Bauer, Roger Buchanan, Richard Devlin, Tom DeJardin, Sandi Hansen, David Knowles, Ruth McFarland, Susan McLain, George Van Bergen and Judy Wyers

Councilors Absent: None

Also Present: Executive Officer Rena Cusma

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

Presiding Officer Collier announced Agenda Item No. 7.5, Resolution No. 91-1409, For the Purpose of Expressing Support for a Zoo Station in the Preferred Alternative for Westside LRT, had been removed from the agenda. She announced that Agenda Item Nos. 7.4 and 7.7 had been grouped together for consideration by the Contract Review Board of the Metropolitan Service District.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Executive Officer Cusma noted the Metro Riedel Composter facility dedication would take place on March 28. Executive Officer Cusma noted Pam Erickson, previously deputy director with the City of Portland's Employment Division, would temporarily fill the Project Operations Manager position vacated by Neil McFarlane February 14.

4. CONSENT AGENDA

4.1 Resolution No. 91-1397, For the Purpose of Establishing a Northwest Subarea Transportation Study Citizens Advisory Committee and Appointment of Members

Motion: Councilor Gardner moved, seconded by Councilor Buchanan, for adoption of the Consent Agenda.

Vote: All Councilors present voted aye. Councilor Knowles was absent. The vote was unanimous and the Consent Agenda was adopted.

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 91-387, An Ordinance Amending Ordinance No. 90-340A Revising the FY 1990-91 Budget and Appropriations Schedule for the Purpose of Funding Initial Financing and Purchase Costs of the Hanna Property

The Clerk read the ordinance for a first time by title only. Presiding Officer Collier referred the ordinance to the Finance Committee.

5.2 Ordinance No. 91-386, For the Purpose of Amending Metro Code Chapter Code 5.02, Disposal Charges and User Fees at Metro Facilities

The Clerk read the ordinance for a first time by title only. Presiding Officer Collier referred the ordinance to the Finance and Solid Waste Committees.

5.3 Ordinance No. 91-388, For the Purpose of Amending Metro Chapter Code Chapter 5.02, Disposal Charges and User Fees at Metro Facilities

The Clerk read the ordinance for a first time by title only. Presiding Officer Collier referred the ordinance to the Solid Waste Committee.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 91-378A, For the Purpose of Amending Metro Code Chapter 2.02, Section 2.02.040(e), Relating to Confirmation by Council of Certain Appointments to Fill Positions

The Clerk read the ordinance for a second time by title only.

Presiding Officer Collier announced the first reading of the ordinance was held on February 14 and was referred to the Finance Committee. She announced the Finance Committee considered the ordinance and conducted a public hearing on February 21. Presiding Officer Collier announced the Finance Committee amended the ordinance and recommended Ordinance No. 91-378A for Council consideration.

Motion: Councilor Buchanan moved, seconded by Councilor DeJardin, for adoption of the ordinance.

Councilor Buchanan presented the Finance Committee's report and recommendations. He said the ordinance was companion legislation to

Resolution No. 91-1375A which established classification descriptions for two new department head positions. He said the ordinance amended the Personnel Code to add two new positions, Director of Regional Facilities and Director of Finance and Management Information to the list of positions requiring Council confirmation. He said the ordinance also eliminated the Director of Finance and Administration because Resolution No. 91-1375 eliminated that position from the Classification Plan.

Presiding Officer Collier opened the public hearing.

No one present appeared to testify and the public hearing was closed.

The Clerk took a roll call vote on the ordinance.

Vote: All Councilors present voted aye. Councilor Knowles was absent. The vote was unanimous and Ordinance No. 91-378A was adopted.

6.2 Ordinance No. 91-383, An Ordinance Authorizing the Issuance of Revenue Bonds and Bond Anticipation Notes of the Metropolitan Service District for the Purpose of Financing the Acquisition, Renovation, Furnishing and Equipping of an Administrative Offices Building for Use in the Operations of the District; and Establishing and Determining Other Matters in Connection Therewith

The Clerk read the ordinance for a second time by title only.

Presiding Officer Collier announced the first reading of the ordinance was held on February 14. She announced the ordinance was referred to the Finance Committee which considered the ordinance and conducted a public hearing on February 21.

Motion: Councilor Devlin moved, seconded by Councilor Wyers, for adoption of the ordinance.

Councilor Devlin presented the Finance Committee's report and recommendations. He said Financial Services staff stated at the Finance Committee that the ordinance was the first in a series of steps to arrange financing for the acquisition and development of an office building for the District. Staff noted the Council had extended the due diligence period for the acquisition of the Sears facility to April 30, 1991, and stated the ordinance would assist the District in obtaining detailed information on the real costs of financing such a project. Councilor Devlin said staff stated a two-phase approach had been developed to approach the project. He said the first phase was the issuance of bond anticipation notes to initially procure and renovate or construct a facility in the short run. He said the second phase involved the issuance of revenue bonds once final costs were known.

METRO COUNCIL
February 28, 1991
Page 4

Councilor Devlin said the ordinance directed the Executive Officer to prepare a master ordinance for the issuance of revenue bonds in the amount of \$27,700,000 for future Council consideration and authorized the issuance of bond anticipation notes in the same amount subject to future Council approval.

Presiding Officer Collier opened the public hearing.

No persons present appeared to testify and the public hearing was closed.

The Clerk took a roll call vote on the ordinance.

Vote: All Councilors present voted aye. Councilors Gardner and Knowles were absent. The vote was unanimous and Ordinance No. 91-383 was adopted.

6.3 Ordinance No. 91-384, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 90-3:Washington County

The Clerk read the ordinance for a second time by title only.

Presiding Officer Collier announced the Council of the Metropolitan Service District would consider the ordinance in its capacity as a quasi-judicial decision maker. Presiding Officer Collier announced the Council considered and conducted a public hearing on the ordinance on February 14.

Motion: Councilor Devlin moved, seconded by Councilor Bauer, for adoption of Ordinance No. 91-384.

Presiding Officer Collier asked if anyone present wished to testify. Presiding Officer Collier noted the Council began consideration of the ordinance before the agenda time set at 6:10 p.m., and continued consideration of the ordinance to that time.

7. RESOLUTIONS

7.1 Resolution No. 91-1375A, For the Purpose of Amending the Classification Plan and the Pay Plan for Non-Represented Employees

Motion: Councilor Wyers moved, seconded by Councilor Devlin, for adoption of the resolution.

Councilor Wyers gave the Finance Committee's report and recommendations. Councilor Wyers said the resolution would amend the District's Classification Plan and the Pay Plan as required by the Metro Code to create two new department head positions, Directors of Regional

Facilities and of Finance and Management Information, and delete one position, Director of Finance and Administration. She said the new positions resulted from the division of the current Finance and Administration Department into two departments, Regional Facilities and Finance and Management Information. Councilor Wyers said the Finance Committee amended the resolution to clearly reflect that the old Manager of Financial Services position had been eliminated as well as the Director of Finance and Administration position. Councilor Wyers said no budget changes were involved and that Regional Facilities would oversee Contracts Administration. She noted the Committee questioned whether all the positions would be funded in FY 1991-92.

Vote: All Councilors present voted aye. The vote was unanimous and Resolution No. 91-1375A was adopted.

7.2 Resolution No. 91-1405A, For the Purpose of Identifying Legislative Issues for Support, Opposition, and Monitoring in the 1991 Legislative Session

Main Motion: Councilor Devlin moved, seconded by Councilor DeJardin, for adoption of the resolution.

Motion to Amend Main Motion: Councilor Devlin moved, seconded by Councilor DeJardin to amend Resolution No. 91-1405A as follows: To amend Exhibit A by deletion of references to SB 241 and SB 474 on page 1; to delete on page 2 the first point on the second paragraph, "Creation of a Markets Development Commission to work in concert with commissions established in Washington and California to enhance recycling markets;" to delete the remainder of Exhibit A on pages 3-4 beginning with the heading "Transportation;" on Exhibit C to restore the reference to SB 241 on page 1; to add the reference to SB 474 to Exhibit C deleted from Exhibit A; to add HB 2175 to Exhibit C page 2; to add HB 2772 to Exhibit C page 3; and to add the heading "Legislative Concepts" with the following three items: 1) Monitor the secondary lands bill to determine whether it includes appropriate "urban fringe" language; 2) Require LCDC acknowledgement and periodic review of Regional Urban Growth Goals and Objectives; and 3) Statewide ban on sale of laundry detergent containing phosphates.

Councilor Devlin discussed the motion to amend.

Councilor Knowles declared a conflict of interest because his law firm was monitoring current legislation on a client's behalf. He announced he would not discuss the resolution and would abstain from the vote.

Vote on Motion to Amend the Main Motion: All Councilors present voted aye. Councilor Knowles abstained. The vote was unanimous and the motion to amend passed.

Vote on Main Motion as Amended: All Councilors present voted aye. Councilor Knowles abstained. The vote was unanimous and Resolution No. 91-1405A was adopted.

7.3 Resolution No. 91-1406, For the Purpose of Establishing Criteria for Council Appointments to the Metropolitan Service District Charter Committee

Motion: Councilor Devlin moved, seconded by Councilor DeJardin, for adoption of the resolution.

Councilor Devlin noted that at the February 9 Council retreat, the Council directed Council staff draft a resolution to establish criteria for the Councilors' Charter Committee appointments and to establish new criteria. The resolution establishes that Councilors will interview prospective appointees and strive to achieve racial and gender balance in their appointments to reflect the diversity of the community. Councilor Devlin said the resolution further stipulated a time line for submitting the names of the appointees to the Presiding Officer and the Clerk of the Council for review and official notification to the district's election officer. He said the resolution also established a dispute resolution process to follow if a pair of Councilors could not agree on an appointee.

Vote: All twelve Councilors present voted aye. The vote was unanimous and Resolution No. 91-1406 was adopted.

Presiding Officer Collier recessed the Council of the Metropolitan Service District and convened the Contract Review Board of the Metropolitan Service District.

Presiding Officer Collier announced the Council in its capacity as the District's Contract Review Board would consider Agenda Item Nos. 7.4 and 7.7.

7.4 Resolution No. 91-1401A, For the Purposes of Authorizing an Exemption from Metro Code Section 2.04.054 For an Amendment of the Turner Construction Company Contract

Motion: Councilor Knowles moved, seconded by Councilor Hansen, for adoption of the resolution.

Councilor Knowles presented the Regional Facilities Committee report and recommendations. Councilor Knowles explained the Committee had wanted to close out the contract and questioned whether the contract exemption

should be granted, but decided the contractor was already on site and would charge a reasonable fee. He said the Committee divided the original list of work items into two lists and recommended Resolution No. 91-1401A for adoption to the full Council. Councilor Knowles noted the largest contract item were the Skyview Terraces project previously approved by the Council.

Vote: All twelve Councilors present voted aye. The vote was unanimous and Resolution No. 91-1401A was adopted.

7.7 Resolution No. 91-1396, For the Purpose of Authorizing an Exemption to the Requirement of Competitive Bidding Pursuant to Metro Code 2.04.041, and Authorizing a Change Order to the Metro South Station Modifications

Motion: Councilor DeJardin moved, seconded by Councilor Wyers, for adoption of the resolution.

Councilor DeJardin said the change order was necessary because Household Hazardous Waste (HHW) Stations were required by state law after the contract had been procured. He reviewed the Committee's discussion on the change order process in lieu of competitive bidding.

Councilor McFarland noted she voted aye on the resolution at the Committee level, but reserved her right at that time to vote nay at the Council level. She said she voted favorably at Committee because of the 10 percent savings in contractor set-up since the contractor was already on-site and because of the Department of Environmental Quality's mandate to build HHW depots. She announced she would change her vote because Solid Waste staff had known for 15 months about DEQ's mandate. She said the project should be put out to bid.

Councilor Wyers said she would support the resolution although she voted against it at the Committee level.

Councilor Van Bergen said the 10 percent set-up savings were not relevant because the 10 percent could also be saved via a competitive bidding process. He asked about Metro South Station previous bidding history for construction. Councilor Wyers said she was comfortable with construction activity at Metro South Station. Councilor Van Bergen asked if HHW depots were required for all current and future transfer facilities. Karla Forsythe, Council Analyst, said provision had been made for a HHW depot in Washington County. Councilor Wyers asked if each facility site would have storage for Jack Gray Transport, Inc. (JGT) trailers. Councilor McLain said there should be general criteria and rules, but that specific projects had to be assessed individually as well. Councilor McLain expressed support for the resolution. Councilor Gardner said the bidding process created lower prices for services and noted the new Marion County transport bid was lower than that of the

existing contractor. He asked what criteria was used to ascertain when a bid was too high. He said estimated savings from the change order should also be compared to accrued savings from the elimination of HHW days. He expressed disappointment Metro missed the deadline to have a HHW depot on-line and said a permit in hand did not mean substantial compliance. He said if Metro had already missed the deadline, the contract should be put out to bid. Councilor Hansen said the change order would get the depot on-line faster.

Councilor Knowles asked if 1989 state legislative mandates applied specifically to Metro. Jim Watkins, Engineering & Analysis Manager, said they did. Councilor Knowles asked if staff had tracked legislation as it progressed. Councilor DeJardin noted Metro had already adopted the FY 1989-90 Budget. The Council discussed a supplemental budget and the need for detailed specifications. Councilor Collier asked staff if they asked for policy input before the DEQ deadline passed. Mr. Watkins said staff did not.

Councilor Devlin asked when a HHW depot would be available at Metro Central Station and when a mobile HHW station would be available and if the mobile station would be available to some areas outside the region.

Councilor Knowles said such procedures should be looked at on a broader basis and expressed discomfort with this particular contract. Bob Martin, Director of Solid Waste, said state legislation directed Metro to build such HHW depots and staff thought transfer station facilities were the logical sites. He said staff submitted concept papers in early 1990 and then had to coordinate with construction and/or modification of transfer facilities such as Metro Central and Metro South Stations. He said HHW depot construction activity could not have taken place any sooner than staff had planned. He said this strategy was presented to the Solid Waste Committee in early 1990 and staff had not wanted to encumber Metro Central construction with provision for a HHW depot. He said a HHW depot could be built at Metro West, a mobile station could be built, or another alternative could be utilized.

Councilor McLain said two issues were under consideration. She said one issue was the process used by staff and the second were the specific issues germane to the legislation before the Council. She said those issues should be separate when the Council voted on the resolution.

Vote: Councilors Bauer, Buchanan, Devlin, DeJardin, Hansen, McLain and Wyers voted aye. Councilors Collier, Gardner, Knowles, McFarland and Van Bergen voted nay. The vote was 7 to 5 and Resolution No. 91-1396 was adopted.

Councilor Collier adjourned the Contract Review Board and reconvened the Council of the Metropolitan Service District.

6.3 Ordinance No. 91-384, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 90-3:Washington County (Continued)

Presiding Officer Collier announced the Council would receive public testimony on the ordinance at this time. No one present appeared to testify and the public hearing was closed.

Vote: All twelve Councilors present voted aye. The vote was unanimous and Ordinance No. 91-384 was adopted.

7.5 Resolution No. 91-1409, For the Purpose of Expressing Support for a Zoo Station in the Preferred Alternative for Westside LRT

Removed from the agenda.

7.6 Resolution No. 91-1399, For the Purpose of Authorizing a Multi-Year Intergovernmental Agreement with Clackamas County for the Coordination of Pilot Testing of Containers for Yard Debris Collection

Motion: Councilor Wyers moved, seconded by Councilor DeJardin, for adoption of the resolution.

Councilor Wyers gave the Solid Waste Committee's report and recommendations.

Councilor McFarland urged the Council to vote against the resolution because container testing included the use of a one-time, not recyclable, plastic bag. Councilor DeJardin noted that container testing would cover many options, including recyclable multi-use containers. He said staff would use the results from all containers used to prepare a base line analysis. Councilor Devlin said one community in his district chose rolling 90 gallon containers and said that option would be expensive to implement on a region-wide basis. Councilor Wyers discussed cost and convenience factors.

Vote: Councilors Collier, Devlin, DeJardin, Hansen, McLain, Van Bergen and Wyers voted aye. Councilor McFarland voted nay. Councilors Bauer, Buchanan and Knowles were absent. The vote was 7 to 1 and Resolution No. 91-1399 was adopted.

7.8 Resolution No. 91-1395A, For the Purpose of Providing the Assessment of Local Dues to Local Governments for FY 1991-92

Motion: Councilor Gardner moved, seconded by Councilor Wyers, for adoption of the resolution.

Councilor Gardner gave the Transportation and Planning Committee's report and recommendations. Councilor Gardner noted an inaccurate Resolution No. 91-1395 was distributed at the Joint Policy Advisory Committee on Transportation (JPACT) meeting February 14, 1991. He said at that meeting, Councilor Devlin moved to adopt a substitute resolution with a governmental dues rate set at \$.43 rather \$.35. He said JPACT passed the \$.35 rate. He said it was generally misunderstood that the \$.35 rate was a goal Metro meant to achieve in the course of one year. He said Metro would move in increments over several years to achieve the lower rate. Councilor Knowles concurred with Councilor Gardner and said the resolution with the inaccurate rate had been widely distributed. Presiding Officer Collier said she did not advocate the resolution with the \$.35 rate and that the resolution with her name on it had been distributed without her knowledge or permission. Councilor Devlin said all five substantive committees should have reviewed the resolution before it went to JPACT because of potential effects for the entire agency. He said Metro had authority over local government dues for two more years. He said whether Metro renewed that authority in 1992 would depend on whether the \$.35 rate had been achieved by that time. He noted the Council Transportation and Planning Committee was not advisory to JPACT, but that JPACT was advisory to the Transportation and Planning Committee. He did not know why the resolution was not sent to the Transportation and Planning Committee before it was reviewed by JPACT. Councilor Devlin said as long as Metro assessed the government dues, the dues were appropriate because of the services received by local governments from Metro and also because of federal matching funds that could not be obtained otherwise. Councilor Van Bergen noted the assurance that a rate of \$.35 would be charged was made by one Councilor no longer with the Council and that promise did not represent the Council's decision as a whole. He said the dues were Metro's only source of unobligated funds to be used for elections and other expenses. He said setting the local government dues was a major policy decision and said Metro was wrong not to set the rate at \$.51.

Motion to Amend Main Motion: Councilor Van Bergen moved, seconded by Councilor McFarland, to set the local government dues rate at \$.51.

The Council discussed the motion to amend.

Vote: Councilors Buchanan, DeJardin, McFarland and Van Bergen voted aye. Councilors Collier, Bauer, Devlin, Gardner, Hansen, Knowles, McLain and Wyers voted nay. The vote was 4 to 8 and the motion to amend failed.

Presiding Officer Collier said she did not think local governments should be assessed the rate at all simply because Metro would then have more freedom to make decisions, but was aware that Metro could use the funding.

METRO COUNCIL
February 28, 1991
Page 11

Vote on Main Motion: Councilors Collier, Bauer, Buchanan, Devlin, DeJardin, Gardner, Hansen, Knowles, McLain and Wyers voted aye. Councilors McFarland and Van Bergen voted nay. The vote was 10 to 2 and Resolution No. 91-1395A was adopted.

8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

8.1 Regional Facilities Committee Report

Councilor Knowles noted the Public Policy Advisory Committee for Regional, Convention, Trade, Performing Arts and Spectator Facilities had established five subcommittees including the Finance, Dome, Arena, Portland Center for the Performing Arts, and Convention/Expo Center Subcommittees to study various regional recreational facility alternatives. He said the Finance Subcommittee would receive reports from the four other subcommittees and then develop funding recommendations. Councilor Bauer said the Council should have full input on the recommendations received.

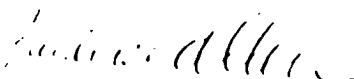
Councilor Van Bergen noted the new Solid Waste rates would increase 18 or 19 percent. He expressed concern that if the solid waste rate ordinance had to be adopted to take effect by July 1, tight time lines would be in effect and hoped the increases reflected the budget. He said it was critical to have accurate revenue forecasts during the budget process.

Councilor Wyers said the Solid Waste Committee would determine when the rates should be set for next year's rate setting process.

Councilor Gardner noted the Transportation and Planning Committee would hold a special meeting March 6 on the Westside LRT. He said the Committee would look at alignment issues, downtown Beaverton, widening the Canyon, connecting with existing LRT and said there was strong support for a stop at the Zoo. He said a final decision would be made in early April and said a tight timeline was involved to qualify for 75 percent in federal funding.

Presiding Officer Collier adjourned the meeting at 7:50 p.m.

Respectfully submitted,



Paulette Allen
Clerk of the Council