

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

June 16, 1988

Committee Members Present: Councilors Mike Ragsdale (Chair), Gary Hansen (V. Chair), Tanya Collier, Larry Cooper, Sharron Kelley, David Knowles and Richard Waker

Committee Members Absent: None.

Also Present: Councilors Corky Kirkpatrick and George Van Bergen

Chair Ragsdale called the meeting to order at 4:07 p.m.

1. Consideration of Resolution No. 88-894A, for the Purpose of Amending the Classification and Pay Plans for the Metropolitan Service District

Council Administrator Donald Carlson referred the Committee to a memo he had written and distributed to the Committee dated June 16, 1988 regarding the current status of Resolution No. 88-894A. Mr. Carlson said the Council had re-referred the resolution to the Internal Affairs Committee for discussion of issues raised regarding merit and cost of living adjustments (COLA) at the May 26, 1988 Metro Council meeting.

The Chair asked Daniel Cooper, General Counsel, to render a legal opinion regarding testimony and correspondence received from representatives of the American Federation of State, County and Municipal Employees (AFSCME). Mr. Cooper said adoption of the resolution would not constitute an unfair labor practice and furnished the Committee with a letter dated June 16, 1988, addressed to the Executive and Presiding Officers detailing the basis of his finding.

The Chair opened the public hearing.

Andy Cotugno, Metro Employee, said he was concerned about Section 5 of Attachment D (Implementation Plan) to Resolution No. 88-894A. He said he thought the section was too restrictive and did not fairly address long-standing inequities which he felt appropriately should be addressed on July 1 rather than on the employee's anniversary date.

Ray Phelps, Finance and Administration Director, responded there were 45 unrepresented persons in the organization whose salaries were very close to or at the top of their range. Of that number, Mr. Phelps said, there were less than 12 persons who were

affected adversely by an anniversary date later than July 1. He suggested conducting "spot evaluations/recommendations" for those persons.

1st motion to amend:

Councilor Cooper moved to amend Section 5 of Attachment D (Implementation Plan) to Resolution No. 88-894A to read: Any inequities in salary placements will be corrected by the Executive Officer with a special merit review during fiscal year 1988-89. (New language underlined.)

Councilor Collier asked from what source funding would come. Mr. Phelps replied sufficient funds had been budgeted in the FY 1988-89 merit pool, in addition to approximately \$67,000 budgeted to address the Pay and Classification Plan recommendations.

Vote on 1st motion to amend:

A vote on the amendment resulted in all seven committee members voting aye.

The motion carried unanimously.

Joan Saroka, Metro Employees' Association Chairperson, reported on the results of employee meetings conducted at the request of the Task Force on Health and Retirement Benefits. She said meetings for downtown and Zoo workers were held on June 13 and 14, and there had not been a consensus of the two groups. Ms. Saroka said employees felt they had not been afforded adequate time to consider the proposals and had asked her to stress to the Committee their concern for longer lead times on matters that directly affect them, especially in the area of health and retirement benefits.

Ms. Saroka said downtown employees had passed a motion requesting a six month delay of any action to alter benefits. She said Zoo employees also wanted additional time for review and had strongly recommended implementing the consultant's recommendation of ODS as the health carrier, rather than the low bidder, Blue Cross. She also reported that eleven employees who had not attended the meetings telephoned her in support of changing to the Public Employees Retirement System (PERS).

Ms. Saroka also said employees had expressed the following concerns: 1) pay and classification study--specifically the size

of the merit pool, 2) administration of cost of living adjustments, 3) equitable adjustments for persons with varying anniversary dates, and 4) a more formal process for working with the Council.

Councilor Collier questioned if it were possible to extend the in-force health contracts in order to afford employees additional time to consider the proposals. Randy Boose, Personnel Officer, replied that it was not possible to extend the Great West health insurance contract.

Ray Phelps, Finance and Administration Director said he felt there had been adequate time for employee review and opportunity for employee input. He also stated efforts had been made to supply information.

Robert Hart, Metro Employee, said he felt employees had adequate time to review the Pay and Classification Plan, and the Employees' Association position was supportive of the Plan in general and in principle. He disagreed that adequate time had been afforded to review health and retirement benefit plans. He also said a recently-conducted survey of employee attitudes indicated most employees agreed that the health/retirement benefit package was good. Mr. Hart said the Employees' Association was on record supporting Council proceeding with adoption of the Pay and Classification Plan, including addressing appeals and other areas of concern, and requesting additional time to review proposals. He urged Council to delay action on health and retirement benefit changes.

Councilor Collier said she felt Resolution No. 88-894A was closely tied to ratification of health and retirement benefits contracts because costs associated with joining the PERS would be compensated for by, in part, adjusting health care premiums.

2nd motion to amend:

Councilor Collier moved to recommend Council approve an aggregate 5.46 wage increase and adjust health care benefits as recommended in the staff report to the resolution and to change to the PERS.

Councilor Waker objected to the motion, stating it was not relevant to Resolution No. 88-894A. He pointed out he had not received information on health and retirement proposals, and therefore, could not support the motion.

Withdrawal of motion:

The motion did not tie specifically to the resolution under consideration (Pay and Classification Plan changes), and therefore, was withdrawn.

Main motion:

Councilor Knowles moved to recommend the Council adopt Resolution 88-894A as amended in Section 5 of Attachment D.

Councilor Collier spoke against the motion and noted employees supported a mix of COLA and merit.

3rd motion to amend:

Councilor Collier moved to amend the motion to specify:
1) all employees would be evaluated by August 1, 1988;
2) employees performing satisfactorily would receive a COLA award in FY 1988-89; 3) employees with unsatisfactory performance would be placed on a corrective work program; 4) each employee would be evaluated on their anniversary date and upon satisfactory evaluation be eligible to receive a merit increase.

Councilor Knowles opposed the motion. Councilor Waker pointed out a previous version of Attachment D had set forth this strategy which Council had considered and voted to delete. Councilor Hansen spoke in favor of the motion.

The Chair pointed out format inconsistencies in Attachment D and noted paragraphs to be numbered 6 and 7, the addition of which would effect no substantive changes to the content or impact of the resolution.

Vote on 3rd motion to amend: A vote on the amendment resulted in:

Ayes: Collier, Hansen, Ragsdale
Nays: Cooper, Kelley, Knowles, Waker

The motion to amend failed.

Councilor Waker pointed out the resolution should reference two attachments--the Kinney Point Factor Evaluation and the Salary Increase Matrix.

Chair Ragsdale announced that if there were no objections from the Committee, he would move further consideration of Resolution No. 88-894A to the end of the agenda to allow a scheduled public hearing to commence.

Motion: Councilor Knowles moved to continue consideration of Resolution No. 88-894A after public hearings on Ordinance No. 88-252 and 88-249.

Vote: All committee members voted aye.

The motion carried unanimously.

3. Consideration of Ordinance No. 88-252, Amending Metro Code Chapter 2.04, Relating to the Disadvantaged Business Program

Ray Phelps, Director of Finance and Administration reported that proposed ordinance amendments to the disadvantaged business enterprise (DBE) program related to joint ventures and technical compliance with Title VI, U.S. Department of Transportation regulations.

Chair Ragsdale opened the public hearing.

Al Batiste, President, National Association of Minority Contractors, 3802 N. E. Union Avenue, Portland, Oregon, said the National Association of Minority Contractors firmly supported advancing opportunities for joint ventures. He proposed amending Section 2.04.175 to clarify procedures in cases where a disadvantaged business was the prime or major subcontractor. Mr. Batiste also said he would like to see language included in the ordinance which he had seen in a earlier draft that stated the affirmative action function that Metro would undertake in the project development stage.

Grace Gallegos, 8959 S. W. Barbur Blvd. #102, Portland, Oregon, said she was the owner of a business consulting firm that had worked extensively with disadvantaged businesses. Ms. Gallegos said she had supported adoption of Ordinance No. 88-252 because it had been comprehensive and specific. She suggested, however, the ordinance be amended to specify participation goals for disadvantaged businesses in terms of percentages. Ms. Gallegos also suggested subcontractors specified on the bid documents at the time of bid opening be the firms utilized to perform the

contract if Metro staff determined they were eligible and financially able to perform the work. She also requested clarification of Section 2.04.160 (b).

Councilor Waker said he felt the matter before the Committee was the amendments to the ordinance, not the policy issues involved in the ordinance. The Chair then requested persons testifying to limit their comments to the amendments proposed, and submit comments on other areas to him in writing with a copy to Ray Phelps.

Gil Solis, 10700 N. E. Sandy Boulevard, Portland, Oregon, said he would submit written testimony describing his concerns regarding disadvantaged business utilization in instances when the DBE was not the lowest, responsible, responsive bidder.

Charles Butler, President, Oregon Business League, said he supported deletion of Section (b) under the Contract Goals and amendments proposed in the area of joint ventures. He asked the Committee to move expeditiously so that the amended ordinance would be in place prior to award of the general contract on the convention center.

The chair announced he had received a letter from Lina Garcia Seabold, Governor's Advocate for Minority/Women Business, expressing policy concerns about the ordinance.

Jack Kalinoski, 9450 S.W. Commerce Circle, Wilsonville, Oregon, 97070, suggested altering requirements on page 2, subsection (h) and on page 6 to change the timing of actions from "at the time of contract award" to "at the time of bid opening or proposed submission date." He also suggested language changes on page 4 to remove redundant wording in subsection (b) and to correct reference to Oregon Department of Transportation certification list, and instead insert Oregon Executive Department. He asked for clarification of the terms "locally-funded," and "good faith."

Charles Marmolejo, Marmolejo Contractors, 980 N. W. Wade, Estacada, Oregon, asked for clarification on page 11 in instances where the DBE would be the prime contractor.

Margaret Garza, 8959 S. W. Barbur Blvd. #102, Portland, Oregon, commented on the review process for the ordinance. She said she did not feel she had been afforded adequate opportunity for input during the development stage of the amendments. She also expressed concern about joint venture and low bid sections of the ordinance.

Ray Phelps then responded to questions.

Motion: Councilor Waker moved the Committee recommend the Council adopt Ordinance No. 88-252.

There was no other testimony and the public hearing was closed.

Vote: A roll call vote resulted in Councilors Collier, Cooper, Hansen, Kelley, Knowles, Waker and Ragsdale voting aye.

There were no dissenting votes, and the motion carried unanimously.

Chair Ragsdale said he would form a committee to review forthcoming written comments on Metro's disadvantaged business enterprise program. Councilor Knowles volunteered to chair the committee, and Councilors Kelley, Collier and Hansen agreed to serve on the committee. The Chair announced contrary to a previous statement, written comments on the ordinance should be submitted directly to Councilor Knowles.

2. Consideration of Resolution No. 88-874, for the Purpose of Adopting Procedures for Introducing Ordinances and Resolutions

Council Administrator Carlson presented the staff report and stated Exhibits A and B to the resolution had been revised to reflect motions of intent passed by the Internal Affairs Committee on May 26, 1988.

Councilor Kirkpatrick asked for clarification of when it was appropriate to submit an ordinance and when to submit a resolution. Mr. Carlson said staff will provide guidelines that would respond to questions of import, implementation and legal standing.

Motion: Councilor Waker moved approval of the amendments to Exhibits A and B to Resolution No. 88-874 as presented in the Committee agenda packet.

Vote: All Committee members voted aye.

The motion carried unanimously.

Motion: Councilor Waker moved to recommend the Council approve Resolution No. 88-874 as amended.

Vote: All Committee members voted aye.

The motion passed unanimously.

4. Consideration of Ordinance No. 88-249, Amending Chapter 2.04, Metro Contract Procedures of the Metro Code, in Order to Clarify the Division of Powers Between the Council and the Executive Officer and Making Other changes.

Mr. Phelps said the amendments proposed in the meeting packet reflected issues and responses from General Counsel Daniel Cooper with regard to contracting at Metro in relation to the separation of responsibilities of Council and the executive officer. Council Administrator Carlson presented the staff report and referred the committee to a memo dated June 7, 1988, regarding staff review of Ordinance No. 88-249. He stated amendments proposed in that memo deleted the requirement for Council and Internal Affairs Committee approval of certain contracts, supplied language consistencies, clarified dollar amount limitations, and clarified the executive officer's authority to execute or amend contracts.

Councilor Collier pointed out that the Council Finance Committee would be considering Ordinance No. 88-247A (For the Purpose of Adopting the Annual Budget for Fiscal Year 1988-89, Making Appropriations, Levying Ad Valorem Taxes, Creating a Metropolitan Exposition-Recreation Fund and Eliminating the Convention, Trade and Spectator Facilities Fund) later that evening, and she felt that the two ordinances were closely linked in that Exhibit D to Ordinance No. 88-247A set out a Contracts List.

Motion: Councilor Collier moved to recommend Council adoption of Ordinance No. 88-249 with the amendments proposed in Council staff's June 7, 1988, memo contingent upon Finance Committee approval of Ordinance No. 88-247A and an outline of, and consensus on, Exhibit D referenced in Ordinance No. 88-247A.

NOTE: No vote was taken on this motion. The Finance Committee met later that evening but did not adopt an Exhibit D to Ordinance No. 88-247A. A motion later made by Councilor Waker unanimously approved recommending Council adoption of Ordinance No. 88-249 as amended including the amendments proposed in Council staff's June 7, 1988, memo to the Committee.

Councilors Kelley and Waker proposed amending the ordinance to put in place provisions whereby the Executive Officer would

notify the Council prior to award of any sole source agreement or award of a contract to anyone other than the low bidder.

First motion to amend:

Councilor Kelley moved to add to section 2.04.030 of Ordinance No. 88-249 a new paragraph: (j) Prior to the award of a contract to a sole bidder, the Executive Officer shall obtain prior approval of the Contract Review Board.

Vote on 1st motion to amend:

The vote on the amendment resulted in all seven committee members voting aye.

The motion carried unanimously.

The Chair declared a recess at 7:00 p.m. in order to allow the Finance Committee to meet.

The Internal Affairs Committee meeting reconvened at 7:40 p.m. and the Committee continued consideration of Ordinance No. 88-249, Amending Metro Contract Procedures to Clarify Division of Power Between the Council and the Executive Officer. Council Administrator Carlson reported the Finance Committee had approved a motion recommending the Council adopt Ordinance No. 88-247A as amended to exclude reference to Exhibit D, the Contracts List. Councilor Knowles pointed out that the Budget Committee deliberations and recommendations had been based upon then existing procedures. Therefore, he suggested the effective date of the ordinance coincide with the beginning of the 1989-90 fiscal year.

The Chair opened the public hearing; there was no testimony and the hearing was closed.

Councilor Kirkpatrick said she questioned the philosophy of fiscal oversight through the budget process. She cautioned against adoption of the ordinance without an appropriations schedule. Councilor Kirkpatrick also questioned how the Council's contract review board responsibilities would be fulfilled.

The Committee proposed and discussed effective dates for the ordinance.

2nd motion to amend:

Councilor Knowles moved to amend Ordinance No. 88-249 to

be effective December 31, 1988 or upon adoption a Schedule of Contract Appropriations amending Ordinance No. 88-247A and setting forth the purposes and amounts of contracts, whichever date is earlier.

Vote on 2nd motion to amend: The five Committee members present voted aye. Councilors Cooper and Kelley were absent.

The motion carried unanimously.

3rd motion to amend: Councilor Waker moved to amend section 2.04.044 of Ordinance No. 88-249 to add a paragraph: Prior to award of a contract to any bidder other than the apparent low bidder, the executive officer shall obtain the prior approval of the Contract Review Board.

Vote on 3rd motion to amend: A vote on the motion resulted in all five committee members present voting aye. Councilors Kelley and Cooper were absent.

The motion carried unanimously.

Councilor Hansen requested a clearer definition of gifts and gratuities as stated in section 1. (g). Councilor Ragsdale asked staff to review the State statutes and develop comparable language.

Main motion: Councilor Waker moved to recommend the Council adopt Ordinance No. 88-249 as amended.

Vote on main motion: The vote on the motion was unanimous with all committee members present voting aye. Councilors Kelley and Cooper were absent.

The motion carried.

1. Consideration of Resolution No. 88-894A, for the Purpose of Amending the Classification and Pay Plans for the Metropolitan Service District

Councilor Collier reported the recommendations of the Task Force on Health Benefits (which had met that evening) were:

1. enroll in ODS Health Plan on August 1, 1988; and
2. enroll in PERS (retirement system) on January 1, 1989.

Councilors Knowles and Collier proposed the following amendment to Resolution No. 88-894A:

Motion: Councilors Knowles and Collier moved that subsection C of Attachment D (Implementation Plan) to Resolution No. 88-894A provide 1) a COLA of 3 percent to be awarded to employees for fiscal year 1988-89 on their anniversary date based on a satisfactory performance evaluation; 2) thereafter the Metro Council would annually set a COLA amount; 3) an employee would be eligible to receive a merit increase for work performance exceeding satisfactory in accordance with the matrix identified as Exhibit A to Resolution No. 88-894A and if funds were available within the department budget.

Vote: The vote on motion resulted in the five committee members present voting aye. Councilors Collier and Cooper were absent.

The motion carried unanimously.

There was no further business, and the meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Gwen Ware-Barrett

Gwen Ware-Barrett
Council Committee Clerk