

MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

May 28, 1992

Council Chamber

**Councilors Present:** Presiding Officer Jim Gardner, Larry Bauer, Roger Buchanan, Tanya Collier, Richard Devlin, Ed Gronke, Sandi Hansen, Ruth McFarland, Susan McLain, George Van Bergen and Ed Washington

**Councilors Excused:** Deputy Presiding Officer Judy Wyers

**Also Present:** Executive Officer Rena Cusma

Presiding Officer Gardner called the regular meeting to order at 5:40 p.m.

**1. INTRODUCTIONS**

None.

**2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS**

Councilor Washington noted Ed Bartholomew, elementary school student, was present to observe the meeting and commended Mr. Bartholomew on his interest in governmental affairs.

**3. EXECUTIVE OFFICER COMMUNICATIONS**

None.

**4. CONSENT AGENDA**

**4.1 Consideration of April 23, 1992 Minutes**

**4.2 Resolution No. 92-1623, For the Purpose of Authorizing Issuance of a Request for Proposals for Bond Counsel Services for the Period July 1, 1992 to June 30, 1995**

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

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

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 92-461, An Ordinance Amending Metro Ordinance No. 92-444A, for Contested Case No. 91-2: Forest Park (Public Hearing)

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

Presiding Officer Gardner announced the Council would consider Ordinance No. 92-461 in its capacity as a quasi-judicial decision-maker.

Ethan Seltzer, Regional Planning Supervisor, gave staff's report and said the ordinance would facilitate a land trade in Forest Park. He referred to Ordinance No. 92-444A, An Ordinance Amending the Metro Urban Growth Boundary (UGB) for Contested Case No. 91-2: Forest Park, adopted by the Council on February 27, 1992. He said the Council applied a condition to the trade stipulating that certain properties had to be conveyed to the City of Portland in a certain form within 90 days after Ordinance No. 92-444A was adopted. He said the City of Portland and HGW, Inc. worked to complete the transaction and believed the transaction could be completed, but said they needed more time in addition to the 90 days. He said Ordinance No. 92-461 would amend Ordinance No. 92-444A to allow that additional time. He distributed Ordinance No. 92-461A which he said also changed the word "donation" to "acquisition." He said the target date for the transaction had been extended to June 1, 1993, and required all parties involved to report to the Council on the status of the case at that time if it was not satisfactorily completed. Mr. Seltzer said the conditions for a satisfactory trade had not been changed, but gave the parties involved addition time to work on the transaction.

Councilor McFarland noted staff's report said changing "donation" to "acquisition" was meant to keep Metro from setting a precedent. Mr. Seltzer said language was changed because the original ordinance implied the land would be donated to the City of Portland. He said the City would actually acquire the land either through purchase and/or condemnation. He said "donation" did not accurately describe the process the City would go through.

Councilor Collier said there was a huge difference between "donation" and "condemnation." Mr. Seltzer agreed, but said the case represented a relationship between the City and HGW, Inc. He said representatives of both parties were present to explain their positions.

Presiding Officer Gardner opened the public hearing.

Harry Auerbach, City of Portland deputy city attorney, said when the City originally developed the plan for acquisition, it was with the intent that the property owner, HGW, Inc., would negotiate and purchase from the third party the property that was the inholding in Forest Park, and would then donate the property to the City. He said that was why the word "donation" was originally incorporated into the ordinance. He said HGW, Inc.'s representative was present and could describe HGW, Inc.'s attempts to negotiate a purchase with the property owner. He said an impasse had been reached between HGW, Inc. and the property owner and HGW, Inc. had not been able to consummate the transaction to date. He said the City and HGW, Inc. developed an agreement in which HGW, Inc. would provide the funds with which the City could acquire the property. He said if that acquisition proved unsuccessful, the City could obtain it by eminent domain. He said the City and HGW, Inc. would work on that agreement and planned to have that and the authorization to proceed on the City's part before the City Council in the next week or so. He said additional time had been requested because of possible litigation and to give the City time to establish a fair price for the property.

Councilor McFarland noted staff's report stated "The request of the City represents a request for an amendment to a condition, something that our Code is silent on. Therefore, in order to adequately prepare the way for Council consideration of the request in a manner that would not prejudice future Council actions, Metro staff advised the City to submit a second letter, received on May 18, 1992, requesting that the 90-day "clock" be stopped in order to allow the Council sufficient time to consider the request." Mr. Seltzer explained Metro had attached conditions to UGB cases sparingly in the past because Metro had limited ability to enforce conditions. He said Metro had imposed conditions in the past and cited examples. He said the Metro Code did not currently describe how conditions should be applied to UGB amendments and said staff would submit an ordinance to amend Code language on UGB amendments. He said language would be included on conditions, when they might be applied and how those conditions might be amended. He said not previously considered was how a condition could be amended, and said in this case, the time frame must be amended.

Richard Whitman, attorney for HGW, Inc., said HGW, Inc. came to Metro with this case as a last resort. He said HGW, Inc. representatives had held over 20 meetings with the Ramsey family, owners of the parcel in question, over the last one and one half years to try to clear the property between the two parties in a

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voluntary manner. He said HGW, Inc. still hoped to do that working through the City. He said the two parties were far apart on price agreement. He said the last offer made was eight times the appraised value of the property.

Jim Siulin, City of Portland Bureau of Parks, said the merits of the locational UGB remained the same and said Ordinance No. 92-461A simply asked for more time.

John Sherman, president, Friends of Forest Park, said Friends of Forest Park began when Forest Park was created in 1950 and said Friends of Forest Park had negotiated with the Ramsey family since the late 1940s to acquire the parcel in question. He said the property was critical to the Park because it was located in the heart of Forest Park. He said the City had been able to protect the property, but said the parcel should properly be under public ownership.

Councilor Gronke asked how staff determined June 1, 1993, to be the deadline for further negotiations. Mr. Seltzer said the City requested one year from this approximate date to complete the transaction.

Councilor Collier asked if representatives of the Ramsey family were present to testify on the ordinance. Mr. Seltzer said no Ramsey family representatives were present, but that all parties to the case had been notified of this action and of the Council's previous action taken in February. He said the Ramsey family had been notified they were eligible to become parties to this case, but never became participants in the proceeding. He said Metro staff had received no communications from the Ramsey family.

Councilor Van Bergen said when he first came on board the Council, the Council considered a case similar to this one. He said he believed the Council should adopt or not adopt a case, but that it should not adopt something that might happen in the future. He said a case such as this could lead to all sorts of variables. He requested General Counsel Dan Cooper submit a written opinion on whether the Council had the statutory or ordinance authority to condition a UGB amendment. He said otherwise, he would vote against this case at this time.

Councilor Collier did not mind voting to extend the case for negotiations, but objected to removing the word "donation." She asked for more information regarding the deletion and stated for the record that such a deletion would take away all impetus to negotiate if the City could go ahead and condemn anyway. She did not believe in taking citizens' personal property without compensating them fairly. She said she needed to know specific

facts such as how much the property in question was assessed for and how much the Ramsey family had been offered. She said property was often worth more than its appraisal value.

Councilor Devlin said it was for the City to decide if the property would be acquired either through donation or acquisition. He said without Ordinance No. 92-461A, the City could use its right of eminent domain if it believed the property in question was essential to Forest Park. He said eminent domain should be used sparingly, but believed there were justified circumstances under which to use it. He stated that along with eminent domain, property owners should be paid fair market value of their property.

Presiding Officer Gardner asked if there were any other persons present who wished to testify. No other persons appeared to testify and the public hearing was closed.

Presiding Officer Gardner announced the second reading of Ordinance No. 92-461A and vote was tentatively scheduled for the June 11 Council meeting.

## 7. NON-REFERRED RESOLUTIONS

Councilor Bauer noted Resolution Nos. 92-1611 and 92-1612 were originally scheduled for this Council agenda, but had not been scheduled on this agenda as planned.

Motion to Suspend the Rules: Councilor Bauer moved, seconded by Councilor Collier, to suspend the Council's rules to include on the agenda as Agenda Item Nos. 7.4 and 7.5, Resolution Nos. 92-1611 and 92-1612, relating to the procurement of transfer station services for Washington County.

Councilor Bauer explained the Washington County Solid Waste Committee had submitted and received approval for their solid waste plan and that Metro had begun a process to complete the regional solid waste system and that the agenda items added, if adopted, would further the process. He said the resolutions would not commit Metro to any final conclusion as to who would or would not own and/or operate the transfer facility(s), but would continue the public process to solicit for a franchise. He stated there was no reason not to proceed to secure such proposals.

Presiding Officer Gardner explained Resolution Nos. 92-1611 and 92-1612 were reviewed by the Council Solid Waste Committee which recommended them to the full Council for adoption. He said on

May 19, Primary Election day, there were two initiatives on the ballot in Yamhill County that dealt with the disposal of solid waste within Yamhill County that was generated outside of Yamhill County. He said those measures dealt with restricting or even preventing the disposal of such solid waste. He said the solid waste now processed by the Forest Grove Transfer Station was disposed of in Yamhill County. He said, after Council staff informed him that both ballot measures passed in Yamhill County and Legal Counsel advised him they were uncertain of what the measures' implications were and how they would be implemented, he decided to postpone Council consideration of the two resolutions because there were questions raised over what service area the Washington County transfer station would be able to serve. He said no items were removed from the Council agenda because they were not scheduled for this specific agenda. He referred to his memorandum to Bob Martin, Director of Solid Waste, requesting he review with the Solid Waste Committee what the ballot measures meant related to the costs of operating the Forest Grove Transfer Station and also what they meant for the area in which the new transfer station was designed to serve.

Vote: Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilor Wyers was absent. The vote was unanimous and the motion to suspend the rules passed.

## 7. NON-REFERRED RESOLUTIONS

### ADDITIONAL AGENDA ITEMS

#### 7.4 Resolution No. 92-1611, For the Purpose of Authorizing an Exemption to the Requirement of Competitive Bidding for Issuance of a Request for Franchise Applications for the Provision of Transfer and Material Recovery Facilities and Services for Eastern Washington County

Motion: Councilor Bauer moved, seconded by Councilor Devlin, for adoption of Resolution No. 92-1611.

Dan Cooper, General Counsel, explained Legal Counsel Todd Sadlo's memorandum dated May 28, 1992 "Yamhill County Initiatives Concerning the Operation of Riverbend Landfill." He said both initiatives adopted by Yamhill County voters dealt with allowing material into landfills in Yamhill County. He said both initiatives were in ordinance form because Yamhill County was not a home rule county and did not have a charter to amend. He said one initiative filed by an organization called Citizens Against Pollution (CAP) contained language that applied to the siting of

future landfills, the renewal of permits for existing landfills, and contained two limitations. He said one limitation stated a new landfill, or the expansion of an existing landfill, could not occur if the landfill would take waste from outside the county greater than 25 percent of the waste it would process from inside the county. He said the second limitation dealt with landfills located within 500 feet of the 100 year floodplain of a navigable river.

Mr. Cooper said the second adopted ordinance was filed by another organization sponsored by the Riverbend Landfill Company. He said that ordinance dealt with specific terms and conditions related to the renewal of a permit for the Riverbend Landfill which would expire in 2003, and provided for different standards for the acceptance of waste from outside the county than the first initiative, and defined terms contained in the first initiative.

In summary, Mr. Cooper said the first initiative's provisions limited applications to new landfills and the expansion of existing landfills, and a provision which stated the ordinance was not intended to limit any existing landfill from receiving volumes currently authorized by its permit, not the volumes of waste it may be receiving in reality. He said it had to be determined how much waste the current permit allowed the Riverbend Landfill to accept. He said Legal Counsel determined there was in all probability no such volume limits on the present operating limits for Riverbend Landfill. He said Legal Counsel concluded the only limit Riverbend Landfill should worry about was the provision in the ordinance drafted by the Riverbend Landfill Company which limited them to no more than 45 percent of their total solid waste volume being consumed by out-of-county waste. He said, based on the information Legal Counsel received on what that volume was, that that amount was much larger than what Metro currently sent or could send consistent with Metro's contract with Oregon Waste Systems, Inc. (OWS) that the Columbia Ridge Landfill receive 90 percent of Metro's landfillable waste. He did not believe the initiatives would have any immediate impact on the Forest Grove Transfer Station flow to Riverbend Landfill. He said it was possible a court could disagree with Legal Counsel's interpretation. He said one of the initiatives contained a provision that any Yamhill County citizen could file a lawsuit to enforce the former provision and that the county would have to pay the citizen's attorney's fees. He said the Board of Yamhill County Commissioners had via separate ordinance repealed that provision of that ordinance. He said whether that repeal was subject to another referendum was a separate issue. He said the County commissioners also passed a resolution stating their intent, when renewing the franchise for Riverbend Landfill,

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to limit out-of-county waste to 75,000 tons. He said there were many unanswered questions about the impact of the two initiatives, but said they did not contain any immediate ban on current volumes shipped by Metro.

Councilor Devlin noted Resolution No. 92-1611 was a procedural resolution granting an exemption and said the Council should hold its substantive discussion when considering Resolution No. 92-1612.

Councilor Hansen explained Resolution No. 92-1611 authorized an exemption to competitive bidding because Resolution No. 92-1612 requested franchise applicants to submit site-specific proposals and therefore proposers could not bid on the same site to produce competitive bids.

**Vote:** Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain and Washington voted aye. Councilors Van Bergen and Gardner voted nay. Councilor Wyers was absent. The vote was 9-2 in favor and Resolution No. 92-1611 was adopted.

**7.5 Resolution No. 92-1612, For the Purpose of Authorizing Issuance of a Request for Franchise Applications for the Provision of Transfer and Material Recovery Services for Eastern Washington County**

**Motion:** Councilor Bauer moved, seconded by Councilor Devlin, for adoption of Resolution No. 92-1612.

Presiding Officer Gardner opened a public hearing.

**Steve Larrance**, Washington County Commissioner, said he served as chair of the Washington County Solid Waste Systems Design Steering Committee for five years. He said the Steering Committee unanimously urged support of the resolution to begin work on the facility this year. He introduced members of the Steering Committee who were present.

Councilor McFarland asked Commissioner Larrance why work would begin this year given the existing time line. Commissioner Larrance said facility phases might not take as long as estimated and that the Steering Committee had hoped work would start this year.

Councilor Devlin said he testified before the Solid Waste Committee on the issue. He said Metro had dealt with the Washington County portion of the system for approximately 10



years. He said Metro adopted a plan for the western waste shed that included two service areas. He said the Washington County station should be on-line as soon as possible. He said possible questions about Yamhill County would be whether negotiations should be suspended between A.C. Trucking and OWS. He said the plan the Council adopted did not include the Forest Grove Transfer Station, but included the plan requirements for the western portion of the waste shed.

Councilor McFarland did not believe there was any reason to delay the process further.

Councilor McLain stated for the record her agreement with Councilors Devlin and McFarland. She said regardless of the history leading to the issues, the issues before the Council at this time were the pertinent issues to be considered at this time. She expressed support for the resolution and commended Presiding Officer Gardner for investigating the Yamhill County initiatives and their possible impact on Metro work. She said testimony and Council discussion indicated it was appropriate for the Council to go forward at this time.

Presiding Officer Gardner stated again why the resolutions had not been scheduled for this agenda so that the Solid Waste Committee would have the opportunity to receive Legal Counsel's opinion of the impact of the Yamhill County initiatives after the May 19 election.

Vote: Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilor Wyers was absent. The vote was unanimous and Resolution No. 92-1612 was adopted.

5. ORDINANCES, FIRST READINGS (Continued)

5.2 Ordinance No. 92-456, For the Purpose of Amending the Regional Solid Waste Management Plan to Incorporate the Household Hazardous Waste Management Plan and to Update Plan Policy 2.2

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

Presiding Officer Gardner announced Ordinance No. 92-456 had been referred to the Solid Waste Committee for consideration.

5.3 Ordinance No. 92-462, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Funding Increases in the Solid Waste Revenue Fund Operating Account and Modifications to the Rehabilitation and Enhancement Fund

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

Presiding Officer Gardner announced Ordinance No. 92-462 had been referred to the Finance Committee for consideration.

5.4 Ordinance No. 92-460, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Funding Unanticipated Costs for the Use of the Lexis System for Legal Research

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

Presiding Officer Gardner announced Ordinance No. 92-460 had been referred to the Finance Committee for consideration.

5.5 Ordinance No. 92-457, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Transferring Appropriations Within the Insurance Fund

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

Presiding Officer Gardner announced Ordinance No. 92-457 had been referred to the Finance Committee for consideration.

5.6 Ordinance No. 92-459, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Funding Upgrades and Enhancements to the Financial System and the Purchase of a High Capacity Tape Drive

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

Presiding Officer Gardner announced Ordinance No. 92-459 had been referred to the Finance Committee for consideration.

5.7 Ordinance No. 92-458, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Transferring Appropriations Within the Oregon Convention Center Operating Fund and Spectator Facilities Operating Fund for Increased Metro ERC Operations

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

Presiding Office Gardner announced Ordinance No. 92-458 had been referred to the Finance Committee.

5.8 Ordinance No. 92-463, An Ordinance Amending Ordinance No. 91-390A Revising the FY 1991-92 Budget and Appropriations Schedule for the Purpose of Transferring Appropriation Within the Council Department

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

Presiding Officer Gardner announced Ordinance No. 92-463 had been referred to the Finance Committee for consideration.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 92-453, For the Purpose of Granting a Franchise to Pemco, Inc. For the Purpose of Operating a Petroleum Contaminated Soil Processing Facility and Declaring an Emergency (Public Hearing)

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

Presiding Officer Gardner announced Ordinance No. 92-453 was first read on May 14 and referred to the Solid Waste Committee for consideration. The Solid Waste Committee considered the ordinance on May 21 and recommended it to the full Council for adoption.

Motion: Councilor McFarland moved, seconded by Councilor Hansen, for adoption of Ordinance No. 92-453.

Councilor McFarland gave the Solid Waste Committee's report and recommendations. She explained the franchise for Pemco, Inc. involved a mobile unit to deal with smaller units of material such as hydrocarbons.

Presiding Officer Gardner opened the public hearing. No persons appeared to testify and the public hearing was closed.

Vote: Councilors Buchanan, Collier, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Devlin and Wyers were absent. The vote was unanimous and Ordinance No. 92-453 was adopted.

6.2 Ordinance No. 92-454, For the Purpose of Granting a Franchise to Sonas Soil Resource Recovery of Oregon, Inc. For the Purpose of Operating a Petroleum Contaminated Soil Processing Facility and Declaring an Emergency (Public Hearing)

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

Presiding Officer Gardner announced Ordinance No. 92-454 was first read on May 14 and referred to the Solid Waste Committee for consideration. The Solid Waste Committee considered the ordinance on May 21 and recommended it to the full Council for adoption.

Motion: Councilor McFarland moved, seconded by Councilor Hansen, for adoption of Ordinance No. 92-454.

Councilor McFarland gave the Solid Waste Committee's report and recommendations. She explained the Committee received some testimony in opposition to the ordinance by Hydrocarbons, Inc. because both Hydrocarbons, Inc. and Sonas Soil were located within one block of each other and Hydrocarbons, Inc. did not believe there would be enough work for both businesses. She said Hydrocarbons, Inc. had applied for an expansion of their franchise to treat other types of waste. She said Metro still allowed surface aeration of hydrocarbons on an impermeable base. She did not prefer that method of treating waste. She said both companies would have the opportunity to deal with surface-contaminated soil and said there were limitations on soil treated with gasoline or diesel. Councilor McFarland said Metro needed both businesses with their different treatment techniques treating contaminated soil.

Presiding Officer Gardner opened the public hearing.

Bill Monahan, O'Donnell, Ramis, Crew & Corrigan, said he represented Sonas Soil Recovery and introduced Jeff Ward who he said was available to answer technical questions.

Councilor Gronke asked if Sonas Soil Recovery would process soil contaminated both above and under-ground.

Mr. Ward, operating manager for Sonas Soil Recovery, said dealt with below-ground tanks only at this time and said above-ground spills were still classified as hazardous waste. He said Sonas Soil Recovery had applied to the Department of Environmental Quality (DEQ) to change that hazardous waste rule in the future.

Councilor Van Bergen asked how many petroleum contaminated franchises Metro ultimately planned to issue. The Council briefly discussed the issues further.

Presiding Officer Gardner asked if any one else present wished to testify. No other persons appeared to testify and the public hearing was closed.

**Vote:** Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilor Wyers was absent. The vote was unanimous and Ordinance No. 92-454 was adopted.

**7. NON-REFERRED RESOLUTIONS (Continued)**

**7.1 Resolution No. 92-1624, For the Purpose of Proclaiming Tualatin River Discovery Day and Supporting Its Goals of Recreation and Preservation**

**Motion to Suspend the Rules:** Councilor Collier moved, seconded by Councilor Devlin, to suspend the Council's rules requiring resolutions be referred by Committee so that the Council as a whole could consider Resolution No. 92-1624.

**Vote on Motion to Suspend the Rules:** Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilor Wyers was absent. The vote was unanimous and the motion to suspend the rules passed.

**Motion:** Councilor Buchanan moved, seconded by Councilor Collier, for adoption of Resolution No. 92-1624.

Councilor Devlin explained a Tualatin River Discovery Day representative, April Olbrich, had previously asked the Council to express support for Tualatin River Discovery Day and its goals of recreation and preservation. He said the resolution supported the event this year to be held on June 27 and all future Tualatin River Discovery Days.

Vote: Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilor Wyers was absent. The vote was unanimous and Resolution No. 92-1624 was adopted.

7.3 Resolution No. 92-1628. For the Purposes of Establishing a Joint Work Plan Between Metro and Tri-Met to Study Merger Options

Presiding Officer Gardner noted that at the April 23 Council meeting, the Council unanimously adopted a motion by Councilor Devlin to the effect that the Council would not take action on Resolution No. 92-1613, to request that Executive Officer Cusma and Tom Walsh, Tri-Met general manager, return on this meeting date with a resolution containing a mutually-developed work plan and process for Metro and Tri-Met to examine merger-related issues. He said if the Council found merit in Resolution No. 92-1628, it would be referred to the Transportation & Planning Committee for further review.

Betsy Bergstein, Senior Management Analyst, said Exhibit A contained the work plan as submitted May 27 and Exhibit B contained changes submitted May 28, 1992.

Executive Officer Cusma said she had removed her name from the resolution because she had not had sufficient time to review it and for that reason had forwarded it to the Council without a recommendation.

Councilor Hansen asked how often Executive Officer Cusma and Mr. Walsh had met since April 23. Executive Officer Cusma said they met one or two days after the April 23 meeting, that Tri-Met and Metro staff members had communicated on various occasions, and that she, Presiding Officer Gardner, and Mr. Walsh met at length on May 27. Councilor Hansen asked if Council staff had had time to review the resolution. Councilor Hansen said the resolution did not appear to reference the issues discussed at the April 23 meeting, including the five questions on the financial impact of such a merger.

Ms. Bergstein said the financial questions were included in Task II of Exhibit A.

Mr. Walsh said the work plan proceeded from an assumption of an investigation of the myriad of regional land use and transportation responsibilities that both Metro and Tri-Met had; an examination of the appropriate structure for merger; a schedule and process for a phase-in of the process; and an

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analysis of all costs related to land use and transportation costs necessary over the next two decades. He said the work plan resulted from the concept developed at the April 23 meeting that a merger would be preferable and more effective than joint responsibilities. He noted his commitment at the April 23 meeting to ask the Charter Committee to reinstate Metro's ability to merge with Tri-Met and said he spoke to Hardy Myers, Charter Committee chair regarding that issue.

Dick Feeney, Tri-Met assistant general manager, noted the work plan formalized Metro's and Tri-Met's common bond of interest in land use and transportation during a period of cooperation and joint partnership over a three-year period.

Councilor McFarland said Mr. Walsh had stated the document would be a joint effort including Executive Officer Cusma and Presiding Officer Gardner. She said the resolution was a document presented by Tri-Met.

Mr. Walsh said Councilor McFarland was correct and explained during the four-week period in question, he was away on business for three weeks in Washington, D.C. and New York and returned May 27. He said Tri-Met staff worked on the plan during his absence.

Councilor McFarland said she wanted the Council to be involved in the process. Presiding Officer Gardner said he and Mr. Feeney had held two discussions on the work plan in addition to the May 27 meeting which also included Executive Officer Cusma to discuss the draft.

Councilor McLain said the work plan was more detailed and much more committed to a lengthy study than the study the Council originally envisioned. She said the Council primarily needed answers to financial questions to even decide if a merger was feasible. She said the work plan as submitted by Tri-Met was much more committed to a merger than the study previously proposed by the Council. She was not sure the focus of the study was the same as the one originally proposed by the Council. She said the Council discussed at the April 23 meeting the difference between information gathering and setting actual policy. She said there are different parts to such processes and that those parts should be performed in the right order. She said the Joint Policy Advisory Committee on Transportation (JPACT) should have an opportunity to comment on the work plan.

Mr. Walsh said three parts of the work plan were specific tasks taken from the Council's original RFP. Mr. Feeney said the work plan should be an exchange and acknowledge all the issues involved.

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Councilor Collier asked Mr. Feeney how the preamble - "It is in the long term public interests of the Portland metropolitan region that the governing boards of Tri-Met and Metro establish a common effort that focuses on benefits and opportunities of the close integration of transportation and land use activities" - related to merger issues.

Mr. Feeney said Metro and Tri-Met shared common interests in land use and Tri-Met and said it was sensible to define what those interests were.

Councilor Collier said the preamble was not out of context with the work plan, but said the work plan focussed on comprehensive land use and transportation issues which was not similar to looking at merger issues.

Mr. Walsh said the Tri-Met Board of Directors believed the issues should be reviewed comprehensively.

Councilor Collier said the study was scheduled to end in 1995 and asked how much it would cost. Mr. Feeney said they believed the issues merited thorough study and said some of the tasks could be completed earlier than projected. He said Tri-Met estimated the study would cost approximately \$600,000.

Councilor Collier said the Council's original RFP was for a \$40,000 financial impact study to determine whether or not Metro should pursue merger issues further. She said if the merger was not feasible, it would not be feasible to spend \$600,000. She said such funds were not available to Metro.

Councilor Collier asked Mr. Walsh what specifically had been done to reinstate Metro's marriage clause in the Metro Charter. Mr. Walsh said he had held two conversations with Mr. Myers and wrote him a letter which he distributed copies of to the Council. He said he would also formally appear before the Charter Committee to ask that it be reinstated.

Councilor Devlin said the work plan did not fulfill the Council's expectations. He said the Council suspended its study of merger issues in December 1990 until the UMTA full-funding agreement was in place. He said at the time, a list of issues were defined that had to be answered before Metro would consider the merger. He said Tri-Met's work plan was similar to Metro's goals at that time. He recommended Resolution No. 92-1628 be referred to the Governmental Affairs Committee for further study and work. He said Tri-Met's proposal did represent a step forward.



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Presiding Officer Gardner agreed the resolution should be referred to committee to hear from Transportation staff, Legal Counsel and Executive Officer Cusma for refinement.

Councilor Devlin said the resolution should also be referred to the Transportation & Planning Committee as well as JPACT.

Councilor Bauer said presentation of Tri-Met's work plan did not mean the \$40,000 financial study could not be undertaken. He said answers on financial impact would complement the larger study if the Council decided to pursue it. He said the first question to be answered was how much the merger would cost.

Main Motion: Councilor Collier moved, seconded by Councilor Buchanan, to adopt Resolution No. 92-1628.

Motion to Amend: Councilor Collier moved, seconded by Councilor Buchanan, to amend Resolution No. 92-1628 as follows (additions underlined and deletions bracketed):

WHEREAS, The Council of the Metropolitan Service District considered Resolution No. 92-1613 for consideration at the April 23, 1992 Council meeting; and

WHEREAS, Approval of Resolution No. 92-1613 ~~will~~ will have authorize[d] the issuance of an RFP for a financial impact study of a Tri-Met/Metro merger solely for the purpose of determining whether a merger will produce a financial benefit for the citizens, taxpayers and transit riders of the region, and does not imply that such a merger will be ordered; and

~~[WHEREAS, The issuance of an RFP to perform a financial impact study would not imply that such a merger would be ordered; and~~

~~WHEREAS, After receiving testimony from the General Manager of Tri-Met that issuance of an RFP to perform a financial impact study would seriously threaten Tri-Met's ability to gain a Full Funding Grant Agreement for the Westside Lightrail Project; and]~~

WHEREAS, The Council unanimously (12-0) passed a motion at its April 23, 1992 meeting to: delay action on Resolution No. 92-1613; direct Executive Officer Cusma to work with the Tri-Met General Manager to develop, in conjunction with Presiding Officer Gardner, a work plan for the two agencies to examine merger issues; bring forward that work plan at the May 28, 1992 Council meeting in resolution form, so that the resolution could be referred to the Council Governmental Affairs Committee for

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consideration; [~~and reschedule Resolution No. 92-1613 on the May 28, 1992 agenda for adoption if the work plan is not submitted,~~] and

WHEREAS, Tri-Met submitted a draft work plan which is attached to this resolution as Exhibit A; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District agrees to assign the draft work plan to the Governmental Affairs Committee for further deliberation on all merger issues.

(End of amendment.)

Councilor Hansen supported the amendment. She said tasks could be performed concurrently and said the work plan did not have to take three years to complete. She urged the Governmental Affairs Committee to remove work plan language stipulating a commission be appointed.

The Council discussed the issues further. Councilor Van Bergen asked Mr. Walsh the status of the UMTA full-funding agreement. Mr. Walsh said Tri-Met expected the agreement would be signed soon and said it was progressing well.

Vote on the Motion to Amend: Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilor Wyers was absent. The vote was unanimous and the motion to amend passed.

Vote on the Main Motion: Councilors Bauer, Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilor Wyers was absent. The vote was unanimous and Resolution No. 92-1628 was adopted as amended.

7.2 Resolution No. 92-1613, For the Purpose of Approving an RFP for a Financial Impact Study of a Tri-Met/Metro Merger

Motion: Councilor Collier moved, seconded by Councilor Buchanan, for adoption for Resolution No. 92-1613.

Councilor McLain compared the two studies before the Council. She said the Council had to determine what it wanted to do and how much it wanted to spend. She said it was appropriate for the Council to gather basic financial data before it embarked on the

larger study. She said both Metro and Tri-Met shared the same goal of wanting to do the best for the citizens of the region.

Councilor Gronke said the work plan submitted by Tri-Met was not the plan he had envisioned and said he was not unduly concerned about what the Tri-Met Board of Directors thought. He asked Mr. Walsh how the work plan would affect the UMTA full-funding agreement. Mr. Walsh said the agreement was progressing well, but said the proposed work plan could impact progress. He said Tri-Met was 30 to 40 days away from finalizing the agreement.

Councilor Hansen and Mr. Walsh discussed the full-funding agreement and how the proposed merger could affect the agreement. She objected to Mr. Walsh's inference that Metro's action to begin a study of merger issues would jeopardize the full-funding agreement. She said Metro was an elected government and the Tri-Met Board of Directors was not. She expressed disappointment that Mr. Walsh referred to Metro's ability to merge with Tri-Met as "a unilateral take-over" in his letter to Hardy Myers dated May 27, 1992. Mr. Walsh said he did not intend to offend the Council with that language and said he respected Metro's work on land use and transportation highly.

Councilor Bauer asked Mr. Walsh to continue to brief the Council on the status of the full-funding agreement. Mr. Walsh said he would.

Councilor Collier stated her intent to cooperate on merger issues and said referring Resolution No. 92-1628 to the Governmental Affairs Committee represented Council cooperation. She read the five financial questions contained in Resolution No. 92-1613 Exhibit A. She disagreed with Councilor Devlin's comment that Metro discontinued the merger study in 1990 because of financial constraints. She said Metro discontinued it because Tri-Met and other agencies lobbied Metro to drop it. She expressed disappointment that Mr. Walsh and Don McLave, Portland Chamber of Commerce president, did not pursue discussions with the Charter Committee on reinstating the marriage clause more vigorously.

Councilor Devlin said it was unnecessary to adopt Resolution No. 92-1613 since the Council had just adopted Resolution No. 92-1628. Councilor Devlin said most issues could be resolved within the next 30-40 days via work in the Governmental Affairs Committee.

Vote: Councilors Bauer, Buchanan, Collier, McFarland and Washington voted aye. Councilors Devlin, Gronke, Hansen, McLain, Van Bergen and Gardner voted nay. Councilor Wyers was absent. The vote was 5-6 against and the motion to adopt Resolution No. 92-1613 failed.

## 8. RESOLUTIONS

### 8.1 Resolution No. 92-1580A, A Resolution Adopting Bylaws to Establish the Metro Committee for Citizen Involvement (CCI)

Motion: Councilor McLain moved, seconded by Councilor Van Bergen, for adoption of Resolution No. 92-1580A.

Councilor McLain gave the Transportation & Planning Committee's report. She gave background history leading to development of the CCI bylaws by the Regional Citizens Involvement Coordinating Committee (RCCIC). She said the CCI's first task would be to write a handbook and develop a list of acronyms. She said RCCIC said CCI would serve as a process group.

Presiding Officer Gardner opened a public hearing.

Ms. Bergstein introduced RCCIC members present.

Councilor Devlin discussed Council involvement in the CCI.

Councilor Van Bergen asked what weight the Council should give to a CCI decision.

Angel Olsen, RCCIC member, said CCI had been formed as a group to disseminate information to citizens. Ms. Olsen said CCI could tell the Council when it needed to get more information out and what methods would work well to do so. She hoped applications would be issued soon so that CCI could be formed and become active. Councilor Hansen asked what the group was doing to ensure CCI membership was multi-ethnic and gender diverse. Ms. Olsen said the group was making efforts to reach all segments of the population through community organizations. She said applications would be looked at by district and then by county and hopefully the applications would be diverse in nature. Councilor Washington suggested the group contact the superintendent of schools in Clackamas County for assistance also. Councilor McFarland noted she had talked to many people to who did not know what Metro was or what it did. She said CCI would be an effective tool to help educate on what Metro was and what it did.

Peggy Lynch, CCI member, discussed application criteria further. Councilor Van Bergen and Ms. Lynch briefly discussed the process to be used by CCI.

8.2 Resolution No. 92-1616, For the Purpose of Declaring Intent to Seek Voter Approval of Authority and Financing for Acquisition, Development, Maintenance and Operation of Regional Greenspaces

Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1616.

Councilor Devlin gave the Transportation & Planning Committee's report and recommendations. Councilor Devlin said the resolution was almost a procedural requirement as the process to develop and implement the Greenspaces program drew to a close.

Vote: Councilors Buchanan, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Collier and Wyers were absent. The vote was unanimous and Resolution No. 92-1616 was adopted.

8.3 Resolution No. 92-1617, For the Purpose of Adopting a Policy on Highway Bridge Replacement Funds

Motion: Councilor McLain moved, seconded by Councilor Devlin, for adoption of Resolution No. 92-1617.

Councilor McLain gave the Transportation & Planning Committee's report and recommendations. She said the resolution would give Willamette River bridges higher ranking for eligibility for federal dollars. Councilor Van Bergen said the resolution was a good idea if the funds were appropriately distributed. He to-date, allocations had been uneven because Multnomah County contained most of the bridges on the Willamette River.

Andy Cotugno, Director of Transportation, said staff's report had suggestions for new and appropriate criteria and debate at the policy level.

Vote: Councilors Buchanan, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Collier and Wyers were absent. The vote was unanimous and Resolution No. 92-1617 was adopted.

8.4 Resolution No. 92-1610, For the Purpose of Establishing the TPAC Transportation Demand Management Subcommittee

Motion: Councilor Buchanan moved, seconded by Councilor Devlin, for adoption of Resolution No. 92-1610.

Councilor Buchanan gave the Transportation & Planning Committee's report and recommendations. The Council as a whole discussed the role of the new advisory committee and the role of all advisory committees to the Council.

Vote: Councilors Buchanan, Devlin, Gronke, Hansen, McFarland, McLain, Washington and Gardner voted aye. Councilor Van Bergen voted nay. Councilors Bauer, Collier and Wyers were absent. The vote was 8-1 in favor and Resolution No. 92-1610 was adopted.

8.5 Resolution No. 92-1621, For the Purpose of Releasing a Request for Proposals for Biological Monitoring in Smith & Bybee Lakes Management Area and Allowing Executive Officer to Execute the Contract

Motion: Councilor Devlin moved, seconded by Councilor Gronke, for adoption of Resolution No. 92-1621.

Councilor Devlin gave the Transportation & Planning Committee's report and recommendations.

Vote: Councilors Buchanan, Devlin, Gronke, Hansen, McFarland, McLain, Van Bergen, Washington and Gardner voted aye. Councilors Bauer, Collier and Wyers were absent. The vote was unanimous and Resolution No. 92-1621.

9. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor Van Bergen asked the Regional Facilities Committee to report on the Blazer/Arena contract, including any new or changed conditions since the Council was last briefed on the contract/negotiations. He asked what recommendations and/or schedule had been released by the Funding Task Force to-date. Councilor McLain said she would ask Regional Facilities Department staff to update the Committee on those items and she would report back on same to the Council.

Councilor Hansen asked what the status was of current Charter Committee activity. Presiding Officer Gardner said the Charter Committee's attorney was preparing a draft charter, the Charter

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**Committee would hold one more work session on the document, and that the Charter Committee would then hold public hearings on the draft document.**

**All business having been attended to, Presiding Officer Gardner adjourned the meeting at 9:30 p.m.**

**Respectfully submitted,**

A handwritten signature in cursive script, appearing to read "Paulette Allen".

**Paulette Allen**  
**Clerk of the Council**