

MINUTES OF THE INTERGOVERNMENTAL RELATIONS COMMITTEE
OF THE METROPOLITAN SERVICE DISTRICT

May 22, 1990

Council Chamber

Committee Members Present: Mike Ragsdale (Chair), Richard Devlin
(Vice Chair), Larry Bauer, Ruth McFarland
Committee Members Absent: Jim Gardner
Other Councilors Present: David Knowles

Chair Ragsdale called the meeting to order at 6:11 p.m.

1. Consideration of April 24, 1990 Minutes

MOTION: Councilor Devlin moved for approval of the minutes.

VOTE: All four Councilors present voted aye. The vote was unanimous and the minutes were approved.

3. Ordinance No. 90-336, Prohibiting the Sale and Distribution of Laundry Cleaning Agents Containing Phosphorous Within the Metropolitan Service District Boundaries (Public Hearing)

Chair Ragsdale said the Committee would consider Agenda Item No. 3 briefly, to allow Representative Ron Cease to speak, before considering Agenda Item No. 2.

Representative Cease said the State Legislature directed the Department of Environmental Quality (DEQ) to conduct a phosphate study at its last session. He said legislation to ban phosphate products had an excellent chance of being passed statewide. He asked the Committee to recommend the ordinance to the full Council for adoption.

Representative Cease asked what impact the exemptions list would have on total sales of phosphate products and asked if phosphate products for retailing and general use purposes outside the District would be exempt. He said retailers and wholesalers should be given ample time to comply with the ban.

Councilor Devlin said the IGR Committee was told April 24 that DEQ must have a wet and a dry season in which to conduct the study and those conditions would delay study results. Representative Cease said he did not know specifically the status of the DEQ phosphate study, but said the Legislature requested DEQ perform numerous studies and did not give DEQ additional funding to perform the extra work. Councilor Bauer noted Portland served as the regional wholesaler for the entire Northwest region and asked if it would be a hardship for wholesalers to find new distribution points. Representative Cease said the ban represented a hardship to retailers already. He said Metro should think about that issue particularly, but noted Metro would not be the only northwestern

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government to impose the same or similar bans. Councilor Bauer noted as Co-Chair of the Bi-State Committee, he would raise phosphate ban issues with that committee June 22 for discussion purposes. Councilor Devlin noted certain pesticides were banned on a national level because of their toxicity, but their manufacture and distribution was still allowed outside the United States. Representative Cease said Metro should develop a policy statement on effects on the District and its outlying areas.

2. Ordinance No. 90-322, Amending Metro Code Chapter 2.01 Relating to an Appointment to Fill a Vacancy on the Council (Public Hearing)

Councilor Knowles said the ordinance was intended to formalize procedures to fill Council vacancies. He said statutory language on the process was not codified, but was stated in a resolution. He said the process to fill a vacancy would provide for more focussed evaluation of candidates than done in the past. He said a Council subcommittee could evaluate candidates in addition to the citizens advisory committee. He said the citizens advisory committee could also formally state its recommendations in writing in advance of Council consideration. He said the ordinance would require Councilors to announce which candidate they voted for and why.

Councilor McFarland noted Section 2(c) language on applicants was not written correctly and should be clarified. She noted when the Committee considered the ordinance earlier, she asked that language on the advisory committee membership ensure no one served on that committee who was directly concerned with the financing or control of the Metropolitan Service District. She said such language was crucial. Councilor Bauer asked if that precluded anyone serving on the advisory committee who was employed by, or an elected official of, one of the local governments. Councilor McFarland said she meant members of the State Legislature since they voted on Metro funding issues.

Councilor Devlin raised eight issues: 1) With regard to Section 2(a), he asked for more information on the requirements pertaining to when a vacancy was automatically referred to an election and when it would be an appointment process; 2) With regard to Section 2(b)(1), he noted a number of subdistricts had local newspapers within Council districts, but did not necessarily have overlapping circulation and ordinance language should be clarified to reflect that; 3) With regard to Section 2(b)(4), he said the issue was whether the advisory committee should include citizens doing business in the vacant district and residents, or residents only. He noted Councilor Gardner believed it was inappropriate for citizens who did business, but did not reside, within their district to serve on the advisory committee. He said a group of five members was sufficient to serve on the advisory committee and seven would be too many. He said if more citizens were needed, the Presiding Officer could appoint them; 4) The ordinance recommended a Council

subcommittee without a defined role and it could be inappropriate for the Council subcommittee to eliminate candidates. The subcommittee should be eliminated with the citizens advisory committee and Council having full review; 5) He recalled Chair Ragsdale's objection to the requirement that Councilors must state why they voted for a particular candidate; 6) He said language which stated Council majority should be clarified. He noted after 1992 there would be 13 Metro Councilors. He said a vacancy now meant a majority would be six Councilors because 11 Councilors would vote to fill the vacancy; 7) Problems with language such as those noted by Councilor McFarland at this meeting; and 8) The ordinance was potentially an item to be scheduled for Metro's Legislative agenda for the next session since the Council had expressed it would like the opportunity to refer vacancies to elections beyond what statutory language currently allowed.

Councilor Knowles suggested the Committee review and amend the ordinance section by section as needed at this meeting.

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

The Committee discussed the ordinance section by section.

The Committee agreed Section 1 was acceptable.

Councilor Devlin said dates in Section 2(a) should be clarified. He asked if statutory language applied to the primaries or general elections since Councilors were elected. Chair Ragsdale asked for specific statutory language.

Councilor Devlin said Section 2(b)(1) should state "newspaper(s)" instead of "newspaper." Councilor McFarland said language was limited to neighborhood organizations, cities and civic groups. Councilor McFarland recommended language related to notification of the appointment process should include those groups, but not be limited to them.

Chair Ragsdale asked Councilor McFarland to make a conceptual motion.

FIRST MOTION TO AMEND: Councilor McFarland moved to amend Section 2(1) as stated above.

Chair Ragsdale instructed Jessica Marlitt, Council Analyst, to integrate recommended language where appropriate.

VOTE ON FIRST MOTION TO AMEND: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and the motion passed.

Chair Ragsdale said staff would redraft the ordinance per Committee amendments and requests and the Committee would consider the ordinance again for recommendation to the full Council at its next regularly scheduled meeting.

The Committee agreed Section 2(b)(3) was acceptable.

SECOND MOTION TO AMEND: Councilor McFarland moved to amend Section 2(b)(4) with the addition and deletion of language (additions underlined and deletions bracketed): To delete [or do business] and add since they are in a position to directly affect the way the Metro Service District is funded, members of the state legislature cannot serve on the advisory committee.

The Committee discussed the motion to amend. Councilor Bauer questioned whether there should be an advisory committee at all and said the Council had final authority. Councilor McFarland said the advisory committee could provide the top five candidates, but preferred elimination of the committee. Councilor Devlin said the Council majority believed advisory committees were necessary. He said the ordinance was clear the advisory committee would meet with the Council to advise the Council, but would not vote. Chair Ragsdale said the advisory committee process was formalized when he served as Presiding Officer, but believed it was a mistake now. Councilor Knowles said citizen input should be recognized but did not believe previous advisory committees were balanced. He said it was sensible to tell district citizens they were welcome to appear and testify on a candidate's behalf. Chair Ragsdale noted public hearings were required in the vacant Council district.

WITHDRAWAL OF SECOND MOTION TO AMEND: Councilor McFarland withdrew her motion.

THIRD MOTION TO AMEND: Councilor McFarland moved to delete Section 2(b)(4).

Councilor McFarland said she made the motion above with the expectation advisory committee issues would be addressed elsewhere in the ordinance.

VOTE ON THIRD MOTION TO AMEND: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and the motion passed.

FOURTH MOTION TO AMEND: Councilor Devlin moved to amend Section 2(b)(5) to require the subcommittee conduct a public hearing in the vacant district and report back to the full Council.

Under the same motion to amend, Councilor Devlin moved to amend Section 2(b)(6) to state the Council conduct interviews with individual candidates.

VOTE ON FOURTH MOTION TO AMEND: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and the motion passed.

The Committee discussed Section 2(b)(6). Chair Ragsdale said the Committee had reached consensus that references to the advisory committee would be eliminated from that section.

FIFTH MOTION TO AMEND: Councilor Devlin moved to amend Section 2(c) by deletion of the second sentence: [In nominating an applicant, members of the Council shall state for the record the reasons an applicant is qualified to hold the Office of Metro Councilor.]

VOTE ON FIFTH MOTION TO AMEND: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and the motion passed.

SIXTH MOTION TO AMEND: Councilor Devlin moved to amend Section 2(c) by deletion of: [(7)] as it pertained to Council majority.

Councilor Devlin said if the Council had a vacancy, the Council majority would be six (6).

VOTE ON SIXTH MOTION TO AMEND: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and the motion passed.

The Committee discussed Section 2(a) again. Councilor Knowles read from the State Constitution: "When any vacancy occurs in any elected office of the state or of any district, county or precinct thereof, the vacancy shall be filled in the next general election provided if such vacancy occurs more than 20 days prior to such general election."

SEVENTH MOTION TO AMEND: Councilor McFarland moved to amend Section 2(a) conceptually according to State constitutional requirements.

VOTE ON SEVENTH MOTION TO AMEND: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and the motion passed.

Chair Ragsdale directed the ordinance return for Committee consideration in order to review the final draft.

Councilor Devlin recommended a legislative tickler file for Metro legislative issues.

3. Ordinance No. 90-336, Prohibiting the Sale and Distribution of Laundry Cleaning Agents Containing Phosphorous Within the Metropolitan Service District Boundaries (Public Hearing)

Larry Sprecher, Senior Management Analyst, and Jim Morgan, Associate Management Analyst, presented staff's report. They discussed water quality issues and acceptable levels of phosphates, other contaminants and nutrients in water.

Mr. Morgan said the ordinance called for a 30 percent reduction in river phosphate levels and said that was a conservative figure, but believed even a small reduction was acceptable. He believed once the ban was instituted, the region would experience a higher level of reduction than 30 percent. He said other jurisdictions had experienced 22 percent to 60 percent reductions in phosphate levels after instituting the same or similar bans. He said a recent ban in Missoula, Minnesota caused a 53 percent reduction. He explained source reduction was the best strategy to achieve desired lower phosphate levels.

Mr. Morgan said the beneficial effects on the Tualatin River made a strong economic argument because of the 1993 Environmental Protection Agency (EPA) deadline. He said it was important not to become dependent on chemical treatments alone because the chemicals could create negative side effects. He said the joint study by USA and other sewerage agencies on the Willamette River would be completed in two years. Staff's recommendation was to ban laundry detergents with phosphorous except those with trace amounts. Mr. Morgan said staff did not address dishwashing detergents because they could not estimate its total contribution to phosphate levels and also because there was no readily available alternative on the market.

Mr. Morgan discussed the ordinance. He said the fifth WHEREAS language should change from: [By court consent decree and] According to Environmental Quality Commission regulations, phosphorous loading to the Tualatin River must be significantly reduced to improve water quality in the [Clackamas] Tualatin River Subbasin; and. Larry Shaw, Legal Counsel, discussed the sunset clause and said the date should be 1995 to allow USA to operate under the ban and evaluate results. Staff further stated the Committee might want to require annual review and evaluation and require review by the Water Policy Resources Committee, the IGR Committee and then Council.

Chair Ragsdale opened the public hearing.

Senator Dick Springer, District No. 6, noted he served as co-chair on the Interim Committee on Environment and Hazardous Materials and water

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issues were a Legislative priority. He stated support for general issues addressed by the ordinance, especially non-point source pollution and treatment costs for local jurisdictions. He asked for Committee recommendation and Council adoption of the ordinance and said the ban would provide a prototype for Oregon for future possible bans.

John Jackson, USA Planning Division Manager, distributed copies of his letter dated April 30, 1990 to Chair Bonnie Hays of the Washington County Board of Commissioners. He reiterated USA's desire for the ban which would assist USA to meet the required 1993 EPA deadline for waste load allocation levels. He said the statutory definition of pollution included the language "render waters useless for beneficial uses." He said the definition applied to the Tualatin Basin. He said source control was good strategy and sludge would be of higher quality due to lessened chemical treatment. He said population growth added to water quality issues problems as East County continued to expand. He said it made sense to clean up waterways before ordered to do so. Regarding the ordinance definition section, he said the exemptions section was redundant and recommended exemptions (a), (b), (d), (f), (h), (i) and (j) be removed. He agreed the sunset date should be set for 1995. Mr. Jackson said USA could supply data on an annual basis and said Mr. Shaw's recommendation to have annual review was a good one. Mr. Jackson said USA could save \$390,000 in 1990 and a potential \$540,000 in 2000.

The Committee and Mr. Jackson discussed Lake Oswego water quality issues and possible savings accrued in clean-up costs.

Paul Cosgrove, Association of Soap & Detergent Manufacturers, said a ban on phosphorous would not reduce phosphorous in the Tualatin River. He said USA's estimates of cost savings were only estimates and the \$390,000 estimated in annual savings represented \$.10 per person in USA's jurisdiction. He said Tualatin River issues were cost issues and not water quality issues. He said other alternatives should be examined such as biological nutrient removal, use of wetlands, and land application of treated water. He said the major goal was to find less chemically oriented techniques to treat water. He said USA could meet its 1993 deadline to waste load allocation levels by developing treatments designed to specifically rectify the problems of the Tualatin River. Mr. Cosgrove distributed a revised Ordinance No. 90-336 for Committee consideration.

Councilor Devlin asked Mr. Cosgrove if he had other comments not related to USA issues. Mr. Cosgrove said he spoke specifically to USA issues because they represented defined, specific problems. He said the Willamette River represented different issues because chlorophyll levels were being exceeded, but it was not clear whether that was due to sewage or industrial sources. Councilor Devlin clarified that Mr. Cosgrove did not believe the ban would lead to appreciable improvements and said USA did not have to meet Total Maximum Daily Loads (TMDLs) requirements.

Councilor McFarland expressed her interest in biological controls. She noted other areas had the same problems but were under no deadlines to meet federal standards.

The Committee discussed the issues further. Mr. Cosgrove noted sewage treatment plants were designed to remove pollutants to specific limits whether or not they were faced with a ban. He said phosphorous limits would be met with or without a ban.

Mary Halaburton, Department of Environmental Quality (DEQ), Water Quality Division, said DEQ would submit written testimony in support of the ordinance. She said the ban would not eliminate the need for other efforts to reduce phosphorous in the Tualatin River, but would provide a complimentary piece to planning water quality issues. She said the ban was consistent with DEQ's pollution prevention goals because it would reduce phosphorous from entering the Tualatin and reduce water treatment costs.

The Committee and Ms. Halaburton discussed chemical removal issues. Councilor Bauer asked if chemicals became more problematic with phosphorous removal. Ms. Halaburton said dissolved solids such as metal salts increased the use of alum which caused problems.

Kathleen Woods, Mt. Hood Chemical Corp. chemist, addressed exemption (g) which was "Manufactured, stored, or distributed for use or sale outside the District." She said Mt. Hood Chemical Corp. manufactured and distributed over 300 different types of chemicals and said exemption (g) was necessary to avoid discrimination against, or causing a hardship for, Metro area manufacturers. She said if (g) were eliminated, it would affect international trade because many chemicals were shipped overseas via the Port of Portland.

The Committee and Ms. Woods discussed the issues further.

Chair Ragsdale asked if anyone else present wished to testify. No one present appeared to testify and the public hearing was closed.

Chair Ragsdale called a recess at 8:15 p.m.

The meeting reconvened at 8:25 p.m.

The Committee reconvened in a worksession format and amended Ordinance No. 90-336 as follows.

MAIN MOTION: Councilor Ragsdale moved to recommend the full Council adopt Ordinance No. 90-336.

FIRST MOTION TO AMEND: Councilor McFarland moved to amend Ordinance No. 90-336 with the addition of language: The

METROPOLITAN SERVICE DISTRICT HERBY ORDAINS... and to incorporate the first nine WHEREAS sections with their legislative intent into the "Policy and Purpose" section.

VOTE ON FIRST MOTION TO AMEND: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and the motion passed.

SECOND MOTION TO AMEND: Councilor Devlin moved to delete the word [great] from the third sentence in Section X.01.010.

VOTE ON SECOND MOTION TO AMEND: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and the motion passed.

Third Motion to Amend: Councilor Devlin moved to delete the word [laundry] from the definitions list, the Ordinance "Prohibition" section, and to not add it to the exemptions list.

After Committee discussion, Councilor Devlin withdrew the above motion.

WITHDRAWAL OF THIRD MOTION TO AMEND: Councilor Devlin withdrew his motion.

FOURTH MOTION TO AMEND: Councilor McFarland moved to amend Section 2 by making the ordinance effective date February 1, 1991.

VOTE ON FOURTH MOTION TO AMEND: Councilors Bauer, Devlin and McFarland voted aye. Councilor Ragsdale voted nay. Councilor Gardner was absent. The motion passed.

FIFTH MOTION TO AMEND: Councilor Devlin moved to amend Section 3 to change the Sunset date from December 31, 1992, to December 31, 1995.

VOTE ON FIFTH MOTION TO AMEND: Councilors Devlin and McFarland voted aye. Councilors Bauer and Ragsdale voted nay. Councilor Gardner was absent. The motion failed.

SIXTH MOTION TO AMEND: Councilor Bauer moved to amend Section 3 to change the Sunset date to July 31, 1993.

VOTE ON SIXTH MOTION TO AMEND: Councilors Bauer and Ragsdale voted aye. Councilors Devlin and McFarland voted nay. Councilor Gardner was absent. The motion failed.

Chair Ragsdale called a recess at 9:41 p.m.

The Committee reconvened at 9:52 p.m.

SEVENTH MOTION TO AMEND: Councilor Bauer moved to amend Section 3 to change the Sunset date to December 31, 1994.

VOTE ON SEVENTH MOTION TO AMEND: Councilors Bauer, Devlin and McFarland voted aye. Councilor Ragsdale voted nay. The motion passed.

EIGHTH MOTION TO AMEND: Councilor McFarland moved to rewrite the "Definition" and "Prohibition" sections to conform with the 1989 Pennsylvania statute used as the model for this ordinance.

VOTE ON EIGHTH MOTION TO AMEND: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and the motion passed.

The Committee directed Legal Counsel to rewrite the Definition and Prohibition sections to make them consistent with the Pennsylvania statute, and to eliminate redundant and cloudy language. Mr. Shaw said he would prepare a cover memo to summarize amendments and changes made at this meeting.

The Committee also discussed the 8.7 percent phosphorous level for dishwashing detergents and staff noted little information was available on impacts. Staff cited results from New Hampshire a few years ago which indicated dishwashing detergents contributed approximately 15 percent of total phosphorous pollution from cleaning agents. The Committee decided not to reduce the 8.7 percent level since true benefits could not be determined and there were not many readily available substitutes.

VOTE ON MAIN MOTION AS AMENDED: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and Ordinance No. 90-336 was recommended to the full Council for adoption as amended.

4. Update on the Transportation 2000 Funding Program

Andy Cotugno, Director of Transportation, said Ballot Measure No. 1 failed. He said the fact it did pass in the metropolitan area was promising. He discussed other revenue options and noted the vehicle registration fee was still available for road improvement purposes. He said a broader option than the Westside Corridor option could be proposed to voters. He discussed general obligation bonds, the property tax base, income tax and a possible benefit assessment district. The Committee and staff discussed possible funding options.

Mr. Cotugno said the total light rail transit (LRT) match needed was \$100 million or \$10 to \$12 million over eight years. He said contracts

had to be signed with the federal government by Summer of 1991 to receive 75 percent matching federal funds and to sign, funding had to be in place. He said an agreement had to be signed with the State by the 1991 Legislative Session. He said to have local funding in hand, ballot action must be taken by the end of July for the September 18 or November 12 election.

Chair Ragsdale encourage Committee members to attend as many Transportation 2000/Tri-Met meetings as possible by June 11, 1990, so they could be well-informed of the process and developing options.

5. Contracts List Review, Development of "A/B" Designation Recommendations for Council consideration with FY90-91 Budget Adoption.

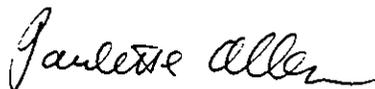
The Committee discussed the Contracts List briefly.

MOTION: Councilor Bauer moved to recommend approval of the Contracts List "A/B" designations for Transportation and Planning & Development as proposed by council staff and approving the addition of the Washington, D.C. Transportation Lobbyist contract as a "A" designation.

VOTE: Councilors Bauer, Devlin, McFarland and Ragsdale voted aye. Councilor Gardner was absent. The vote was unanimous and the motion passed.

Chair Ragsdale adjourned the meeting at 10:40 p.m.

Respectfully submitted,



Committee Clerk
IGR90.142