

MINUTES OF THE COUNCIL INTERNAL AFFAIRS COMMITTEE  
OF THE METROPOLITAN SERVICE DISTRICT

Special Meeting

December 7, 198~~7~~8

Committee members present: Councilors Mike Ragsdale (Chair),  
Tanya Collier, Corky Kirkpatrick and  
David Knowles

Committee members absent: Councilor Elsa Coleman

Also present: Councilor Jim Gardner, Councilor-  
elect Roger Buchanan, Metro General  
Counsel Dan Cooper

Chair Ragsdale called the special meeting to order at 4:10 p.m.

1. Consideration of Ordinance No. 88-271, for the Purpose of  
Amending Metro Code Chapter 2.04 Relating to Contracting  
Procedure

Dan Cooper, General Counsel, referred the Committee to correspondence he distributed regarding contracting authority: 1) letter dated December 1, 1988, to The Honorable Mike Ragsdale from General Counsel Cooper; 2) letter dated October 20, 1988, to Mr. Donald E. Carlson from General Counsel Cooper and 3) letter dated September 26, 1988, to The Honorable Mike Ragsdale from General Counsel Cooper. Mr. Cooper said he'd reviewed the ordinance and considered whether it would be consistent with the opinion letter he wrote to Executive Officer Cusma dated December 18, 1987, regarding division of powers between Council and the Executive Officer.

Mr. Cooper said Ordinance No. 88-271 was at variance with his opinion regarding Council exercising approval authority over budgeted appropriations. He also said setting forth procedural requirements such as reporting, setting timelines and approving exemptions from public bidding requirements were appropriate legislative actions. Mr. Cooper said as a result of subsequent discussions with Council Administrator, Donald Carlson, Mr. Carlson had prepared an amended version of the ordinance (Ordinance No. 88-271A); and the amended version, in general, was consistent with his opinion. However, Mr. Cooper noted some portions of the ordinance needed further review and changes.

Councilor Knowles asked if, in Mr. Cooper's opinion, Council had authority to require review of requests-for-bid (RFB) and requests for proposal (RFP) and specify review timelines prior to release. Mr. Cooper replied affirmatively. In response to other questions raised by Councilor Knowles, Mr. Cooper said, in his opinion, Council had authority to limit the Executive Officer's

ability to enter into sole source agreements and contracts extending beyond one fiscal year.

Councilor Knowles referred to a copy of a memorandum he had received dated December 5, 1988, addressed to Presiding Officer Ragsdale from Executive Officer Cusma regarding Ordinance No. 88-271. Councilor Knowles said he thought while the memo recited accurate historical information, expectations were different. He noted Council adopted a contracting ordinance with an effective date December 31, 1988 (Ordinance No. 88-249), and consideration of Ordinance No. 88-271 would not be inconsistent with, but in addition to, Ordinance No. 88-249. He asked Ray Phelps, Director of Finance and Administration, to explain the meaning of a statement on the third page of the memo Councilor Knowles had referred to from Ms. Cusma to Presiding Officer Ragsdale: "Therefore, it is my intention to follow the provisions of ordinance No. 88-249 beginning January 1, 1989," and asked if the intent were to follow Ordinance No. 88-249 whether or not the ordinance was in effect noting the ordinance could be repealed. Mr. Phelps explained the Executive Officer wanted to clearly state all things as they were on the date she wrote the memo, Ordinance No. 88-249 would be effective January 1, 1989; and it was her intention to follow its provision.

Councilor Knowles asked if the Executive Officer would oppose enactment of procedures proposed in Ordinance No. 88-271A in regard to sole source, RFB and RFP review. Mr. Phelps replied, not in principle. However, he noted he had not had adequate review time and grammatical work was necessary.

Councilor Collier noted the Finance Committee had reviewed Ordinance No. 88-271 during several meetings and asked why General Counsel Cooper had not made the Committee aware during their deliberations he would not approve the ordinance. She also asked why the Finance Committee was led to believe that extending the ordinance through the upcoming legislative session would be satisfactory to Administration. Mr. Phelps said the Administration generally opposed Ordinance No. 88-271 and supported Ordinance No. 88-249. Mr. Cooper said at the time the Finance Committee considered Ordinance No. 88-271, he had been afforded a very short time to review the ordinance and tried to give the Council guidance, but had not indicated he would or would not approve the ordinance.

A recess was called at 4:35 p.m.

Chair Ragsdale reconvened the meeting at 4:55 p.m. Council Administrator Carlson explained Ordinance No. 88-271A was an amended version of Ordinance No. 88-271 which had been reviewed

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by the Finance Committee and referred to the Internal Affairs Committee. Mr. Carlson said the amended ordinance attempted to achieve compliance with General Counsel's December 1, 1988, memo to Chair Ragsdale and consistency with Ordinance No. 88-249.

Mr. Carlson said Ordinance No. 88-271A, if adopted, would remove the requirement for Council or committee approval of contracts contained in Ordinance No. 88-249 and provisions previously in Ordinance No. 88-271 for RFP and RFB approval by Council, incorporate provisions enabling committees to set release dates for RFBs and RFPs and add special reporting and certification procedures. Mr. Carlson briefly discussed other changes in the amended ordinance.

Chair Ragsdale asked staff to distribute Ordinance No. 88-271A to department heads for review and comment. Mr. Phelps asked the record to reflect response to Council regarding the content of Ordinance No. 88-271A would be made by Executive Officer Cusma, and only Deputy Executive Officer Richard Engstrom and he were authorized to speak for Ms. Cusma with respect to her response. Mr. Phelps said his comment was not intended to deny participation, but to clearly reflect the Administration's position. Chair Ragsdale said Council Administrator Carlson would coordinate the ordinance's distribution with Mr. Phelps. General Counsel Cooper said he would review the ordinance in detail and work with Mr. Carlson to present any changes that were necessary.

Councilor Ragsdale announced Ordinance No. 88-271 would be removed from the Internal Affairs Committee's December 8, 1988, regular meeting agenda and considered at a special Committee work session on December 12, 1988 at 5:30 p.m.

There was no other business, and the meeting was adjourned at 5:35 p.m.

Respectfully submitted,



Gwen Ware-Barrett  
Council Committee Clerk

gpwb  
IAC12.07