

**METRO
CHARTER
COMMITTEE**

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AGENDA

DATE: February 18, 1992
MEETING: Finance Sub-Committee
DAY: Tuesday
TIME: 8:30 a.m.
PLACE: Metro, Council Chamber, 2000 SW 1st Avenue, Portland

8:30 Meeting called to order.

Discussion of revenue option issues not resolved at the previous subcommittee meeting.

10:30 Consideration of a recommendation to be made to the full committee regarding the appropriate taxing power of the regional governing body.

11:30 Meeting adjourned.

MINUTES OF THE FINANCE SUBCOMMITTEE
OF THE METRO CHARTER COMMITTEE

February 18, 1992

Metro Council Chamber

Subcommittee Members Present: Bob Shoemaker (Chair), Jon Egge, John Meek, Hardy Myers,
Wes Myllenbeck

Other Charter Committee
Members Present: Frank Josselson, Ned Look

Subcommittee Members Absent: Ray Phelps

Chair Shoemaker called the meeting to order at 8:45 a.m.

Bob Shoemaker said the subcommittee should go through the distributed matrix to see where there is agreement, then resolve areas where there is not agreement.

1. Revenue devices now imposed by Metro are continued.

Bob Shoemaker pointed out that the revenue devices listed are those Metro is now using. He asked whether anyone thought that a tax now being imposed should not be. Hearing no objection, he concluded that revenue devices now imposed by Metro should be continued.

a. Ad valorem tax, at 15 cents/\$1000 value. Limited to funding the Zoo and retiring bonds used to build the Convention Center.

There was consensus to limit to current imposition.

b. Excise tax

Bob Shoemaker said John Meek pointed out at a previous meeting that the excise tax was limited to 6% of gross revenues of Metro, but there is not limitation on the excise tax that may be charged to any individual activity. John Meek is suggesting that there also be a rate limitation, so that no individual excise tax may exceed 6% of the revenue derived by Metro from that exercise. He asked how many members thought a rate limitation should be set by the charter.

Egge and Meek indicated they would want a rate limitation, Myers, Myllenbeck and Shoemaker indicated they would not want a rate limitation.

Bob Shoemaker asked whether to broaden the applicability of the excise tax to beyond Metro functions. He said that the excise tax does not require voter approval.

No one indicated that the applicability of the excise tax should be broadened to beyond Metro functions. Egge and Myllenbeck said they at first were maybe's, but would go along with the majority. Myllenbeck said he wanted more information on the subject.

Bob Shoemaker said that, politically, broadening the excise tax would expose the charter to a tremendous opportunity for attack.

Janet Whitfield asked if the limitation of applying the excise tax only to Metro functions precluded them from imposing other forms of excise taxes, such as hotel/motel and others.

Bob Shoemaker said the subcommittee should add, under 2. *Revenue devices now authorized but not used by Metro are continued*, a provision that any other excise tax not already imposed, but would be allowed on future functions by ordinance. In the future Metro will have other functions. They will consider imposing excise taxes on those functions. Current statute authority would allow them to do that. Should those future excise taxes require a vote of the people, or should they be allowed by ordinance?

John Meek said it would be broadening the aspects of functions. If Metro is in the convention center business, they could conclude that it relates to the tourism business, and then would relate that to the hotel/motel industry. Then they can impose an excise tax on the renting of a room.

Bob Shoemaker cited the statute, 268.509, that the district could impose an excise tax on any function owned, operated, franchised or provided by the district.

Janet Whitfield said the subcommittee had previously established an understanding to carry forward that any excise tax imposed on Metro functions would have a direct relationship between the function and the excise tax.

Hardy Myers said the charter provision dealing with the authority to impose an excise tax on new Metro functions could be framed so that it automatically picks up new functions, without having to state that separately.

Janet Whitfield asked for clarification on the use of the excise tax. The subcommittee has voted that the imposition of any excise tax would be limited to Metro functions. That could be interpreted to mean that imposing it on non-Metro functions would require an amendment to the charter, including to add anything like a hotel/motel tax.

Bob Shoemaker said if franchising hotels or motels became a Metro function--through Metro managing urban growth, for instance--then Metro could impose an excise tax on users of hotel and motels.

Janet Whitfield asked if it could do the same, for instance, with movie theaters.

Bob Shoemaker said, yes, if it was decided that there was a reason Metro should franchise movie theaters rather than having them on the free enterprise system. Then they could impose an excise tax on that function. First, however, they would have to go through the process of deciding whether they should undertake the function.

Janet Whitfield concluded that the excise tax would definitely be limited to Metro functions, and it couldn't be done by referendum or vote of the people.

Bob Shoemaker said, no, referendum was a possibility.

Janet Whitfield said she thought if the charter limits the imposition of excise taxes to Metro functions, to impose it on non-Metro functions would require a change in the charter, except for where the charter would provide for a construction excise tax.

Bob Shoemaker said Metro functions may change over time. As they change, excise taxes may be imposed and old ones may fall away.

Janet Whitfield said that if Metro were to impose an excise tax on restaurants, for example, which are not a Metro function, that couldn't be done without a change of the charter.

Bob Shoemaker said that conclusion hadn't been reached yet. Under the authority that has been agreed to give Metro, it doesn't include the authority to impose taxes on non-Metro functions.

d. Service and user charges.

John Meek said he thought the service and user charges should be specific.

Dan Cooper, Metro General Counsel, said service and user charges are used mainly in the solid waste system and the Zoo. Solid waste user charges are statutorily dedicated to that function.

Bob Shoemaker asked if Metro's current authority to impose user charges is limited to use for the service being provided.

Dan Cooper said there is no provision that Zoo fees have to be dedicated to Zoo functions.

Bob Shoemaker asked whether there should be a limitation of service and user charges to the function on which they are levied.

Frank Josselson asked why he would do that.

Bob Shoemaker said probably fairness. People would be paying for what they are getting, otherwise they would be paying for another function of the government.

Frank Josselson said they would think of it as coming through the back door.

Jon Egge said that was his perception.

Frank Josselson said the committee would have to make sure there was enough revenue for other functions.

Jon Egge said that user fees are becoming a more important element of this government, and is a pretty big issue.

Frank Josselson said he thought the charter should indicate service and user charges as opposed to enterprise fees.

Bob Shoemaker said that limiting service and user charges to no more than what was levied would not prevent Metro from imposing an enterprise charge. That would be a new tax and would have to go for a vote of the people.

Jon Egge said that extending a user fee beyond the cost of funding the function would be a little surreptitious.

Frank Josselson said the government should be up front when charging a fee.

Bob Shoemaker asked how many believe that it would be appropriate to limit the fee to the cost and use of the service for which the charge is made.

Shoemaker, Egge and Meek agreed. Myers and Myllenbeck disagreed.

John Meek said he didn't think it would be necessary to separately list enterprise fees. Metro already has that authority through the excise tax.

Bob Shoemaker said that on any function, the user could be charged a user fee and an excise tax.

John Meek said that was correct.

e. Revenue bonds.

John Meek said he questioned whether revenue bonds should be used for a general purpose building. He said the charter should state that revenue bonds have to have a specific function. As a funding source for the new Metro headquarters was a misuse. It counted as its revenue stream leasing space to individual departments.

Jon Egge said that the entire revenue stream of the agency is pledged to the structure without regard for the benefit that a specific revenue stream would derive out of the structure.

Bob Shoemaker said that any revenue of the district may be dedicated to the retirement of revenue bonds. If Metro wanted to, and had the political clout to do it, it could dedicate revenues from any source the district has to retire revenue bonds. Then to support other district activities, they could, in effect, look to other taxing authorities to cover those other revenues.

Hardy Myers asked on what basis were the Sears building revenue bonds issued.

Dan Cooper said they were issued based on the authority in ORS 268.600.

Bob Shoemaker asked if revenue bonds could be sold for any function of the district whatsoever.

Dan Cooper said the basis for the Sears building revenue bonds was that all of the revenues in the district were available to pay the debt service on those bonds. There are mechanisms in the bond documents as to how those would be collected. For the Sears building, the financing structure is the same as for paying rent on the current Metro building.

John Meek asked if there was discussion about going through the traditional general obligation structure. He said it would be cheaper that way.

Dan Cooper said he didn't think there was a lot of discussion on that issue--in terms of the costs of seeking voter approval for general obligation bonds in order to get better interest rates compared to the costs of going directly for revenue bonds.

Bob Shoemaker said this was a situation where the jurisdiction could build a non-revenue-producing facility and disguise it as a free facility to be paid for by diverting whatever revenues Metro could derive. This would force the district to come up with whatever taxes it can to pay for the other functions.

Hardy Myers asked if the authorization, described in ORS 268.600, is any different from other jurisdictions' revenue authority.

Dan Cooper said he didn't believe so. He said the questions the subcommittee is dealing with are the same questions they asked of the financial advisors and underwriters, and ultimately with the three rating agencies. Revenue bonds that are financed in the same way as the rent payment is financed is pretty understandable. But could it be used to finance a new exhibit at the Zoo? In theory, yes, but as practical matter it would be better to use Zoo revenues. In concluding whether do that or not would become much more of a political or practical question rather than legal theory.

Janet Whitfield asked if other municipalities use this method for funding general purpose buildings.

Dan Cooper said he believed so. There are many different financing structures. The last session of the Legislature, in response to Ballot Measure 5, adopted a specific statutory authorization for all governments to issue very broad-based revenue bonds backed by everything but the pledge to raise additional ad valorem property taxes to pay the debt service. The new provision is outside Ballot Measure 5 because there are no additional property taxes levied to pay for the bonds.

Bob Shoemaker asked how many would change Metro's revenue bond-raising authority.

Jon Egge said he might want to but won't.

There was consensus to not change Metro's current revenue bond-raising authority.

2. Revenue devices now authorized, but not used by Metro, are continued.

a. Ad valorem tax, beyond current imposition. Statute limits to \$5/\$1000.

Bob Shoemaker said that, at this time, Metro has authority, with voter approval, to impose an ad valorem property tax up to a statutory limit of \$5/\$1000. He asked if anyone thought that authority should be withdrawn from Metro.

Meek and Egge said the authority should be withdrawn. Shoemaker, Myers and Myllenbeck said the authority should remain the same.

b. Personal income tax, with voter approval.

Bob Shoemaker asked if anyone thought it should be withdrawn.

Frank Josselson said that voter approval is the most onerous way to approve a new function.

Bob Shoemaker disagreed, and said the most onerous way would be by charter amendment.

Egge and Meek were against a personal income tax, with voter approval, preferring prohibition of that tax. Shoemaker, Myers and Myllenbeck supported it.

c. Business income tax, with voter approval.

Shoemaker, Myers and Myllenbeck indicated support. Egge and Meek disapproved, preferring prohibition.

d. Vehicle registration fee, with voter approval.

Wes Myllenbeck said he didn't think it should require voter approval.

John Meek said the statute (ORS 801.042, which also requires an intergovernmental agreement with all the cities over 300,000, counties and districts in the metropolitan district) requires voter approval.

Bob Shoemaker asked if that statute could be overcome by home rule. If it is constitutional authority, then it is required. If it is just statutory, then there would be a question.

Janet Whitfield said the constitution only limits the use of the funds.

Shoemaker, Myers and Meek supported requiring voter approval. Myllenbeck supported approval by ordinance. Egge was undecided but indicated he might support approval by ordinance.

Bob Shoemaker concluded that the authority was not resolved.

e. Special assessments.

There was consensus to continue the authority.

3. Specified taxes are prohibited without charter amendment.

John Meek said that the difference between voter approval and charter amendment is more public scrutiny and involvement, because of the processes that have to be gone through to build consensus before even putting it out for a vote. A charter committee has to be appointed, and they have to go through a process to get the issue on the ballot.

Frank Josselson said he thought that charter amendments should also be allowed through the initiative process without council approval. He said he questioned whether it would be any harder to impose a personal income tax by a vote of the people than it is to amend the charter. He said he assumed that the charter would give the council the requirement to refer amendments to a vote of the people.

John Meek agreed and said the charter would likely spell out a process on which they arrive at an amendment.

Frank Josselson asked, from a political point of view, if the charter doesn't impose a personal, sales or ad valorem tax--beyond that currently being charged--wouldn't it be preferable to prohibit the imposition of those taxes, because it would require the same voter approval to amend a prohibition as it does to impose a tax with voter approval. The subcommittee members don't have any intention of imposing a sales, income or ad valorem tax, so the charter would be way ahead politically if it were to prohibit the imposition of those taxes.

Bob Shoemaker said he agreed, that there wasn't much difference in the procedure between requiring a vote and prohibiting subject to charter amendment.

Wes Myllenbeck said he disagreed. Amending the charter is an extra step. It also opens the charter for other amendments.

Frank Josselson asked what is wrong with giving the voters the comfort that it is difficult as possible for this government to impose a sales, income or property tax.

Wes Myllenbeck answered that he didn't know what events might occur that those revenue options might be needed. He said he doesn't oppose voter approval.

John Meek said when government has the ability to expedite a process, the innovation may not click into motion. Having to go through the charter process to look for a new revenue source will bring people to the table to look for the best option. Otherwise, it could go directly to the ballot without creativity taking place. The extra step is critical.

Bob Shoemaker said that, in his view, the people elect, hopefully, good people. You won't get good people unless you give them real authority. One aspect is the authority to deliberate on what Metro is to do. He said he agreed that there should be voter approval for any significant new general tax, but he didn't see why the charter should take the decision away from the council as to whether the people should be asked to vote. That is what the council is for, and they should be trusted to do it well. If not, they will be repudiated at the polls.

Jon Egge said he agreed, but the electorate has become suspicious. He supports the prohibition on certain revenue devices because it is a comfort situation for the voters, more so than going through the process. He said he wants a charter that improves Metro. Charter provisions for Metro's taxing authority are the biggest determining factors on whether the charter is approved by the voters. He said he approves prohibition on additional ad valorem, personal and business income taxes.

Hardy Myers said he wasn't inclined to see the two processes--requiring a vote of the people versus requiring an amendment to the charter--as all that different. Voter approval of a tax does not produce significantly different creative tensions than what a charter amendment would produce. He said he would be comfortable with a voter approval requirement.

Wes Myllenbeck said that raising revenue is not an easy task. He said the elected officials would pick the alternative least offensive to the public in general.

a. Personal income tax.

Egge and Meek supported prohibition. Shoemaker, Myers and Myllenbeck were against it.

b. Business income tax.

Egge and Meek supported prohibition. Shoemaker, Myers and Myllenbeck were against it.

c. Excise tax on construction.

Janet Whitfield said Metro could not currently impose the tax. Also, the subcommittee has limited Metro's excise taxing authority to Metro activities.

John Meek said it should be specified as prohibited.

Frank Josselson suggested an excise tax on construction, as applied in Columbia County, Maryland. It is a tax that can be used to reinforce planning principles by varying the tax. For instance, development near a mass transit center would pay a lower tax. Poorly located development, or development not sufficiently dense, would pay a higher tax. The charter shouldn't specify how that should be done, because that isn't the function of the charter, but the regional government should have the authority to impose a variable tax that relates to the existence of infrastructure, the appropriateness of the development, the policies set forth, the regional framework plan, and so on. What it does is reinforce important planning principles.

John Meek asked if it was a tax on land or individuals.

Frank Josselson said the example he was describing was a tax on square feet of floor area.

John Meek asked if it would be subject to Ballot Measure 5 limitations.

Frank Josselson said no.

John Meek asked for counsel opinion.

Jon Egge said the tax could work well, providing you can capture the development beyond the regional government's reach. But that area beyond the urban growth boundary probably isn't reachable. He said he is concerned that the heavy users of infrastructure--that ring the urban growth boundary--couldn't be tapped with this tax. The tax applied would probably not be sufficient to redirect policy within the urban growth boundary.

Wes Myllenbeck asked, if Metro's boundaries were extended to the county edges, would Jon Egge oppose the excise tax on construction.

Jon Egge said he might not.

Bob Shoemaker said the question is whether the tax should be prohibited, or if it is enough to require voter approval, or whether it could be approved by ordinance.

Meek indicated that the excise tax on construction should be prohibited. Shoemaker, Egge, Myers and Myllenbeck indicated that it should not.

d. Systems development charge.

Bob Shoemaker said, with this tax, any development could be charged to defray the costs of infrastructure improvements.

Frank Josselson said there were significant statutory limits on systems development charges that couldn't be overcome without a statutory change. It can only be used to fund capital improvements in connection with specific programs. It is tremendously complicated and difficult to put into operation.

Wes Myllenbeck disagreed. Good management should have a capital improvement plan that would include this option.

Jon Egge said that getting approval, with statute limitations, should be sufficient limitation on this charge.

There was consensus to not prohibit the systems development charge.

e. Payroll tax, used for purposes other than for Tri-Met at the current rate.

Egge and Meek supported prohibiting the tax. Shoemaker, Myers and Myllenbeck said voter approval was sufficient.

f. Other: Ad valorem tax prohibited beyond 15 cents/\$1000, limited to funding the Zoo and retiring Convention Center bonds.

Egge and Meek supported prohibiting any extension. Shoemaker, Myers and Myllenbeck did not support the prohibition.

4. Any other tax will require voter approval.

Bob Shoemaker summarized by saying that any other tax not previously listed, no matter how special or general, would require voter approval. He asked what other kinds of taxes would be possible.

Jon Egge said a tax like the hotel/motel tax could be extended to any other specific industry. For instance, the subcommittee could get ridiculous and impose a tax on plumbers, attorneys, and so on. He is concerned that voter approval is not a stiff enough test, because the voters, for their own benefit, may sometimes impose a tax on someone else. He said he was concerned whether there was really a benefit. The current proposal to tax the hotels and motels for the shortfalls in the performing arts offers no benefits whatsoever to the tourism industry or to the hotel and motels in the region. He said he would want voter approval for such a tax, but also some finding of benefit to the entity being taxed.

Frank Josselson said a tax on lawyers and plumbers isn't that far off. Columbia County enacted a tax on gravel pits. Politically, they had no chance to fight it, even at the ballot box. Those kinds of taxes are very dangerous.

Wes Myllenbeck said it would be better to allow 13 councilors to make that decision rather than sending it to the voter. The entity being taxed might have a better chance with the councilors than they would with the voters.

Frank Josselson said the argument to the elected officials and to the public would be that they are making businesses non-competitive.

Jon Egge said that voter approval isn't necessarily the best test for using these kinds of funds.

Bob Shoemaker asked if a tax could be shown to benefit the group, service or resource taxed, should that kind of tax be allowed to be imposed by ordinance.

Jon Egge said the critical element would be the finding of fact. Whether the elected body or the electorate makes the decision is less important.

Bob Shoemaker asked, assuming there was a finding of fact and it could be challenged in court, should that be permitted by ordinance.

Jon Egge said he would then support approving the tax by ordinance. He said he may, in fact, be more comfortable by using an ordinance.

Bob Shoemaker restated, any other tax, if it can be proven to be a connection between the tax and the benefit, that can be imposed by ordinance, subject to referendum. If there isn't a relationship, then any other tax ought to be prohibited.

Jon Egge said he would be satisfied with that.

John Meek said people are saying that there are enough taxes out there, and they want to have more influence than giving that decision to an elected body. The charter should say that any other tax will require voter approval. If there is more easing and stability down the road, and the economy gets better, then they can change the charter.

Bob Shoemaker said, if the council can pass the buck to the voters to tax the other guys, that's pretty

easy to do. Whereas if they have to take the heat, it's a lot tougher vote.

Frank Josselson said, with term limitations, there wouldn't be that kind of accountability to fall back on.

Wes Myllenbeck said he disagreed. Persons running for office are sincerely dedicated, whether or not there is term limitation.

Jon Egge asked John Meek if he was depending on voter approval as the exclusive remedy for not imposing a tax on other groups. Even with a finding of fact of benefit, would he still require them to go to the voters? He said Wes Myllenbeck has persuaded him that he would be comfortable with the governing body being accountable.

Frank Josselson asked how much benefit would there have to be to the taxed entity. A little tiny benefit? A direct benefit? In reviewing whether there is a benefit, a court will ask whether there is a rational basis to the determination. Could a reasonable person find there is any benefit whatsoever? It would be better if there were descriptive words like *direct, substantial*.

Wes Myllenbeck said he didn't have that much faith in the finding of fact. You can come up with facts to cover most everything.

Jon Egge said only good thing about finding of facts would be the ability to bring suit.

Bob Shoemaker said, if there were a standard of proportionality within it, the benefit to the group taxed would be proportionate to the tax imposed, leaving it to the courts to flush it out. If the subcommittee supports this distinction, there should be some proportionality standard provided.

Hardy Myers said he was very uneasy about inserting tests that are almost explicitly intended to create a potential for litigation around the tax. He said he preferred either to grant or not grant the authority.

John Meek said that determining the connection between the tax and the taxed entity sounds nice, but they have that ability now through the user fee.

Jon Egge said, in the absence of a test for the benefit derived, that the charter should prohibit all other taxes.

Bob Shoemaker said, assuming there were a proportionality test, and findings are made, the test in court is whether those findings are reasonable, whether there is a rational basis for them. That is what courts are for. Metro would probably have to first get an opinion from counsel that what they propose to do fits the standard the charter imposes. He said there were enough checks and balances there will be enough responsible government. There will be litigation, but it will be resolved. It seems that it is appropriate.

Ned Look said, when the recommendations are taken to the full committee, there is a hard core group who basically hope the committee will come out with a very clear, concise charter that gives Metro and its council broad powers and responsibilities. If that will carry the day--that the source of their responsibility isn't tied so closely to their taxing authority, but that the taxing authority is broad based in a general wa--then the council will have increased responsibility, and will earn respect and credibility. The charter shouldn't over protect what Metro can do by limiting the powers that they have.

Bob Shoemaker asked Ned Look how he felt about the discussion regarding a required connection between the tax and the taxed entity.

Ned Look said he was concerned. It puts all kinds of shackles on what Metro would be able to do.

Bob Shoemaker asked Ned Look what oversight he would require on imposing other taxes.

Ned Look said he would permit any other tax by ordinance, subject to referendum.

Meek supported voter approval on all other taxes. Shoemaker, Egge, Myers and Myllenbeck disagreed.

5. Any broad-based tax will require voter approval.

Bob Shoemaker asked if any broad-based tax should require voter approval, or whether the charter should specify certain broad-based taxes to require voter approval. Or would there be a definitional problem?

Wes Myllenbeck said he thought there would be if broad-based taxes were not specified.

There was consensus that broad-based taxes would be specified.

6. Specified, broad-based taxes will require voter approval.

a. Ad valorem tax.

There was consensus to support the proposal.

b. Sales tax.

There was consensus to support the proposal.

c. Personal income tax.

There was consensus to support the proposal.

d. Business income tax.

Wes Myllenbeck said he wouldn't define that as a broad-based tax.

Jon Egge agreed.

Wes Myllenbeck said that it hits a certain segment.

Shoemaker, Egge, Meek and Myers supported requiring voter. Myllenbeck supported using the tax by ordinance.

e. Payroll tax, used for purposes other than for Tri-Met at the current rate.

There was consensus to support the proposal.

f. Other.

Bob Shoemaker offered excise tax on construction.

There was consensus to support an excise tax on construction.

Bob Shoemaker offered systems development charge.

John Meek said he supported it by ordinance because state statutes require using the tax for only the purpose intended. It would be identified in the charter as requiring an ordinance for enactment.

Jon Egge agreed. A systems development charge involves a choice in the beginning. The entity taxes makes a choice whether the economics exist. That's much different than forming a business and locating it, then someone comes in and imposes a tax. That involves no choice.

John Meek offered head tax, the dues paid by local governments. That could get carried over to businesses, which would be paying a head tax. It could be a tax on the number of employees a business has. If it is opened up, anything imaginable could be listed.

7. Specified, narrowly based taxes will require voter approval.

Bob Shoemaker said there really isn't a distinction between specified, broad-based taxes and specified, narrowly based taxes. He said, in the context of this discussion the subcommittee could talk about excise taxes on non-metro functions, including a hotel/motel tax. Should Metro have to go to the people to impose a hotel/motel tax, or a restaurant tax, or a head tax, on businesses or on government?

Hardy Myers said that a hotel/motel tax, measured in terms of what the government is likely to need for its future operations, may be an example of a tax that the subcommittee may well need to consider granting an outright authorization, as opposed to something that requires voter approval. It is doubtful there will ever be a situation where the hotel/motel tax would come under that authority of Metro's current services and operations.

John Meek said he would have a tough time seeing how a motel in Forest Grove is benefitting from the performing arts or the Convention Center. Washington County was happy to pass the bonds for the Convention Center, but when a hotel/motel tax was considered, there was no support.

Bob Shoemaker asked, if there were a proportionality standard, couldn't that be applied to a hotel/motel tax. If a tax was imposed on a geographically area, a reasonable case could be made that it benefitted from a performing arts center, but beyond that it wouldn't be applied.

Jon Egge said one of the difficulties of that scenario is that it wouldn't cover the costs. You don't have to get very far away from the center before it is obvious that there isn't a benefit to those hotel and motels further out. He said that if he made a decision to go to a Blazer game, that decision would be made based on his finances and a desire he would have to watch them play basketball. The same connection ought to be made for cultural arts activities. The people who are using the performing arts centers--often the people who can afford to pay the full cost--are being subsidized by a tax that is being imposed on businesses in the region.

Bob Shoemaker said the economy of the region depends on core industry, which depends on learned professions. Those who are leaders in the professions, and those who are leaders for industry, are people who enjoy the cultural amenities that a city has to offer. If a city doesn't offer those, they

aren't going to come. If they don't come, the area will be a backwater, and everyone suffer. To get them to come, everybody has to pitch in. They are going to pitch in to a greater extent than their immediate evening's enjoyment, because those are the people who are going to contribute privately. It will never be paid for at the door or even through these various taxes. Contributions will still be necessary. But you have to reach out to the entire community or you cut yourself off from those amenities entirely, and you become a backwater. That doesn't apply equally to the Blazer game, because major league sports have a very direct tie to business. Businesses buy seats to basketball games for their customers. Not many businesses buy seat at symphonies for their customers.

Jon Egge said he enjoys the symphony and plays at the performing arts center, but considers it his responsibility to pay for those if he wants to go.

Bob Shoemaker said that there aren't enough people like that, however.

Wes Myllenbeck asked Jon Egge, if he had to pay the full cost, without the current subsidy, would he still go.

John Meek said there is a balance of what the public will pay at the gate, a threshold. There is also a responsibility to go to the public to ask them whether to maintain it. How many of these facilities can a community take on? The Metro area has its fair share of public buildings to support, and a few extra of the performing arts and entertainment buildings to support, more so than other communities.

Bob Shoemaker said the area didn't have more than any other significant city. The area is way behind any other significant city, as far as the number of cultural facilities on hand.

Frank Josselson said one of the problems he sees in the performing arts is that Paul Allen, owner of the Trail Blazers, cherry picking the most profitable events coming to the region, events that have supported not only the Trail Blazers, but also Civic Stadium, Expo Center, etc. The City of Portland, with Metro's apparent blessing, is creaming that. So we are looking at an even greater public subsidy in the future. There is a very serious crisis in the performing arts in Portland.

Bob Shoemaker asked, bringing it all back to the task of developing a tax structure for Metro, where the subcommittee stood in terms of what extent of approval should be required for taxes such as hotel/motel tax, restaurant tax, head taxes, tax increment financing, any benefit assessment, and otherwise. How does the subcommittee make a recommendation to the committee? If the subcommittee says that any other taxing device will require voter approval, then exceptions will have to be carved out. the inverse is to say that any other tax may be imposed by ordinance, subject to referendum. Then there might be some exceptions to that, but if it is a benefit assessment, there should probably be some proportionality to the assessment. Which approach should the subcommittee take?

John Meek said he would support a charter amendment on everything or voter approval, and then list the exceptions.

Wes Myllenbeck said he would support an ordinance subject to voter approval on all other taxing devices.

Jon Egge said that narrowly based taxes ought to carry with a finding of benefit, with some proportional formula. That could probably be enacted by ordinance. The broader the tax, the less concerned he is for a connection between the function and the benefit. He then would support a vote of the people on all other taxes.

Hardy Myers said there should be authorization of various kinds of taxes, not subject to vote of the people. What will the government need to function? And that responsibility probably shouldn't be conditioned on voter approval. But the rest should fall under a general requirement for voter approval.

Bob Shoemaker summarized by saying that Hardy Myers supported voter approval except for what is called out in the charter.

Hardy Myers agreed, but those devices called out in the charter should be authorized.

Wes Myllenbeck said he would like to see a broad grant given, enacted by ordinance, except for a list of taxes that would require a vote of the people. He said he would reluctantly compromise on truly broad-based taxes being sent to the voters. That includes personal income, sales, ad valorem and payroll taxes. Those are the only taxes he considers broad-based.

Hardy Myers said that the regional government is going to be supported by niche taxes. It isn't going to be a government that taxes income, general sales, but it will be niches. He said he wasn't sure, as a practical matter, how to deal with the broad types of taxes which will probably never be imposed.

Frank Josselson said that is why they should be prohibited.

Bob Shoemaker said there was a split as to whether a charter amendment should be required or require voter approval for additional revenue devices. The question now is whether there should be voter approval except for those taxes specifically authorized in the charter, with whatever qualifications there should be on that authority. That could be proportional benefits for some and not for others. The flip side of that is to generally permit tax revenue devices by ordinance except for some specified to be limited. He said he had been leaning toward having ordinance authority, except for limited areas, but now he is seeing that the charter may have trouble politically if it can be seen to providing an open gate to new taxes.

Wes Myllenbeck said that an open authority is no more than what cities and counties have.

Jon Egge said there is a unique level of trust required of the electorate to this regional government. There is still some negative feeling about the government's worth and value, a feeling that doesn't isn't the same for cities and counties. The more the subcommittee can do to give the voters a comfort level, the better chance there is of passing the charter.

Bob Shoemaker said the subcommittee still isn't ready with a recommendation. Next week the subcommittee will return to the same question of what limitations should be placed on all other revenue devices. The subcommittee should look at other revenue devices that Metro might consider adopting, and consider those specifically. That would include hotel/motel tax, restaurant tax, head tax on governments and businesses, tax increment taxing devices, and so on.

Frank Josselson added franchises on paid parking. He said there would then be power to impose an excise tax (it would then be a Metro function) on any activity that is franchised.

Bob Shoemaker summarized that Metro would decide through the function assuming process to take on franchising of some enterprise, and then imposes a tax for the franchising.

Jon Egge said it might be two-tiered: a franchising fee and then a tax on fees.

Hardy Myers summarized that it would then be a Metro function.

Bob Shoemaker asked if there was anything else for discussion.

Jon Egge said it would be the broad category of any other industry-specific fee or tax that might be imposed.

Bob Shoemaker said there would be another finance subcommittee meeting on Tuesday, February 25.

The meeting was adjourned at 11:40 a.m.

Respectfully submitted,

Janet Whitfield
Committee Administrator

Reviewed by,

Kimi Iboshi
Committee Clerk