

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

March 14, 1991

Council Chamber

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

Councilors Absent: Tom DeJardin and Susan McLain

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. 5.3, Ordinance No. 91-392, Amending Ordinance No. 90-340A Revising the FY 90-91 Budget and Appropriations Schedule for the Purpose of Funding the Charter Commission had been added to the agenda. Presiding Officer Collier announced Agenda Item No. 7.4, Resolution No. 91-1388A would be considered before Agenda Item No. 7.1 but that public testimony on the resolution would be taken at 7:15 at the scheduled agenda time.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Executive Officer Cusma noted the Intergovernmental Affairs Division of the American Planning Association had given an award to Metro. She said Mary Kihl, Intergovernmental Affairs Division Chair in the notification letter to Metro of the award stated, "The concept of a directly elected regional government effectively serving the changing planning needs of three counties and 24 cities is clearly a model that deserves accolades."

Executive Officer Cusma presented the Proposed Budget FY 1991-92 document.

4. CONSENT AGENDA

4.1 Minutes of January 24, 1991

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

Vote: Councilors Bauer, Buchanan, Devlin, Gardner, Hansen, McFarland, Van Bergen and Collier voted aye. Councilors DeJardin, Knowles, McLain and Wyers were absent. The vote was unanimous and the Consent Agenda was adopted.

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 91-390, For the Purpose of Adopting the Annual Budget for Fiscal Year 1991-92, Making Appropriations and Levying Ad Valorem Taxes

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

Presiding Officer Collier referred Ordinance No. 91-390 to the Finance Committee for consideration.

5.2 Ordinance No. 91-389, For the Purpose of Exempting the Oregon Convention Center Grand Opening from the Provisions of Metro Code Chapter 7.01 Excise Tax

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

Presiding Officer Collier referred Ordinance No. 91-389 to the Finance Committee for consideration

5.3 Ordinance No. 91-392, Amending Ordinance No. 90-340A Revising the FY 1990-91 Budget & Appropriations Schedule for the Purpose of Funding the Charter Commission

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

Presiding Officer Collier referred Ordinance No. 91-392 to the Finance and Governmental Affairs Committees for consideration.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 91-388, For the Purpose of Amending Metro Code Chapter 5.05, Regulating the Flow of Solid Waste Originating Within the Boundaries of the Metropolitan Service District (Public Hearing)

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

Presiding Officer Collier announced the first reading of the ordinance was held on February 28, 1991. She announced the ordinance was referred to the Solid Waste Committee which conducted a hearing on the ordinance on March 5. She said the Solid Waste Committee recommended Ordinance No. 91-388 for adoption on that date.

Motion: Councilor McFarland moved, seconded by Councilor Devlin, for adoption of Ordinance No. 91-388.

Councilor McFarland gave the Solid Waste Committee's report and recommendations. She said the ordinance would set priorities for the Solid Waste Director to follow when issuing an order directing haulers to use a facility the hauler would prefer not to use. She said the ordinance added language to the Metro Code which established a process for haulers to request reconsideration of required use orders, and also permitted gatehouse employees to enforce the orders by turning vehicles away and redirecting them to the proper facility. Councilor McFarland noted Merle Irvine, Wastech, Inc. vice president, asked the Solid Waste Committee about biological wastes appropriate for disposal at the Riedel Composter facility. She said it was stated for the record at the March 5 Committee meeting that nothing would interfere with the flow of food wastes to the Composter facility. She said haulers who objected to their assigned routes could file an appeal with the Executive Officer and if that process was not satisfactory to them, the contested case process could be utilized.

Presiding Officer Collier opened the public hearing.

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

Councilor Knowles asked if the ordinance would give the Solid Waste Director the authority to direct haulers to use different facilities in the case of undesirable arterials. Mr. Martin said routing would be based on haulers' time and distance to travel to the various facilities. Councilor McFarland said routing would be used in case one facility was over-utilized and another was under-utilized. Mr. Martin said staff's primary purpose was to ensure facility functions were fulfilled. Councilor Knowles said Metro had made commitments to concerned communities and had registered concerns with regard to the Riedel Composter facility. He expressed reluctance to authorize staff to engage in flow control without regard for traffic patterns. He said a hauler could tell staff they had no authority to direct flow in certain areas. Councilor McFarland said those concerns would fall under health, well-fare and well-being standards and disputes would initially be under the Executive Officer's jurisdiction and then the Council's. Councilor Bauer said such disputes were administrative in nature and should fall under the Executive Officer's authority. Councilor McFarland said Metro's flow control direction would not interfere with current traffic patterns. Councilor Bauer asked if appellants were required to file specific findings of error. Councilor McFarland stated the ordinance adequately dealt with that issue. Councilor Gardner noted the Solid Waste Committee did discuss such standards and determined Council review was limited to exceptional circumstances or if flow control direction caused extreme hardship to a hauler. He said the Committee felt the limited set of circumstances for Council review was defined. Councilor Devlin concurred with Councilor Bauer, but said since flow control was a relatively new concept, it could be amended at a later date if problems arose. Councilor McFarland asked Legal Counsel to clarify the issues.

Todd Sadlo, Legal Counsel, said the purpose of the ordinance was not to circumvent the Council's authority in such circumstances, but to insulate the Council from every petty occurrence that might occur. He said such disputes could first be handled administratively. Councilor Knowles said an amendment at this time might not be definitive enough. He said he would vote nay at this time, but preferred to refer the ordinance back to the Solid Waste Committee for refinement. Councilor McFarland said the ordinance addressed all concerns expressed at this meeting and that the ordinance if amended, should be amended by the Solid Waste Committee. Councilor Devlin suggested enacting the ordinance as soon as possible and then introducing another ordinance to amend the Metro Code.

Vote: Councilors Bauer, Buchanan, Devlin, Gardner, Hansen, McFarland, Van Bergen, Wyers and Collier voted aye. Councilor Knowles voted nay. Councilors DeJardin and McLain were absent. The vote was 9 to 1 and Ordinance No. 91-388 was adopted.

6.2 Ordinance No. 91-370A, An Ordinance Amending Ordinance No. 91-340A Revising the FY 1990-91 Budget and Appropriations Schedule to for the Purpose of Adopting a Supplemental Budget and Creating the Smith and Bybee Lakes Trust Fund (Public Hearing)

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 November 29, 1990 and referred to the Finance Committee which also considered Resolution No. 90-1347, For the Purpose of Approving a Fiscal Year 1990-91 Supplemental Budget and Transmitting the Approved Budget to the Tax Supervising and Conservation Commission (TSCC). She said Resolution No. 90-1347 was a companion measure to the budget ordinance and was adopted by the Council on November 29, 1990. She said the TSCC considered the supplemental budget on February 13 and notified Metro on February 19 they had certified the supplemental budget. The Finance Committee conducted a public hearing and considered Ordinance No. 91-370A on March 7, 1991.

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

Councilor Hansen gave the Finance Committee's report and recommendations. She said the ordinance allocated the funds to establish the Smith and Bybee Lakes Trust Fund to begin rehabilitation of wetlands adjacent to the St. Johns Landfill. She said the ordinance also defined the costs of acquiring the Sears Building. She said rehabilitation of the wetlands area would create a natural parks area that eventually would be equal or superior to similar parks.

Presiding Officer Collier opened the public hearing.

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

Vote: All ten Councilors present voted aye. Councilors DeJardin and McLain were absent. The vote was unanimous and Ordinance No. 91-370A was adopted.

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

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 28, 1991 and was referred to the Finance Committee which considered the ordinance on March 7 and recommended the ordinance for Council adoption dependent on the Regional Facilities Committee's positive recommendation of the ordinance. The Regional Facilities Committee recommended the ordinance for adoption on March 12.

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

Councilor Buchanan gave the Finance Committee's report and recommendations. He said the purpose of the ordinance was to provide options for the Metropolitan Exposition-Recreation Commission (MERC) regarding the possible acquisition of the Hanna property at the corner of N. Williams and N.E. Hassalo near the Memorial Coliseum. He said MERC adopted a resolution to amend the Spectator Facility Operating Fund to transfer funds for the initial phase of the acquisition and asked that the Council proceed with the ordinance which would transfer funds from Contingency to Materials & Services and Capital Outlay to fund back taxes and initial renovation of facilities.

Presiding Officer Collier opened the public hearing.

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

The Council asked MERC Commissioner Dick Waker to answer questions about the ordinance. Commissioner Waker said the property had been appraised at \$1.6 million and was a good buy. The Council and Commissioner Waker discussed whether the property would be MERC or City property. Commissioner Waker said ownership depended on the ultimate outcome of the consolidation agreement. Councilor Van Bergen expressed concern about acquisition of the property when MERC was running out of operating funds. He said an alternative funding source had to be obtained because the Exposition-Recreation Commission reserve fund was running out. Commissioner Waker said MERC had to assess the facilities, new arena issues, and possible alternate use for the Memorial Coliseum. He said currently the deficit was large, but in terms of dollar amounts, not

enormous. He said if funding issues were presented to the public properly, there would be no difficulty in obtaining alternative resource funding. Councilor Van Bergen stated he did not want to find the Council in a default position. Commissioner Waker said the Council would have the opportunity to review funding issues again, especially through the budget process. The Council and Commissioner Waker discussed the issues further including Hanna property environmental clean-up issues since the property has three fuel tanks on-site. Councilor Gardner said he expressed concern at the Committee level about ultimate ownership of the Hanna property. He said it was essential to be able to purchase property and agreed with Commissioner Waker on the consolidation agreement. He said he would like all future purchases to be made in Metro's name and not the City's. He noted to buy property, a budget amendment would be required.

7. RESOLUTIONS

7.4 Resolution No. 91-1388A, For the Purpose of Endorsing Principles Associated with DEQ's Comprehensive Emissions Fee Proposal

Main Motion: Councilor Bauer moved, seconded by Councilor Wyers, for adoption of Resolution No. 91-1388A.

Councilor Bauer gave the Transportation and Planning Committee's report and recommendations. He explained amendments made at Committee, noted the Governmental Affairs Committee recommended the resolution be adopted, and explained discussion at the Committee level.

Councilor Knowles (Joint Policy Advisory Committee on Transportation (JPACT) chair), said the resolution was defeated at JPACT, referred back to the Transportation Policy Advisory Committee (TPAC), and then to the Council Transportation and Planning Committee which amended the resolution at its February 26 meeting. He said if the resolution were substantively amended it should be referred back to JPACT.

Motion to Amend: Councilor Knowles moved, seconded by Councilor Gardner, to amend Resolution No. 91-1388A by deletion of Section 7 language: "Limitations on the use of motor vehicle fee alternatives due to restrictions should the Oregon Constitution be changed."

Under the same amendment, references in the resolution to "Bi-State Committee" were changed to "Bi-State Policy Advisory Committee"

Councilor Bauer supported the motion to amend and noted the limitations issues could be addressed through a separate resolution. Councilor Gardner said the deletion shifted attention to the issue that Oregon did not allow gas or vehicle taxes to be used for anything but highway improvements and did not allow for multi-modal improvements.

Councilor Van Bergen objected to the first three WHEREAS sections of the resolution because they contained arguable language and said the fourth WHEREAS advocated a sin tax. He said the rest of the resolution was inappropriate.

Vote on Motion to Amend: Councilors Bauer, Buchanan, Devlin, Gardner, Hansen, Knowles, McFarland, Wyers and Collier voted aye. Councilor Van Bergen voted nay. Councilors DeJardin and McLain were absent. The vote was 9 to 1 and the motion to amend passed.

Vote on Main Motion as Amended: Councilors Bauer, Buchanan, Devlin, Gardner, Hansen, Knowles, McFarland, Wyers and Collier voted aye. Councilor Van Bergen voted nay. Councilors DeJardin and McLain were absent. The vote was 9 to 1 and Resolution No. 91-1388A was adopted as amended.

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

7.1 Resolution No. 91-1404, For the Purpose of Authorizing a Sole Source Contract

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

Councilor Van Bergen gave the Transportation and Planning Committee's report and recommendations. He explained the Transportation Department's need for a certain kind of software obtainable only in Holland for an approximate cost of \$3,500 to \$4,500.

Vote: All nine Councilors present voted aye. Councilors DeJardin, Knowles and McLain were absent. The vote was unanimous and Resolution No. 91-1404 was adopted.

7.2 Resolution No. 91-1411, For the Purpose of Authorizing an Exemption to the Competitive Procurement Procedures of Metro Code 2.04.053 and Authorizing a Change Order to the Design Services Agreement with Parametrix, Inc.

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

Councilor Gardner gave the Solid Waste Committee's report and recommendations. He said the current contractor would provide details on soil conditions and a soil monitoring plan. He said staff decided to have construction associated with landfill closure done via annual contracts for improved economic value and said this change order asked Parametrix, Inc. to design a construction sequencing plan. He said they would also provide assistance for recovery of methane gas at the landfill. He said the Solid Waste Committee discussed the use of change orders rather than putting new contracts out for bid. Councilor Gardner

said this project presented a refinement of previous work, was not new work, and said the dollar amount involved was less than if the project were put out to bid. He said the Committee expressed a preference for new bids for large contracts.

Councilor McFarland expressed concern about the number of contracts amended for additional work without utilizing the bid process and expressed her reluctance to vote aye on this resolution. She asked if the public was best served by extending or modifying contracts. She said the contract before the Council was different based on the reasons given by Councilor Gardner, but said all the reasons were rationalized as well. Councilor Van Bergen concurred with Councilor McFarland. He asked if staff had responded to a letter from George Ward, consultant, which proposed a soil conditioning project at the St. Johns Landfill. Councilor Wyers asked Karla Forsythe, Council Analyst, to call Mr. Ward to discuss the status of his project.

Vote: All ten Councilors present voted aye. Councilors DeJardin and McLain were absent. The vote was unanimous and Resolution No. 91-1411 was adopted.

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

7.3 Resolution No. 91-1403, For the Purpose of Demonstrating Support for Amendment of the Oregon Revised Statutes, Chapter 197, Pertaining to Acknowledgement and Periodic Review of Regional Objectives

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. He explained the resolution directed staff to work on amendment of state statutes so that Oregon could determine if metropolitan area land use planning goals and objectives were consistent with state land use goals and objectives. He said the process would be similar to periodic review used now for comprehensive land use plans.

Vote: All ten Councilors present voted aye. Councilors DeJardin and McLain were absent. The vote was unanimous and Resolution No. 91-1403 was adopted.

7.5 Resolution No. 91-1412A, For the Purpose of Establishing the Metro Central Station Community Enhancement Advisory Committee

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

Councilor Hansen gave the Solid Waste Committee's report and recommendations. She explained the resolution would create the Metro Central Station Community Enhancement Advisory Committee which would

develop criteria for the permanent committee. Several Councilors noted the process was progressing smoothly. Councilor Hansen complimented Judith Mandt, Assistant to the Director of Solid Waste, and Ms. Forsythe for their advance work on the committee's behalf. Councilor Hansen noted enhancement committees were one of the few ways in which government could directly work with communities.

Vote: All nine Councilors present voted aye. Councilors Bauer, DeJardin and McLain were absent. The vote was unanimous and Resolution No. 91-1412A was adopted.

7.6 Resolution No. 91-1288, For the Purpose of Granting a Franchise to K.B. Recycling, Inc. for the Purpose of Operating a Solid Waste Facility

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

Councilor Wyers gave the Solid Waste Committee's report and recommendations. She said the franchise had been requested because K.B. Recycling, a buy-back center, would like to add a pick line for loads which were 70 percent recyclable. She said this franchise would satisfy provisions of the Environmental Quality Commission (EQC) Stipulated Order.

Vote: All nine Councilors present voted aye. Councilors DeJardin, Knowles and McLain were absent. The vote was unanimous and Resolution No. 91-1288 was adopted.

7.7 Resolution No. 91-1409A, For the Purpose of Expressing Support for a Zoo/OMSI/World Forestry Center Station in the Preferred Alternative for Westside LRT

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

Councilor Bauer gave the Regional Facilities Committee report and recommendations. He said the Committee felt unanimously the station was merited because of the public's future long-term public use and staff's projections of use. Councilor Knowles noted Zoo Director Sherry Sheng's efforts to obtain the Zoo station. Councilor Van Bergen expressed concern about the proposed long-tunnel option and a possible \$25 million in expenditure by Metro. He said if the long tunnel became the preferred option, he would not vote for it. Councilor Wyers supported the Zoo station and noted the successful use of a similar station at the San Diego Zoo. Councilor Devlin said he was hopeful the Steering Committee and the Tri-Met Board of Directors would take a long-term view of the project as a whole.

Vote: All ten Councilors present voted aye. Councilors DeJardin and McLain were absent. The vote was unanimous and Resolution No. 91-1409A was adopted.

7.8 Resolution No. 91-1416A, For the Purpose of Establishing a Process for Reapportioning Metro Council Subdistricts

Main Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Resolution No. 91-1416A.

Councilor Devlin gave the Governmental Affairs Committee's report and recommendations. Councilor Devlin explained committee discussion and amendments and census issues.

Motion to Amend: Councilor Devlin moved, seconded by Councilor Hansen, to amend Resolution No. 91-1416A, Exhibit A on page 1 as follows (additions underlined and deletions bracketed):

"4. The following timeline shall be observed in preparing and adopting a reapportionment plan:

March 15 - April 11: Councilor interviews

April 3 -7: Public Hearing(s) (as specified in #1 above)

April 4: [Public Hearing (as specified in #1 above)]
Staff presentation on census results.

Vote on Motion to Amend: All ten Councilors present voted aye. Councilors DeJardin and McLain were absent. The vote was unanimous and the motion passed.

Vote on Main Motion as Amended: All ten Councilors present voted aye. Councilors DeJardin and McLain were absent. The vote was unanimous and Resolution No. 91-1416A was adopted.

7.9 Resolution No. 91-1413A, For the Purpose of Adopting an Amended Application to the Public Employment Retirement System

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

Councilor Devlin gave the Finance Committee's report and recommendations. He explained the resolution resulted from the proposed Metro/Tri-Met merger in fall of 1990 and other issues related to Tri-Met employees and PERS. He said Metro's PERS application was approved by the Employees Retirement Board staff, but not by the Tri-Met Board of Directors. He said the District's application was withdrawn on November 20, 1990 for clarification on the acquisition of Tri-Met employees and the issue of disqualifications of current Metro retirement plans. Councilor Devlin explained the amendments made to the resolution to address these issues.

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Vote: All ten Councilors voted aye. Councilors DeJardin and McLain were absent. The vote was unanimous and Resolution No. 91-1413A was adopted.

B. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor Knowles discussed possible Metro Code amendments on 1 $\frac{1}{2}$ for Art criteria for solid waste facilities. Councilor Devlin noted the Governmental Affairs Committee (State Legislature) moved SB 241 from "monitor" to "support" and noted the 25 day time for appointments to the Charter Commission. Presiding Officer Collier discussed the March 23 Metro Council retreat. Councilor Wyers discussed linking solid waste rate setting with the budget process.

Presiding Officer Collier adjourned the meeting at 7:39 p.m.

Respectfully submitted,



Paulette Allen
Clerk of the Council