

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

October 8, 1992

Council Chamber

Councilors Present: Presiding Officer Jim Gardner, Deputy
Presiding Officer Judy Wyers, Roger
Buchanan, Tanya Collier, Richard Devlin,
Ed Gronke, Sandi Hansen, Ruth McFarland,
Susan McLain, Terry Moore, George Van
Bergen and Ed Washington

Presiding Officer Gardner called the regular meeting to order at
5:36 p.m.

1. INTRODUCTIONS

Presiding Officer introduced new Councilor Terry Moore and
presented her with a framed copy of Resolution No. 92-1684
appointing her to fill the District 2 vacancy effective September
24, 1992. Presiding Officer Gardner noted that Councilor Moore
took the oath of office at the September 24 Council meeting.

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

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

3.1 Presentation of Metro's Seventh Annual Recycling Recognition
Awards to Celebrate Recycling Awareness Week

Councilor Wyers announced the winners and nominees in all
categories. Executive Officer Cusma presented framed awards to
the winners.

Winners: 1) Model Citizen Award - Priscilla Chapman;
2) Individual Recognition Award - Sharon Richter; 3) Business
Award (non-recycling related) - Bredl Saw Service Company; 4)
Business Award (recycling related) - Hippo Hardware & Trading
Company; 5) Organization/School Award - Kaiser Permanente Medical
Program; 6) Special Projects Award - Sunflower Recycling
Cooperative and KINK FM 102.

Nominees: 1) Model Citizen Award - Priscilla Chapman; Julie
Lewis, Sharon Richter, Jeanne Roy and Kent V. Snyder; 2)
Individual Recycling Recognition Award - Julie Lewis, Debbi
Palermi, and Sharon Richter; 3) Business (non-recycling
related) Award - Bredl Saw Service, DEJA, Inc., JAE Oregon, KINK
FM 102, Rasmussen Paint, Snyder & Associates, and Toyota Motor
Distributors, Inc.; 4) Business (recycling-related) Award - DEJA,
Inc., Hippo Hardware & Trading Co., and Storie Steel & Wood

Products; 5) Organization/School Award - Kaiser Permanente Medical Care Program, Portland Public Schools, and The Warehouse Project; 6) Special Projects Award - Office of Energy Resources (Bonneville Power Association), KINK FM 102, Julie Lewis, Sharon Richter, Rotary Club of Portland, Springdale Job Corps Center, Sunflower Recycling Cooperative, and This Week Magazine.

4. CONSENT AGENDA

4.1 Minutes of September 10, 1992

REFERRED FROM THE GOVERNMENTAL AFFAIRS COMMITTEE

4.2 Resolution No. 92-1688, For the Purpose of Establishing the FY 92-93 Metropolitan Service District Legislative Task Force

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

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

5. ORDINANCES, FIRST READINGS

URBAN GROWTH BOUNDARY ORDINANCE

5.1 Ordinance No. 92-472, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 91-4; PCC Rock Creek (Public Hearing)

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

Presiding Officer Gardner announced the Council would consider Ordinance No. 92-472 in its capacity as a quasi-judicial decision-maker.

Mark Turpel, Senior Regional Planner, explained the ordinance would add 160 acres to the Urban Growth Boundary (UGB) east of 185th and immediately north of Springfield Road. He noted the Council adopted Resolution No. 92-1630, For the Purpose of Expressing Council Intent to Amend Metro's Urban Growth Boundary for Contested Case No. 91-4, on June 25, 1992.

Councilor Van Bergen said he had stated on previous occasions objections to Metro staff acting in capacity of the Hearings Officer and asked why the Hearings Officer was not present to

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brief the Council on the ordinance. Mr. Turpel explained the Hearings Officer was not able to attend this meeting and that he intended to provide the staff report only. He said he could arrange for the Hearings Officer to appear at the second hearing of the ordinance.

Councilor Devlin noted the Council adopted Resolution No. 92-1630 subject to action by the Boundary Commission. He said the Council received a full explanation at the time of adoption from the Hearings Officer and staff. Councilor Devlin said he did not know if another Hearings Officer's report would be required or not at this meeting or at the next.

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

Councilor Van Bergen asked about earlier non-readjustments and noted the Hearings Officer had done concise readjustments of previous cases. He said he had voted in favor of such readjustments before, but had difficulty with the inflexible rule of no adjustments to the UGB over 50 acres and then only based on a very strong showing of compliance with service need and use. He asked how this application for 60 acres was more qualified than the Benjamin Franklin application. He said his concern was that the Council's role was to make good decisions for the entire UGB, but asked if PCC had over-expanded without the proper authority to do so in anticipation of UGB amendment.

The Council briefly discussed the issues further.

Presiding Officer Gardner announced the second reading of Ordinance No. 92-472 was tentatively scheduled for October 22.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 92-470, For the Purpose of Amending the Regional Waste Water Management Plan and Authorizing the Executive Officer to Submit it for Recertification Public Hearing (Public Hearing)

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

Presiding Officer Gardner announced that Ordinance No. 92-470 was first read on September 10 and referred to the Transportation and Planning Committee for consideration. He said the Transportation and Planning Committee considered the ordinance on September 22 and recommended it to the full Council for adoption.

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Motion: Councilor McLain moved, seconded by Councilor Buchanan, for adoption of Ordinance No. 92-470.

Councilor McLain gave the Transportation and Planning Committee's report and recommendations. She explained both the Water Resources Policy Advisory Committee (WRPAC) and the Regional Policy Advisory Committee (RPAC) approved the ordinance. She said following approval by the Council, the plan would be submitted to the Department of Environmental Quality (DEQ) and then the Environmental Protection Agency (EPA) for recertification.

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

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Ordinance No. 92-470 was adopted.

6.2 Ordinance No. 92-450, An Ordinance Adopting a Final Order for Periodic Review of the Metro Urban Growth Boundary (Public Hearing)

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

Presiding Officer Gardner announced Ordinance No. 92-450 was first read on August 27 and referred to the Transportation and Planning Committee for consideration. The Transportation and Planning Committee considered the ordinance on September 8 and September 22 and recommended Ordinance No. 92-450A to the full Council for consideration.

Main Motion: Councilor Devlin moved, seconded by Councilor Moore, for adoption of Ordinance No. 92-450A.

Councilor Devlin gave the Transportation and Planning Committee's report and recommendations. He explained Metro had carried out its periodic review process since 1987 to culminate in this ordinance. He said although Metro had not adopted a specific comprehensive land use plan, the UGB was a component of a comprehensive land use plan and would be narrowly evaluated as such to determine if the UGB met the needs of the urban population. He said additionally, Metro had never formally adopted procedures to amend the UGB, but they did have formal, acknowledged procedures for "locational" adjustments meant to address technical locations of the boundary. He said Ordinance No. 92-450A addressed both the periodic review and formalized

procedures for amendments to the UGB effective 90 days after the date of adoption.

Councilor Devlin said via the Regional Land Information System (RLIS), staff would accurately pinpoint land needs for the urban area through the year 2010. He said analysis determined there was no need to change the UGB at this time, but that demographics and employment figures generated in the future by the Region 2040 study could lead to the need for amendment in the future.

Councilor Devlin said the ordinance detailed three separate UGB amendment procedures: 1) "Legislative Amendments" to be used when the Council acted in a legislative decision capacity to amend the UGB for consistency with statewide Planning Goal 14; 2) "Major Amendments" to be used when the Council acted in its capacity as a quasi-judicial decision-maker; and 3) "Locational Adjustments," the amendment procedure currently used for adjustments under 20 acres including roadway alignments. He said 20 acres had been reduced from the current level of 50 acres because of the "ascending burden of proof" previously used and required for amendments over 10 acres.

Councilor Devlin explained the Committee amended the ordinance per a request contained in a letter dated August 31, 1992 (printed in agenda packet for this meeting), from the Department of Land Conservation and Development (DLCD). He explained DLCD requested on page 60 of Exhibit A in Definitions, that the multiplier listed in Section 3.01.10(o), "Net Developable Land" be changed from "0.6" to a range of "0.6 to 1.0." Councilor Devlin reviewed amendments as recommended by Robert Liberty, citizen.

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

Councilor Van Bergen asked which of the amendments proposed were incorporated into the ordinance. Councilor Devlin said the only amendment resulted from DLCD's recommendation and that none of Mr. Liberty's proposed amendments were used.

The Council and Andy Cotugno, Director of Planning, briefly discussed how the Region 2040 study would ultimately related to the UGB and amendments.

Councilor McLain noted Mr. Liberty's proposed fourth amendment to restrict applications for amendment to one application only, including appeals, made sense, although it would be complicated because it would create a new process.

Councilor Devlin said the ordinance could be amended at any time in the future and noted UGB amendment procedures were both lengthy and expensive. He asked what would happen if an applicant applied for a slightly different parcel with a different use. He said the Council could refer Ordinance No. 92-470 back to committee for further work on that and related issues, or the Council could adopt the ordinance tonight, or staff could look at the issues in detail and report back to the Council.

Councilor Devlin noted Jack Polans, citizen testified at committee on the ordinance. He said Mr. Polans' testimony was not applicable, but did include justifiable criticism of annexations made to King City which had changed the nature of that community.

Councilor Moore asked if direction should be given to the Transportation and Planning Committee before the ordinance was adopted.

Motion: Councilor Hansen moved, seconded by Councilor McLain, to direct the Transportation and Planning Committee reconsider Mr. Liberty's proposed amendment no. 4 as detailed by Councilor McLain earlier at this meeting.

Councilor Van Bergen said sometimes there was a need for a multiple application. He believed the applicant(s) should be able to make the application themselves.

Presiding Officer Gardner said the motion only asked the Transportation and Planning Committee to review Mr. Liberty's proposed language again.

Councilor Hansen clarified that her motion meant a product should be developed at committee to develop language to lead to a process for compromise between current inflexibility and flexibility. She said repeated applications were poor policy.

Councilor McLain said the motion did match her concerns. Councilor McFarland asked what would keep the committee from doing whatever it wanted to do. Councilor Devlin said the intent of the motion was that it would ask staff to look at issues developed by committee. He said staff could research whether more than application had been made for a particular parcel, and would the legal ramifications of restricting applications for one time only. He said vested rights should not be taken away from individuals. He said the issues discussed at this meeting would receive a thorough analysis and that he would report back to the

Council on the committee's work three Council meetings from this meeting.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilors McFarland and Van Bergen voted nay. The vote was 10-2 in favor and Councilor Hansen's motion passed.

Vote on Main Motion: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Ordinance No. 92-450A was adopted.

7. RESOLUTIONS

7.1 Resolution No. 92-1674, For the Purpose of Funding Greenspaces Projects to Restore and Enhance Urban Wetlands, Streams and Riparian Corridors, and Upland Sites

Motion: Councilor Devlin moved, seconded by Councilor Buchanan, for adoption of Resolution No. 92-1674.

Councilor Devlin gave the Transportation and Planning Committee's report and recommendations. He said that cities, park districts and nonprofit organizations were eligible to apply to restore urban natural areas. He said the grant criteria and application packet were adopted by Council via adoption of Resolution No. 92-1609 on May 14, 1992. He said Metro received 18 proposals for which there was \$250,000 available. He said Resolution No. 92-1674 would approve 10 of those proposals and said the other 8 proposals would be decided upon in October or November pending further review. Councilor Devlin explained March 31, 1994, was the final deadline for the entire project.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Resolution No. 92-1674 was adopted.

7.2 Resolution No. 92-1689, For the Purpose of Establishing a Position Opposing Oregon State Constitutional Amendment - Ballot Measure 9

Motion to Table: Councilor Collier moved, seconded by Councilor Hansen, to table Resolution No. 92-1689.

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

Councilor Collier said she asked for Legal Counsel's opinion of Resolution No. 92-1689 at a citizen's request. She stated she had discussed that opinion with Legal Counsel and decided to take the what she considered to be the safest course at this meeting without a full written opinion. She understood that Councilors, as elected officials, had the right to take a position for or against any ballot measure.

Motion: Councilor Collier moved, seconded by Councilor Hansen, to state that the Council of the Metropolitan Service District opposed the proposed state constitutional amendment, Ballot Measure 9, because the Council supported and honored the diversity of all people in the region, and that the Council opposed a divisive and discriminatory new law which could legalize discrimination based on sexual orientation and could significantly reduce tourism in the state and the region.

Presiding Officer Gardner opened a public hearing.

John Strand, citizen, urged the Council to vote for area diversity, constitutional rights, and against No. 9.

Tom Bugas, IATSE Stagehand's Local No. 28, said Ballot Measure No. 9 was a direct attack on the performing arts which had always served as a celebration of the diversity of the human experience. He said efforts by the Oregon Citizen's Alliance (OCA) and other groups to limit constitutional rights was repugnant. He said IATSE Stagehand's Local No. 28 urged the Council to vote unanimously on the motion to oppose Ballot Measure No. 9.

Chuck Geyer, president, AFSCME Local No. 3580, said Local No. 3580 represented most of Metro's employees and had endorsed Resolution No. 92-1689, and would have no difficulty endorsing the motion. Mr. Geyer noted Councilor Gronke had had difficulty voting for in favor of Resolution No. 92-1689 at the committee level. Mr. Geyer noted the union bargaining agreement with Metro was also based on acceptance of diversity. He said Ballot Measure No. 9 did mention that it applied to state, regional, and local governments and said governments could not recognize any categorical provisions such as sexual orientation. He said any attempts to alter union language would have significant problems.

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Councilor Gronke asked Mr. Geyer if he gave the impression at committee that he was violently opposed to the resolution. Mr. Geyer said Councilor Gronke did not give that impression.

Ellen C. Lowe, president, No on 9 Campaign, said she appeared on behalf of the campaign effort to encourage the Council to approve the motion. She said the Council could make public policy decisions based on fiscal prudent and political correctness. She said Ballot Measure No. 9 would impact the Oregon Convention Center (OCC) financially. She said if OCA standards were applied to what could be performed at the Portland Center for the Performing Arts (PCPA), she doubted if she or many others would be able to attend events at that facility. She said the ballot measure called for the reassignment of gay or lesbian employees if they had contact with children. She urged the Council to express its opposition to Ballot Measure No. 9.

John Baker, citizen, said he was actively involved in the gay and lesbian community and urged the Council to support the motion opposing Ballot Measure No. 9 because it was a constitutional issue and the first time a negative measure to enforce discrimination had been proposed. He said it was ironic the OCA had created a special class of people with less rights than others because the OCA was made up of a fringe group itself. He said most important to the gay community was the issue of jobs and said Metro with its oversight of OCC and PCPA was a big job provider. He said because of Ballot Measure No. 9, teachers could be the first to go. He said the gay community had consistently promoted good citizenship.

Jim Bocci, public affairs manager, Portland/Oregon Visitors Association, P/OVA, said P/OVA had been contacted by groups that had booked Portland or would consider Portland for a convention. He said organizations such as the National Middle School Association, Association for Computing Machinery, Public Library Association, American Association of School Librarians, American Symphony Orchestra League, American Alliance for Health, Physical Education, Recreation and Dance, American Society for Landscape Architects, National League for Nursing, National Council of Teachers of English, and the National Recycling Coalition had all informed P/OVA they would cancel or not book conventions in Portland if Ballot Measure No. 9 passed. He said the total economic value to the region of those conventions totalled \$19.3 million. He said that Ballot Measure No. 9 if passed would adversely affect P/OVA's ability to market OCC as a convention center destination.

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

Councilor Gronke said he voted nay on Resolution No. 92-1689 at committee. He said Ballot Measure No. 9 was abhorrent to him but voted nay on the resolution because he disagreed with that method for stating Metro's position on Ballot Measure No. 9. He said he could vote aye on Councilor Collier's motion to oppose the ballot measure.

Executive Officer Cusma stated for the record Ballot Measure No. 9 caused her extreme anger and sadness. She recalled discussion of discrimination during her childhood and said Ballot Measure No. 9 evoked the same feelings. She urged the Council to unanimously support Councilor Collier's motion.

Councilor Buchanan concurred with Executive Officer Cusma and Councilor Gronke. He said no one believed Councilor Gronke voted nay on Resolution No. 92-1689 because he supported Ballot Measure No. 9. He said current society was pluralistic in nature and great strides had been made in recognizing diversity. He urged the full Council to vote aye on Councilor Collier's motion.

Councilor McLain said all comments made at this meeting were appropriate and necessary. She strongly believed there should be a unanimous vote on the motion. She said elected officials wore two hats because they served both as private citizens and public officials. She said elected officials as responsible citizens and public officials should make clear their strong opinions on such issues. She said the issues did contain policy issues because if Ballot Measure No. 9 passed, it would affect Metro policy. Councilor McLain said it was important to state for the record that the Council recognized the diversity and integrity of the region.

Councilor Wyers said Ballot Measure No. 9 was heinous and outrageous. She said it was the most discriminatory ballot measure ever drafted and was the worst possible response to any concerns of that type. She said the motion was an opportunity for the Council as officials and leaders to state for the record their opposition to Ballot Measure No. 9 and cited previous testimony given at this meeting about the organizations that would not come to Oregon if the ballot measure was adopted.

Councilor Devlin said he knew why Resolution No. 92-1689 had been tabled and did not agree that the Council could not express its opposition to Ballot Measure No. 9. He said it was very easy to oppose the ballot measure at this level, but said if it was

carried to higher levels after the election, it would not be so easy to oppose such policy.

Presiding Officer Gardner said he in conjunction with Executive Officer Cusma proposed the original resolution. He concurred with the public testimony given at this meeting and statements by Councilors. He said Ballot Measure No. 9 was the most un-American statement he had ever seen. He said it would actually alter the state's constitution and showed how easy it was in Oregon for a group to get something on the ballot. He said Ballot Measure No. 9 demonstrated how the initiative process could be misused.

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

NON-REFERRED RESOLUTION

7.3 Resolution No. 92-1697, For the Purpose of Directing the Preparation of Neutral Factual Information Regarding Ballot Measure No. 9

Motion to Suspend the Rules: Councilor Hansen moved, seconded by Councilor Wyers, to suspend the Council's rules requiring that resolutions be referred by committee so that the Council as a whole could consider Resolution No. 92-1697.

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

Councilor Hansen said she agreed with Resolution No. 92-1689, but wanted a resolution that would go even further. She said the Council had heard at this meeting from Mr. Bocci on the potential adverse impact on the OCC. She said the resolution would direct the Public Affairs Department to find out what that impact truly would be and make those facts available to the public and the media. She said she was proud to belong to two associations that would cancel their conventions in Portland because of the ballot measure. She said as a teacher, she could not comply with what the OCA would require her to do. She thought the public would be shocked by measure's impacts if they knew its full ramifications. She said comparisons between the OCA and Hitler's Germany were not inconceivable and noted the OCA was not considered that

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important, but that Hitler was not considered that important when he started his ascent to power either.

Main Motion: Councilor Hansen moved, seconded by Councilor Devlin, for adoption of Resolution No. 92-1697.

Councilor Gronke said he could only support Resolution No. 92-1697 if the result was purely factual and non-speculative. He said such a fact sheet should show monetary effects and other factual data only. Executive Officer Cusma assured Councilor Gronke that was the desired result of the resolution. Councilor Devlin fully supported the resolution. He discussed impacts on the OCC and said if the measure passed, he was sure most touring companies would bypass the PCPA.

Councilor Washington said when discussing the issues, the Council should not lose the human element of what the measure would do and that the Council should not talk about fiscal impacts alone. He said it was not possible to calculate loss of human dignity if Ballot Measure No. 9 did pass.

Executive Officer Cusma said a fact sheet had just been completed for Greenspaces. She said under law, Metro was limited in terms of editorializing in a fact sheet. She said policy statements should be made by the Council as a whole.

Councilor Wyers said many state legislative proposals are introduced by citizens. She said mostly administrative staff offered legislation at Metro. She said she always felt Metro could handle issues more legislative in nature.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilor Van Bergen was absent. The vote was unanimous and Resolution No. 92-1697 was adopted.

8. EXECUTIVE SESSION Held Under the Authority of ORS 192.660(1)(h) to Consult with Counsel with Regard to Litigation

Presiding Officer Gardner announced the Council would hold an Executive Session under the authority of ORS 192.660(1)(h) to Consult with Legal Counsel with regard to Litigation.

The Executive Session began at 7:40 p.m. Present: Councilors Gronke, Washington, McFarland, McLain, Devlin, Gardner, Hansen, Buchanan, Moore, Van Bergen, and Wyers. Also present: Executive Officer Rena Cusma and Deputy Executive Officer Dick Engstrom.

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Staff present: Andy Cotugno, Pat Lee, Don Carlson, and Larry Shaw. Media present: Jim Mayer, The Oregonian and Public Cable Access staff. The Executive Session ended at 8:50 p.m.

9. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor McLain reminded the Council of the Metro Student Congress to be held October 17 at the Oregon Convention Center and that Councilors were invited to participate at a round table luncheon.

All business having been attended to, Presiding Officer Gardner adjourned the meeting at 8:51 p.m.

Respectfully submitted,



Paulette Allen
Clerk of the Council