

MINUTES OF THE COUNCIL MANAGEMENT COMMITTEE MEETING
OF THE METROPOLITAN SERVICE DISTRICT

April 16, 1987

Committee Members Present: Councilors Tanya Collier, Jim Gardner,
Sharron Kelley, Tom DeJardin
(alternate), David Knowles (alternate)

Committee Members Absent: Councilors Larry Cooper, Gary Hansen

Staff Present: Kay Rich, Don Cox, Sandy Bradley, Ray
Barker, LeRoy Nollette, Ray Phelps,
Judy Munro, and Neil McFarlane

Chairman Gardner called the meeting to order at 5:10 p.m. He noted that Gloria Logan was Acting Clerk for this meeting and asked that she call the roll. He noted that there were three regular members and one alternate member present, and that Councilor Knowles (alternate) was in the building and would be joining them once the meeting was in progress. Both alternate members would vote in the absence of regular members. He also announced Item 8 would not be considered, but would be taken up at a later date.

1. Consideration of Minutes

Motion: Councilor Kelley moved to approve the minutes of March 12 and 19, 1987. Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Gardner, Kelley, DeJardin (alternate).

Absent: Councilor Knowles (alternate).

The motion carried and the minutes were approved.

2. Report on Investments (not an action item)

Chairman Gardner noted the investment report was for the quarter ending March 31, 1987.

Mr. Cox referred to information in his memo dated March 25, 1987, contained in the agenda packet. He mentioned as a sidenote that staff is reviewing investment policies of other government agencies and with individuals in the State Treasurer's office in light of the coming bond issues and what alternatives there may be in proposing amendments to current investment policies. Staff will be providing a report to the Committee in the future on these policies.

Councilor Kelley noted there had been a Committee meeting between the last report and this one with staff and the citizen advisory

members and they discussed what they thought at that time might be an opportunity for this agency to invest some of the earnings that could potentially come into the agency. The discussion revolved around what Metro could creatively do with the investments that are potentially going to be generated, but noted the new tax laws forbid governments from generating more income than they pay out in bond interest.

Councilor Kelley reported that she had met with the person who is in charge of public investments for the U.S. Bancorp. He suggested that Metro consider a number of ways of handling what could potentially be some sizable investments, and whether or not to hire out for bond counseling, or whether or not Metro should be doing it internally, and suggested it be done before the budget.

Councilor Kelley added that one of the other discussions in this meeting was whether or not to consider policies that said that revenue generated from these kinds of things should be put in economic development or tourism funds, or whether or not to consider investing in Oregon banks in order to promote this state, but that nothing was considered seriously.

Councilor Kelley asked for an update from Mr. Cox on the status of what the District will be doing with all this money.

Mr. Cox noted when Mr. Ray Phelps came on board as Director of Finance & Administration, that he had met with Mr. Phelps, Estelle O'Connor of the Accounting Division staff, and Rebecca Marshall from Government Finance Associates (GFA), regarding possible alternatives. One alternative suggested by Bonnie Kraft, citizen advisory member, was possibly contracting through a trustee with a bank for the investment of the bond proceeds. Mr. Cox reported that Ray Phelps was contacting the State Treasurer's office to talk to some of their people to see what ideas they may have. Staff hoped to meet with some of these parties to develop some strategy on how Metro wants to proceed.

Councilor Kelley added that there is a potential for Metro actually losing money, not earning money, on those investments, and that potential is very great so the decision that will come from all these discussions is an important one.

Chairman Gardner noted that his understanding was that with the new tax law governments can no longer sell bonds for a particular project then reinvest the proceeds from that bond sale, while getting around to starting construction, and make a profit by getting a higher return on the investment than what they are paying for the bonds, so the way it stands now you have to just break even -- any money earned has to be turned into the federal treasury.

Mr. Cox stated that any earnings in excess of the rate being paid on the bonds would be payable to the federal treasury. One of the more significant consequences, worst case, would be that it may even result in non-taxable bonds becoming taxable. Mr. Cox reported that the basic requirement was that you cannot earn more on your investments than what you are paying effectively on your bonds, and further that you cannot also go out and ask a bank to take your money and pay you a rate less than the market rate.

Chairman Gardner then noted he understood the issue that Councilor Kelley was raising was that since Metro presumably would be borrowing money -- selling those bonds at a fairly low interest rate, this is just for argument purposes, say Metro has to pay 8 percent, and our investments now in the State Pool and at various banks that are running below that rate, its probably possible that Metro could choose where to invest that money and since we are not going to be seeking an extremely high rate of return, we could perhaps invest it in either Oregon banks or where it would be put to other purposes that Metro might feel are socially desirable, since we are not seeking the maximum dollar return because we can't make any profit on this.

Mr. Cox noted that at the present time, as Councilor Gardner stated, the investment rates earned in any of our investments is under what Metro would probably pay on bonds, so we would not run into this problem at the present time. Mr. Cox stated, in response to the comment regarding socially responsible investing, that staff would consider those issues in the process of drafting any new investment policies.

Chairman Gardner remarked that even with policies that try to address that, if there is a higher rate of return available to us, which is not above but closer to what we are paying on the bonds, that we would be bound to seek the highest return that we can get, up to what the money is costing Metro.

Mr. Cox stated that as a prudent investor that was true.

Chairman Gardner said he was wondering where Metro would have much flexibility in choosing how to invest this money, as we still have to try to maximize the return until we hit the point where there would be a profit.

Chairman Gardner said he was still curious why, given that the State Investment Pool still is producing the highest interest rate, and realizing that there is a limit of \$10 million that Metro can invest in that Pool, Metro doesn't invest to that limit since the Pool is still paying the highest interest rate.

Mr. Cox noted that during this quarter the basic reasons were that 1) it is usually wise to diversify as much as possible, and 2) that the Pool lags the market as far as interest rates. With the current market being somewhat stable, but with slight increases and decreases, staff is attempting to estimate at which point the investment rate in Certificates of Deposit will in effect be higher than the State Pool rate. Mr. Cox noted in addition that the State Pool is a flexible investment in that Metro can withdraw funds under \$1 million the same day; in excess of \$1 million the Pool requires 24 hours notice; CDs are obviously locked up for the term of the investment.

3. Consideration of an Addendum to the Contract with Thompson Vaivoda Associates Architects

Mr. Rich referred to staff report of April 6, 1987, included in the agenda packet. He noted that this is the second of two of our contracts where the bids have been considerably over the budget and, unfortunately, both have been in the works long enough that they are both under that same architectural services contract which we are certainly not going to use again, and so what we wound up with here were seven bids. The low bid was considerably over the budget for this particular project, so the decision was to reject the bid, and we have now identified with the architect what we hope will be sufficient savings in the project to bring it back within the budget. We would like to get it redesigned and back on to the street and, hopefully, ready by July and done by next March. This is the facility that would house the Education and Graphics people and also remodel the building we are in. What they proposed to us is a fee of \$16,470, that is not to exceed fee, and they are willing to work on that and submit invoices to work towards that fee, but if we can get it done faster and cheaper they are willing to credit Metro with any savings. That's basically it.

Councilor Kelley wondered if there was another way of approaching the phasing in the development since it looked as though everything was scaled down.

Mr. Rich noted that there was a little improvement in that we have a darkroom now. What was wanted was two darkrooms, one that is more particularly suited to the graphics operation, and one that is more suited to the marketing operation. What we would do is get the one in place that is more suited to the marketing operation, and then have the space for the other one, and when we can we would move it from the other building. What we want to do this time is have an independent estimator also give us an estimate, along with the architect, so that we can at least double check where we think the real world is before we put it out again.

Chairman Gardner noted that if there is any chance to add back items because we get a lower bid next time we certainly should do so.

Mr. Barker noted that in January the Zoo brought to the Council some general planning objectives and concepts, and wonders if the proposed modifications stay within those general planning objectives for the Zoo.

Mr. Rich stated that they do.

Mr. Barker noted that there was no Executive Officer's Recommendation on the staff report in the agenda packet and wondered if the Executive Officer had prepared a recommendation.

Mr. Rich stated that it was reviewed by staff but inadvertently omitted.

Motion: Councilor Kelley moved to approve the contract addendum with Thompson Vaivoda Associates. Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Gardner, Kelley, DeJardin (alternate).

Absent: Councilor Knowles (alternate).

The motion carried and the contract addendum was approved.

4. Consideration of a Contract with McCullagh Leasing, Inc.

Ms. Judy Munro presented the proposed lease for fleet vehicles. Last year Metro extended the contract, which was a three-year contract, because the fleet vehicles appeared to be averaging about 11,000 miles per year. In discussing the low mileage with various lease people last year (and considering the residual) it was decided that it would be prudent to extend the contract, so the vehicles are now four years old; in addition we have a stationwagon which is nine years old. It is felt that they should all be replaced at this time. Metro is actually turning in five vehicles because the Executive Officer is no longer using a vehicle. It was in the general pool but has now been assigned to the Legislative Liaison for this session. The end of the session will coincide with the termination of the current contract and so we will be turning in five vehicles, and then re-leasing four vehicles. In addition, we will be getting rid of the stationwagon and replacing it with a cargo van. The reason we came to the conclusion that this was a good mix is that with the four vehicles we are able to operate

reasonably well, there are times when scheduling does become a problem, however, the cargo van would be available in a pinch to provide service. In addition, the cargo van has a better utility value -- we can move larger items such as displays that Solid Waste and Public Affairs take which we currently have a problem moving. We looked at the possible needs of a 9-passenger van because sometimes we provide tours or a group goes somewhere, but the use on that kind of a van is very limited.

Metro bid this contract twice. On the first bid we also included two proposed 4-wheel drive vehicles for the Solid Waste Department, so our response was very limited -- we only received one bid. In the budget process it was decided to propose an outright purchase of the Solid Waste Department cars and, in addition, drop the fifth car from the fleet, so in rebidding we received two bids. Both of the bidders bid on Chevrolets. McCullagh Leasing was the low bidder. In analyzing lease vs. purchase vs. installment plans (which as a government agency Metro cannot do) there was really not much difference in the price, ranging around \$200 depending on the mix and interest rate, so by way of financial impact it was determined that the impact was less in putting the vehicles on a lease again. The cargo van is on an open end lease because of its value. We think that at the end of three years we want to look at the kind of use we are getting and, perhaps, pay the residual and acquire it. At the end of three years Metro also has the option of extending the fleet vehicles for another year. It is recommended that the Committee approve the proposal from McCullagh Leasing Inc. and lease four Chevrolet Cavaliers and a cargo van.

Councilor Collier asked why Metro leases instead of purchasing since there is not a great savings.

Ms. Munro stated that the budget impact is less with lease payments spread over three years as opposed to the capital outlay all in one year.

Councilor Collier asked if it is cheaper to pay mileage to staff using cars than it is to have a fleet.

Ms. Munro noted that it is not just mileage, parking for private cars would be a problem as well as insurance, and Metro is trying to encourage people to use public transportation.

Councilor Collier noted she does not believe that parking and insurance should be issues as she uses her personal car for business and pays all her own parking and all her own insurance. Metro should not have to pick up the parking and insurance. She did note that she did understand the point of encouraging people to use the public transportation.

Ms. Munro noted that it has been the practice to have a fleet available since so many staff members bus to work and bike to work that parking would be a real problem.

Mr. Barker noted that on the bid schedule the automobiles have limited service whereas the van has full service. Why the difference?

Ms. Munro stated that represents the limited service tires instead of regular tires, and for the van full service tires are needed.

Chairman Gardner asked for clarification on the issue of why the fleet size is going from five to four. I understood you to say that the reason why the fleet is going from five to four is because the past Executive Officer used a leased car and the current Executive Officer has indicated she will use her own vehicle -- I followed that fine -- then we get to the Solid Waste Department and the fact that in their budget this year they intend to show purchase of two vehicles for that department's use. In the past haven't they been using Metro pool vehicles?

Ms. Munro noted that assigned to the Solid Waste Department is a Subaru stationwagon which has about 80,000 miles on it, and so they are proposing to replace that and add an additional one. We took those out of the bid because a number of vendors indicated that was why they did not bid the first time around.

Chairman Gardner pursued his question of if the Solid Waste Department is going to have two vehicles now it seems they will not be using the pool vehicles as much as they have been in the past, and is wondering if that was perhaps accounted for in reducing the number from four to three.

Ms. Munro said that is how they justified being able to do it. Actually the use for those vehicles is primarily at the landfill and for operations-type functions and that is why they needed 4-wheel drive to go in the landfill, we don't usually encourage the use of the fleet vehicles except to transport back and forth.

Chairman Gardner said that was a sufficient explanation.

Motion: Councilor DeJardin moved to approve the contract for leasing five vehicles from McCullagh Leasing Inc. Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Gardner, Kelley, DeJardin (alternate).

Absent: Councilor Knowles (alternate).

The motion carried and the contract for leasing five vehicles for fleet use was approved.

5. Consideration of a Contract with Euneva & Sons Enterprises

Ms. Munro noted that she was before the Council in January to present an extension, which was at our option, for the janitorial contract on the Metro Center and, unfortunately, service became very inconsistent after the extension of the contract. We worked with them to overcome some of the shortcomings, however, it became apparent they were unable to fulfill the contract. The contract allows for termination.

The contract was re-bid and Metro received 20 bids. The low bid was from Euneva & Sons Enterprises which is a small business which has applied to the Oregon Department of Transportation for certification as a DBE. Positive recommendations were received from managers of other similar facilities where they are employed. Ms. Munro recommended that Euneva & Sons Enterprises be awarded the contract to commence May 1, 1987. The contract is written for a rather strange period of time, 15 months, in order to look at the quality of work, the amount of time spent tracking this contract, and look at the possibility that in-house custodial service may better suit our requirements, and the termination of the contract would coincide with about two months after the commencement of next fiscal year which would give time that if we were going to implement an in-house situation we could do that.

Mr. Barker noted that the average of the bids comes out around \$30,000 and the low bid is substantially below that, and would like Ms. Munro's comments on the reasons for that.

Ms. Munro stated that there are three partners -- one is a teacher who does this as his second job and is trying to build the company -- and she determined that there was sufficient money in the contract for them to hire 1.5 full-time employees, based on paying minimum wage, and realize a little profit. They are not required to pay themselves and they want the contract.

Motion: Councilor DeJardin moved to approve the contract with Euneva & Sons Enterprises for janitorial and light maintenance services. Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Gardner, Kelley, DeJardin (alternate).

Absent: Councilor Knowles (alternate).

Councilor Knowles seated himself with the Committee at 5:50 p.m.

6. Consideration of a Contract with Rittenhouse-Zeman and Associates

Ms. Sandy Bradley reviewed the staff report.

Ms. Bradley stated that they had had contract discussions with Rittenhouse-Zeman and they are reflected in the contract. The contract is on a time and materials basis with a total not to exceed \$40,000. Rittenhouse-Zeman had hoped to have the contract the day of the contract negotiations as they are eager to get started. Both the architect and the structural engineer were consulted in the selection process and are very happy with the choice.

Councilor Kelley recalled CTRC where Metro had a contract that was required to do the same kind of work, and there was a problem that required a number of change orders, which ended up costing this agency many, many thousands of dollars in legal fees, as well as we ran quite a bit over the overall contract. Councilor Kelley noted that in the Personal Services Agreement on page 3, under item 11, it says that "he (meaning the contractor) shall be responsible" for the completeness, professional quality and technical accuracy of work performed...." Councilor Kelley asked if when it says "...shall be responsible" does that mean contractor also guarantees his work.

Ms. Bradley stated that they discussed this point, and everybody has a slightly different interpretation of the word "guarantee." Yes, contractor is responsible for the work that he performs, for the soils testing, for the analysis and for any recommendations based on that analysis. If we proceed contrary to that then obviously the contractor is not responsible. If we, in following his analysis and recommendations, proceed accordingly and the building falls down then yes, he is responsible. I am hesitating about the word guarantee.

Councilor Kelley asked what if the contractor makes recommendations and we do build based upon these recommendations, and when we start construction and those recommendations prove to be faulty, then what is his responsibility.

Ms. Bradley stated that at that point we can go back to him for corrective measures. That is the reason for the insurance for errors and omissions -- that if he makes a professional error or professional omission then he is responsible for making that good.

Councilor Kelley expanded by saying -- we have already gone into and let a contract, and the contractor has started construction, and then it has to be done over again by a change order, who is

responsible for those construction costs that would have to be done over again? I just want it to be in language so that everybody understands who is responsible.

Ms. Bradley stated that Rittenhouse-Zeman & Associates are very clear that what they do they are responsible for up to the limits of their insurance. So a change order of \$3,000,000 -- we could only ask for \$1,000,000. Professional errors and omissions insurance is difficult to get and Rittenhouse carries the maximum of any firm that we interviewed, so as far as protecting ourselves we were aware of that going in and we believe we have done the best that the market will bear at this point.

Motion: Councilor DeJardin moved to approve the contract with Rittenhouse-Zeman & Associates for geotechnical services for the Oregon Convention Center. Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Gardner, Kelley, DeJardin (alternate).

Abstain: Councilor Knowles.

7. Consideration of an Addendum to the Contract with Zimmer Gunsul Frasca Partnership

Ms. Bradley noted that this was an addendum to the major contract with the architect for the convention center. It provides for most of the time that the architect and other members of the design team would spend on the One Percent for Art Program, which in their contract they refer to it as Art-In-Architecture. The amount of the addendum is \$18,500 and is a very reasonable amount for the time that will be spent. Bob Frasca served in a similar capacity for the program on the Justice Center and he is very supportive and excited about the possibilities. The One Percent for Art Program is progressing with the guidelines in the resolution adopted by the Council in March, and the next step will be that the membership on the advisory committee will be recommended to the Executive Officer, and those members must be concurred in by the Executive Officer and the Metro Council.

Chairman Gardner stated that he was curious about the last page of the staff report where ZGF estimated what looks like time involvement, and asked if the table does, in fact, represent hours.

Ms. Bradley stated that was correct.

Council Management Committee
April 16, 1987
Page 11

Motion: Councilor Kelley moved to approve the contract addendum with Zimmer Gunsul Frasca Partnership for administration of the One Percent for Art Program for the Oregon Convention Center. Councilor Collier seconded the motion.

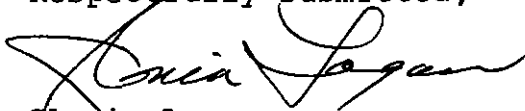
Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Gardner, Kelley, DeJardin (alternate).

Abstain: Councilor Knowles.

There being no further business, the meeting was adjourned at 5:55 p.m.

Respectfully submitted,



Gloria Logan
Acting Clerk of the Council

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