

**METRO  
CHARTER  
COMMITTEE**

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**AGENDA**

**DATE:** February 25, 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.

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 25, 1992

Metro Council Chamber

Subcommittee Members Present: Bob Shoemaker, Jon Egge, Hardy Myers, Wes Myllenbeck

Other Charter Committee  
Members Present: Frank Josselson, Ned Look

Subcommittee Members Absent: John Meek, Ray Phelps

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

Ken Gervais, Metro executive staff, announced that there had been a substantial reduction in Metro's solid waste revenues. There is a projected \$600,000 shortfall, which is still being refined. That means a reduction of about 15 positions, which will affect 11 people. A substantial part of those reductions will be in the planning department where Metro will be pulling back from planning in housing, economic development and emergency. They will cut back water to the minimum they can deal with under federal grants. There will also be other reductions. In the next few days there will be public response to that. Rena Cusma, Metro Executive Officer, is making a proposal to the council to keep as much discretionary money in growth management as possible. The relevance to this process is that it shows how dependent Metro is on its enterprise revenue, which makes it difficult to run the general aspects of the organization.

Frank Josselson asked Ken Gervais why there was a reduction in solid waste revenue.

Ken Gervais said that the recycling effort has really worked. Construction materials are being taken out of the waste stream, and people are saving paper they haven't been saving before. Most of Metro's discretionary funds depend on that solid waste source.

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Bob Shoemaker said, at the February 18 meeting, the subcommittee had not discussed whether to prohibit a sales tax.

3. Specified taxes are prohibited without charter amendment.

f. Sales tax.

Egge supported a prohibition. Shoemaker, Myers and Myllenbeck were against a prohibition.

Bob Shoemaker directed the subcommittee to the last page of the new matrix, where they would go through the list of possible taxes and determined whether they should be individually prohibited, or require voter approval or council ordinance before they can be imposed.

9. Other possible Metro revenue devices.

a. Per capita taxes on business and governments other than planning service charges.

Bob Shoemaker said the provision would broaden Metro's authority to impose head taxes--based on populations--to services provided by Metro.

Ken Gervais said the per capita tax is sunsetted by the statutes. Does the subcommittee contemplate making it a permanent tax?

Bob Shoemaker said, if the Charter Committee thinks the tax is appropriate, the sunset ought to be lifted.

Janet Whitfield asked if Metro would be able to tax another government without statute authority.

Jon Egge said his sense would be probably not. The current planning service charge is specifically authorized in the statutes.

Hardy Myers, said the committee should address the question of whether the charter should authorize or prohibit what is presently occurring.

Jon Egge said the per capita tax listed is mixing business and government together, which is completely different from the current head tax on governments of the region. The business tax should be separated somehow, because it seems to be an entirely different aspect, and is not authorized by statute.

Bob Shoemaker agreed. He said the matrix entry for a head tax should reflect government separately from business. He said he would assume that it would be imposed for services rendered.

Jon Egge said that, previously, the subcommittee had discussed the metropolitan aspects of a particular function for which local governments are currently collecting money, and how that money could be transferred to the regional government if it were to assume the responsibility of the function. A per capita tax might provide the promise of bringing about funding equity. It seems that the head tax could be structured in such a way as to be flexible enough to allow for the government to assume monies on a pass-through basis, if that government is taking over a function, or portion of a responsibility, from local governments.

Bob Shoemaker said that would at least put Metro in the position of negotiating with local governments. They could ask local governments whether they would want a head tax or a transfer of the service funding along with the service Metro would be assuming.

Jon Egge said, if the charter provides for a broadened role for the RPAC, that might be the vehicle to make those kinds of decisions.

Bob Shoemaker asked if anyone wanted to argue against a head tax on government being permitted by ordinance.

Jon Egge asked to reword *per capita taxes* to include *populations of local government*. Otherwise there might be a misunderstanding about its meaning.



Hardy Myers agreed, because *per capita taxes on government* sounds like a tax on individual taxpayers. It is really an assessment on a unit of government, calculated by the number of residents in that jurisdiction.

Bob Shoemaker said that it is important to point out that it is a tax for services rendered.

Shoemaker, Egge, Myers and Myllenbeck supported enactment by ordinance.

Bob Shoemaker said the next question is how to deal with a tax on businesses based on the number of employees. Again, this would be for a service rendered.

Hardy Myers said it would hard to conceive of such a thing.

Janet Whitfield said the closest thing would be a payroll tax, but that is based on salaries.

Bob Shoemaker said that a per capita tax should be stricken from the matrix.

Hardy Myers asked Bob Shoemaker to clarify between the existing per capita taxing authority and the new possibility.

Bob Shoemaker said the existing authority allows it only for planning services. This new tax would allow Metro to impose a per capita tax on other services rendered to local government.

Frank Josselson asked, if the regional government is charged by the constitution to perform functions of metropolitan concern, whether that government has the authority to provide services to local governments and then charge them for it.

Bob Shoemaker said water might be one such service. It is a potential battlefield for metropolitan function--the delivery of water to local jurisdictions. The charge that Metro could make when it delivers water to local delivery systems could well be a per capita tax.

Frank Josselson said that may be, but the only authority he is confident that the regional government has, in the current charter outline, is to plan for regional water sources with the distribution left to local governments.

Bob Shoemaker said he thought it was more than that, to include the delivery of water to the local metering system.

Wes Myllenbeck said it would be the main transfer to the final distributor.

Frank Josselson concluded that the charter could give the regional government the authority to take over Bull Run.

Wes Myllenbeck said that was a possibility.

Bob Shoemaker said that was right. Another possibility would be corrections, now delivered locally and funded by property tax. If Metro were to take over some aspect of corrections, there would be a real problem in dealing with the funding. Shifting the property tax to the region involves a vote of the people, and it could all become ensnared. The way to shift the funding to the regional level would be through a head tax, charged on the jurisdiction whose responsibility would be taken over by Metro because it can be done more efficiently.



Jon Egge said it could also be applied to law enforcement. At some point in time the regional government might undertake a forensic science function that local governments can't do.

Frank Josselson said, if regional government wants to take over corrections in some point in time, that might be possible. But this regional government should be one that really addresses the crisis of the region and let the state deal with corrections for the time being.

Bob Shoemaker said he was not trying to decide the merits of undertaking any given function. Instead, he was pointing out that when Metro takes over a function that has been provided locally and is funded by property taxes, the vehicle to allow that to happen at the regional level would be through a head tax. It would essentially shift the property tax receipts to Metro, but without changing the fundamental tax structure of that jurisdiction.

Janet Whitfield asked if statute authority would be required to carry it out.

Jon Egge said he didn't think so if the voters of the region approved it within the charter.

Bob Shoemaker said that he thought that was the point of the constitutional amendment which authorizes Metro to have a home rule charter with jurisdiction over matters of metropolitan concern. The courts will have to sort some of that out, but there are quite a few things the voters have already approved that Metro do.

*b. Hotel/Motel tax.*

Shoemaker, Egge, Myers and Myllenbeck supported allowing enactment by ordinance.

*c. Restaurant (food and beverage) tax.*

Janet Whitfield said it would include prepared foods.

Hardy Myers asked if it would be a gross receipts tax or sales tax.

Bob Shoemaker said he believed it was usually an add-on to a restaurant bill.

Jon Egge asked if it would be applied, for instance, to a catering bill.

Janet Whitfield said it could be applied to prepared foods, which would include any prepared food sold in a grocery store or delicatessen.

Bob Shoemaker said the subcommittee should assume that tax applies to the retail level, not gross receipts.

Shoemaker, Egge and Myllenbeck supported enactment by ordinance. Myers supported voter approval.

Frank Josselson asked Hardy Myers the reason for his vote.

Hardy Myers said that he was treating it as part of a larger sales tax.

Jon Egge said that there might be a better chance at stopping industry-directed taxes at the ordinance level than by the voters. It is too easy for the voters to approve that kind of tax if it is on somebody else.

Bob Shoemaker asked, in terms of having the charter approved by the voters, does it offer an opportunity to attack the charter.

Wes Myllenbeck said that any one of the taxing authorities could be objectionable to someone.

d. Vehicle rental tax.

Shoemaker, Egge, Myers and Myllenbeck supported enactment by ordinance.

e. Gasoline tax.

Jon Egge said he would prohibit it for political reasons. While it is a good idea to have policy generated by gasoline tax, and it can be used for transportation planning, there is already money being drawn off gasoline taxes to be used for planning. Unless Metro were to build roads, all gasoline taxes would have to be used for planning.

Bob Shoemaker said that, with the state constitutional requirement that gasoline taxes be used on public roads, the charter would not need to repeat the limitation. If the charter is going to give Metro a broad taxing authority, it could be an unmentioned revenue source. Then Metro could respond to whatever changes might occur in the constitution.

Jon Egge said he agreed. There is no reason to prohibit Metro on the use of gasoline taxes if the constitution is changed.

f. Admissions tax on non-Metro functions.

Bob Shoemaker said that the Public Policy Advisory Committee for Regional Convention, Trade, Performing Arts and Spectator Facilities, chair by Cliff Carlsen, was advocating broadening the admissions tax to non-Metro functions. It may be the only way to support the arts in Portland. With council authority to enact the tax, the political situation at the time would determine whether or not Metro would be able to do this.

Jon Egge said special interests--the hotel/motel industry, restaurants, theaters--would maybe have a better chance of making their case on an ordinance basis than through a vote of the people.

Shoemaker, Egge, Myers and Myllenbeck supported enactment by ordinance.

David Knowles, former Metro councilor and member of the Public Policy Advisory Committee, said there is a reasonable chance that there will be neither a lodging tax nor an admissions tax. But there needs to be flexibility if Metro is charged with managing the facilities.

Hardy Myers asked for clarification on non-Metro functions. Is that referring to what the Public Policy Advisory Committee report is addressing, which would be public and private entertainment facilities?

Shoemaker said that was correct. It would be a tax on admissions to any kind of entertainment facility.

David Knowles said the concept was to tax concerts, plays, movie theaters and sporting events at all facilities in the region--public and private.

Jon Egge said the pain threshold of the region would be reached quickly with an admissions tax. It is a delicate industry, coming from discretionary funds.



Frank Josselson said this is a tax imposed on the least expensive form of entertainment to fund the most expensive form of entertainment, which is where the argument will be made against it.

Bob Shoemaker said the subcommittee choice would be only whether to put barriers in the way of Metro being able to do it. The political barriers are already there. The subcommittee has to decide whether to let it play out.

Jon Egge said that voter approval is not a logical solution. It doesn't offer any insurance to the industry that they are not going to be put out of business.

*g. Real estate transfer tax.*

Jon Egge said it should require a vote of the people because they have a broader concern. They can put themselves into the paying picture more easily than for some of the highly specialized taxes.

Wes Myllenbeck said he still thinks it is a relatively fair tax.

Jon Egge said he didn't disagree with that.

Bob Shoemaker said there are some taxes which are so sensitive that the voters should be assured that they aren't going to be passed without their okay. He said, however, that a real estate transfer tax, in his opinion, doesn't fall into that group.

Frank Josselson said he didn't think the real estate transfer tax approaches the pain threshold of an admissions or restaurant tax.

Shoemaker, Myers and Myllenbeck supported enactment by ordinance. Egge supported vote of the people.

*h. Tax increment financing.*

Jon Egge said he assumed if tax increment financing were to be imposed, it would be for a particular area. Then the voters of that area are going to have the referendum ability. In a county referendum is pretty easy to get going, but in the whole region--based on one tax increment area--then the referendum potential has less ability to influence. Therefore, he would require a vote of the people.

Frank Josselson said that tax increment financing would attract criticism. On the other hand, the charter should provide the authority to direct industry to certain areas. To do this, it needs the authority of tax increment financing. Of the 27 jurisdictions in the Metro boundary, 19 do not have urban renewal agencies or the authority to do tax increment financing. Eight do. That leaves the region pretty well swiss cheese in terms of its ability to do tax increment financing. Ollie Norville, father of the Portland Development Commission, suggested that if the Charter Committee is unwilling to give tax increment financing authority to regional government, there will be a hole. The charter should at least give Metro the ability to exercise it where local government doesn't have the authority. His feeling was that local governments would welcome the power and Metro's acquisition of that power. The incentive should be provided locally to develop it.

Bob Shoemaker agreed, that it is fundamental to giving Metro the responsibility for urban growth management and for locating significant industrial pods. Tax increment financing is a way of providing for those kinds of improvements. It is a good bootstrap sort of thing where a development can fund itself.



Wes Myllenbeck said it would work better on a regional basis where, if it is used by a city, then everyone shares it, including the county and school districts.

Bob Shoemaker said that tax increment financing ought to be done region wide, so that it can be used intelligently instead of opportunistically. If there are eight jurisdictions with the power to use it--some where it might not be the most appropriate place for it to occur--they individually may be able to put together the political dynamics that cause it to happen.

Shoemaker, Egge, Myers and Myllenbeck supported enactment by ordinance.

*i.      Business license fee.*

Frank Josselson asked how members felt about a regional government--Tri-Met--using the tax to substantially finance its operations, and then there would be another regional government--Metro--with the ability to add to it.

Jon Egge said, from a business standpoint, that already exists. The fact that Metro is able to consolidate some of the licensing fees for local governments is a benefit.

Wes Myllenbeck said, hopefully, if Metro ever got into it, they would be able to standardize licensing.

Jon Egge said that he would support limits, but even if it were imposed by ordinance there would be some logical limits.

Bob Shoemaker said the charter should not impede what the government is allowed to do. Whether or not it is going to do it is a question for the future.

Shoemaker, Egge, Myers and Myllenbeck supported enactment by ordinance.

*i.      Fuel oil tax.*

Bob Shoemaker said that it should be expanded to a fuel tax. Why just oil?

Wes Myllenbeck said it could be used as an incentive to convert to something else, for pollution reasons. As a revenue measure it is unfair because so many other people are using other kinds of energy.

Bob Shoemaker said the subcommittee shouldn't be dealing with the merits of an individual tax, so much as for the possibility of it. There is no logical reason why some fuels should be exempted.

Frank Josselson said a tax on heating oil is one of the most regressive taxes possible, and impacts those who can afford it least.

Wes Myllenbeck said another way of taxing this would be to tax all fuels as they come into the area, no matter what they are. There could be interstate commerce problems, but that is a fairer way.

Bob Shoemaker suggested changing the category to *heating energy tax*.

Hardy Myers asked if would include utility taxes.

Bob Shoemaker said yes.

Frank Josselson said that the tax could possibly be imposed in such a way that is not regressive.

There was consensus for enactment allowed by ordinance, however, Myllenbeck and Egge said they had reservations.

*k. Franchise fees.*

Wes Myllenbeck said there are utility franchises in cities, and counties use them on cable television companies.

Jon Egge said Metro should have the flexibility to issue franchises on different activities.

Frank Josselson supported franchising paid parking, and then allowing Metro to impose an excise tax. If the regional government would license some parking operations so that they get a reasonable return on their investment, a substantial part of the regional government could be run on the proceeds.

Bob Shoemaker asked, if the charter authorizes the general use of franchises and excise taxes, is there anything particularly unique about a parking franchise.

Frank Josselson said, as opposed to imposing a straight tax on paid parking, this enables you to get to the heart of the problem in the Portland area with paid parking--a monopoly. Government's responsibility when it is faced with a monopoly is to do one of two things: bust it up or regulate it as a public utility. He said that, right now, as he understands it, Metro now only has franchising authority on solid waste facilities. Under its existing statutory authority, it could not grant franchises on other activities. He said, if it is called a franchise, he isn't sure that it could be applied as a franchise, as franchises have been historically be applied, such as for the use of city streets in respect to telephone and electrical poles. On the other hand, paid parking could be licensed and regulated, much as a franchise, to assure a reasonable rate of return for the operator and also enable government to impose a tax. It is a desirable tax, in terms of the mission assigned to this agency, in as much as it provides control over parking costs which are closely related to transit.

David Knowles said that the Public Policy Advisory Committee for Regional Convention, Trade, Performing Arts and Spectator Facilities discovered that what has really made money for the Memorial Coliseum is parking and concessions. One of the reasons there is a deficit situation at Civic Stadium and at the Performing Arts Center is that there aren't a parking lots. If there was an ability to get revenues from a parking-related source, it would be logically connected to the facilities. However, it seemed to be too far of a stretch for this government to do that under its current structure. The people who run parking in downtown Portland are making a lot of money off the people going to those facilities.

Frank Josselson said he was talking about two things: regulating the return on parking lots, so that they aren't ripping their customers off, and imposing a tax.

Bob Shoemaker summarized that the full committee should consider authorizing Metro to get into the parking franchise business. With that would go a certain level of taxing authority. Frank Josselson has pointed out a particular need for some control. Right now a substantial public necessity is being controlled by a monopoly that has achieved its power in the old-fashioned way. Maybe it is appropriate for Metro to move into that area.

Wes Myllenbeck said, in looking at air pollution, Portland still has a basic cap on the number of parking spaces. Maybe Metro should have some kind of control in regulating the number of cars that come into the area.



David Knowles said that JPACT did some evaluation as to whether parking in the region could be a revenue source. That is a very touchy subject for suburban people. The Charter Committee should look at whether there is potentially a logical connection between parking revenue and functions Metro is authorized to do. Transportation, air quality and facilities are functions for which Metro could justify imposing a parking tax.

Jon Egge said he wanted to distinguish between all parking spaces in the region and a paid parking monopoly. This discussion should be confined to the paid parking monopoly and Metro should be authorized to deal with it.

Hardy Myers said that might be a matter of the overall powers and functions of the charter.

Frank Josselson requested that an attorney look at the franchising authority of regional government.

Shoemaker, Egge, Myers and Myllenbeck supported giving Metro franchising authority.

I.       Excise tax on construction.

Frank Josselson said the council should be able to impose an excise tax on construction without voter approval. In each of the areas of the country where it is applied, there are exemptions for different types of construction. It is a real live revenue source for those jurisdictions. He said he would like the tax to be imposed, but with a twist. Well-located construction of the appropriate type, as defined by the regional government, would have a lower construction surcharge. Poorly located construction would have a higher square foot tax. This provides an opportunity for the regional government to reinforce the important planning concepts that are to be embodied in the regional framework plan. Therefore, if a Tektronix plant is proposed to be placed in Wilsonville, a construction tax will at least help fund, perhaps, the infrastructure necessary to get transportation facilities out there. That same kind of development along a light rail line or in a better-served area would have a lower tax.

Bob Shoemaker said, in light of that, the subcommittee should decide whether Metro should be allowed to impose that tax by ordinance, subject to referendum, or should the tax be limited, and only imposed by voter approval.

Wes Myllenbeck asked about the difference between a construction tax and an impact fee or systems development charge.

Frank Josselson said that a systems development charge can only be used for certain capital improvements. A construction excise tax wouldn't have to be dedicated.

Jon Egge asked if Ballot Measure 5 would limit the use of the tax.

Ken Gervais said that Dan Cooper, Metro general counsel, was satisfied that it is an excise tax, a tax on an activity. It is not related to property.

Hardy Myers moved that the construction excise tax be taken from the category requiring voter approval and put in the category requiring ordinance approval.

Frank Josselson asked that it be described not just as a flat tax on construction floor space, but that it may be variable.

Bob Shoemaker said the charter doesn't have to deal with the tax specifically if the committee decides that there would be a general authority of taxes requiring ordinance approval.



Frank Josselson proposed to authorize Metro council to impose the tax and, in their discretion, make it a variable tax. The charter should say that if the tax is imposed, it should be used for that purpose.

Wes Myllenbeck said that each of the subcommittee members has some reservations or picture of the way an individual tax will be implemented. If there are specifications placed on one, it will be the same for them all.

Frank Josselson said that an excise tax on construction provides the ability to reinforce planning concepts.

Bob Shoemaker said, if that is a great value, the great value is going to emerge at the time of the council debate on it. The charter shouldn't micromanage it.

Jon Egge agreed. It isn't the committee's job to authorize the government to have that kind of discussion.

Shoemaker, Myers and Myllenbeck supported enactment by ordinance. Egge supported vote of the people.

6. Any taxes not listed would be prohibited without charter amendment.

Bob Shoemaker said, if the committee votes to prohibit all other taxes, the charter will have to provide a laundry list of taxes allowed within by ordinance and those requiring a vote of the people.

Shoemaker, Egge, Myers and Myllenbeck were against requiring that all other taxes would be prohibited.

7. Any taxes not listed would require voter approval.

Shoemaker, Egge, Myers and Myllenbeck were against requiring that all other taxes would require voter approval.

8. Any taxes not listed may be imposed by ordinance, subject to referendum.

Bob Shoemaker said, if the committee decides that all other taxes may be imposed by ordinance, the charter may prohibit some taxes, allow some taxes by voter approval, and then say nothing more about any other taxes. That would leave it open for Metro to impose other taxes by ordinance. Metro counsel, however, may advise the committee to provide a general grant of authority. All other taxes are implicit or they are lodged in the council, with a short charter statement to that affect.

Shoemaker, Egge, Myers and Myllenbeck supported all other taxes being authorized by ordinance.

Jon Egge said he would support having a list of prohibitions, voter approval on some taxes, and then an implicit statement that authorizes all other taxes by ordinance.

Hardy Myers said the issue would probably come down to whether, in regard to broader taxes, the charter should require voter approval at a minimum, or to prohibit them outright. Depending on how that works out, then everything else can be captured under a general grant of authority if the ordinance option is approved.

Jon Egge said he supported the commission form of government for carrying out the services Metro is now performing. He said he would be more comfortable authorizing the government broadest taxing authority if the role of commissions is within the structure of the government.

Bob Shoemaker said there were probably others who agreed. The revenue raising authority of Metro is ultimately tied into the structure. However the committee votes on these finance issues probably ought to be with that caveat. When the structure is determined, then the committee will revisit the finance issues.

Jon Egge said that both he and Ray Phelps had said earlier that, until they know what the government's mission is, some of these questions will have a tentative agreement. The final agreement isn't going to come until other pieces are in place.

Bob Shoemaker said that the recommendations to the full committee will be conditional on structure. He asked if the subcommittee was agreeable to a general grant of taxing authority, subject to ordinance approval, except as specifically limited in the charter by prohibition or voter approval.

Hardy Myers said there should be a qualification to that. There are some individual authorizations that maybe should be addressed in the charter, such as revenue and general obligation bonding authority.

Jon Egge said another possibility for individual authorization might be the franchising authority as a function.

Bob Shoemaker said those are legal issues. There are some specific revenue raising devices which, because of the state constitution or statutes, or for some other reason, may need to be dealt with specifically.

Hardy Myers said that an assessment on local government may be one of those.

Bob Shoemaker said the committee would need legal advice on just how far the general grant of authority will reach, concerning the specific devices considered by the subcommittee. The finance matrix probably should be submitted to legal counsel for advice. He said he would like to have Dan Cooper, Metro general counsel, look at it.

Hardy Myers said he planned to have external counsel in place by the February 27 full committee meeting.

Wes Myllenbeck said, as the charter is drafted, there should be someone looking at the committee recommendations to determine whether they are legal.

Frank Josselson said he preferred to have the assistant attorney general to the elections division advise the committee.

Bob Shoemaker said he preferred to have Dan Cooper because he is impressed with the way he approaches his task. He has demonstrated that he understands charter matters and he is very professional in the advice he has given the subcommittee. The advice he has given has not appeared to be tilted in any way.

Janet Whitfield summarized that Dan Cooper should look at the matrix to see if there is anything that needs to be addressed specifically.



Bob Shoemaker said yes. Counsel should look at each revenue device and determine whether there is any reason one or the other, for example, shouldn't be in a general grant of authority. Bob Shoemaker said the report to the full committee would have to show that there were divisions within the subcommittee. Some of the members would prohibit some taxes without charter amendment.

Wes Myllenbeck asked if the report to the full committee would list the pros and cons of the debatable ones.

Bob Shoemaker said he was undecided still as to what exactly would go into the report. But the arguments will certainly be done orally. There will be an advocate for each of the positions. If the report is the matrix, with an explanation, that could be appropriate way to proceed.

Jon Egge said using the matrix may lead to the same problems that occurred with the full committee outline. There was a great deal of time discussing what the matrix means.

Hardy Myers suggested not presenting the matrix as part of the report to the full committee, but giving the committee the results of the subcommittee with the indicated disagreements, which are around whether certain methods of taxation should require a charter amendment versus a vote of the people. Also, the matrix lists some taxes that could be granted under a general grant of authority. It shouldn't be suggested that those are the only options. Somehow, there could be some sort of legislative history behind this charter.

Bob Shoemaker said the last item, *Any taxes not listed may be imposed by ordinance, subject to referendum*, would provide legislative history that the subcommittee recognizes that there are other taxes which haven't been discussed. Whether the report is done by matrix or by just an elaboration, it ought to note the kinds of taxes that the subcommittee considered as appropriate for ordinance. The full committee can go through the same exercise to find out if they have violent opposition to any of them.

Hardy Myers said, to clarify, in terms of the areas requiring voter approval there would be a personal and business income tax, payroll tax for purposes other than Tri-Met at the current rate, ad valorem tax, and sales tax--where the drafting will have to be explicit so as not to encompass excise taxes.

Bob Shoemaker said that Janet Whitfield would draft a sense of the discussion, then he will work on it, then it would go to the subcommittee members for their input. After the draft goes out to subcommittee members, their concerns will be built into the report.

Frank Josselson said, last Thursday night, he thought he had persuaded Bob Shoemaker a little bit that there was slight difference between allowing a tax by vote of the people as opposed to prohibiting it. The political mileage gained out of prohibition was beneficial.

Bob Shoemaker said he had not been persuaded.

Frank Josselson said he recommends an inclusion in the charter that solid waste tipping fees are not restricted to solid waste, but that they may be used for other purposes. He recommends that for a couple reasons: one, because they are currently restricted, and two, because it is good public policy.

Bob Shoemaker pointed out that, since the subcommittee had already decided that service charges should be limited to the cost of the service, that would effectively limit the fee to the function's purpose.



Frank Josselson said he would like that to be reconsidered.

Bob Shoemaker summarized that, since there is a solid waste cash cow, the organization should be able to use the monies for things that cannot pay for themselves, such as the performing arts or the general operation of the government.

Hardy Myers asked, if there is no restriction in the charter as to how the proceeds are used--in terms of one source or another--is more clarification needed than that.

Frank Josselson said that the state statute limits solid waste funds. There should be a clause in the charter to conform state law to the charter.

Wes Myllenbeck said he didn't know whether the charter would do that. It may be the recommendation of the committee, however. It may not be good charter language to make recommendations for changes in state law. The committee should recommend to Metro that certain things should be pursued, by their lobbyist or whatever.

Mike McKeever, Regional Governance Committee staff, said they had discussed that issue for a long time. There is in Metro's current master bond ordinance a prohibition of the use of solid waste funds for non-solid waste purposes, except for overhead allocation purposes. They apparently need that for bond security purposes, when they sell bonds. So there is another level of regulation there that has to be dealt with.

Jon Egge said maybe a better way to approach it is to allow for variable excise taxes within the government. In other words, it is good knowing what the function cost is, rather than kicking that money into the general fund where it disappears. If the flexibility of transfer is going to be allowed it should be done in a specified way. Provide for it up front with a specific, additional surcharge on that function rather than saying that all the excesses may be used to run the government. Also, the solid waste revenue is a cash cow that can also provide a positive policy direction for the region at the same time that revenue is being raised.

Bob Shoemaker said that it somehow doesn't seem quite honest to make people think they are getting what they are paying for, when they are paying for a lot more than what they are getting. You can't abuse that. Government is there to serve you, not just to sell you.

Wes Myllenbeck said, in buying a piece of goods, there are many taxes in there, and taxes on taxes, that the consumer doesn't really know about.

Frank Josselson said, if the charter recognized the existence of enterprise revenues, which state law currently doesn't, and required the government in its bookkeeping and accounting to identify those portions of user charges which are enterprise revenues, he would be satisfied.

Bob Shoemaker said, at this point, that sounds comfortable.

Hardy Myers said philosophically he would prefer letting the government wrestle with the questions as to how and on what level the exaction should be set, and how the proceeds should be used.

Bob Shoemaker said that Frank Josselson had proposed that if some portion of a charge is going to be an enterprise revenue, that it be distinguished as such within the records of Metro. It would be public information that would presumably be part of the debate.

Frank Josselson said if someone wanted to find out, they could look at the budget.

Hardy Myers said he wouldn't have any problem with that.

Bob Shoemaker said that could be the answer, because it provides a certain level of accountability that otherwise might be lost. There are governments that see an opportunity to milk the system and they will do it.

Frank Josselson said he agreed that the important thing is that the taxpayer will be able to look at the budget and see where the money is going.

Hardy Myers asked Frank Josselson if he was talking about providing something in the charter along those lines.

Bob Shoemaker said he thought that was the intention.

Frank Josselson said he would define the term enterprise fee or revenue and then require the government, in its annual accounting and budgeting to identify sources of enterprise revenue.

Jon Egge, said this procedure wouldn't be done with a normal government, but the subcommittee recognizes that this government isn't ever going to be funded with property taxes or from a big general revenue source.

Frank Josselson said he was sympathetic with Hardy Myers' point of view. His view has changed since beginning to think about finance. He said one of his great nightmares about the charter is that there will be an excellent charter, but there won't be enough money to fund the organization. For that reason, if there were a serious problem, he would move in Hardy Myers' direction.

Jon Egge said he wouldn't consider the proposal a negative, but rather a positive, in terms of someone looking at the charter. They will like being able to measure the funds and see what is really happening. It isn't a negative detractor to the government, unless the government is playing a shell game.

Wes Myllenbeck said he didn't know whether putting the provision in the charter was going provide protection. If a government is bent on playing the shell game, they will find a way do it.

Bob Shoemaker said, if there is a performance audit provided in the charter, it is up to the committee to build a charter to hide fund allocation.

Ned Look said anything that strengthens the credibility of Metro, whether you put language in the charter or how you put it in, is a real plus. It should be require something that says to the public that a tax is going to be used for other purposes. A lot of the Metro bashing is behind us, but there is still a credibility gap. And anything that strengthens Metro's credibility will strengthen the voters' action on approval of the charter.

Hardy Myers said the committee has to be very careful about imposing specific procedural requirements, in respect to accounting, budgeting, whatever. It should be administratively feasible.

Bob Shoemaker said, on the matrix, *1.d. Service and user charges*, current sentiment would vote no on (1) *Limit amount of charge to cost of service for which charge is made*, but would add to *d.* so that it read *Service and user charges with audit identification of enterprise revenues from each such charge.*

Frank Josselson added the words *or budget identification.*



Bob Shoemaker said *audit identification* would be better because it wouldn't be known in the budget. That could be a real constraint.

The vote on *1.d.(1)* was changed. Shoemaker, Myers and Myllenbeck voted no. Egge voted maybe.

Frank Josselson said, with respect to his final point, solid waste funds should not be limited to solid waste activities.

Jon Egge said it wasn't implicit.

Bob Shoemaker asked if there was some reason why solid waste funds should be handled differently from other user charges.

Jon Egge said the subcommittee has talked about an excise tax, which would be the vehicle used to capture some of the value. There has also been talk of some kind of limit on the excise tax. Maybe, however, there shouldn't be a limit on solid waste funds. There would be a different limit on the solid waste excise tax.

Bob Shoemaker asked if that needed to be dealt with in the charter.

Jon Egge said, if there is a rate limit on the excise tax in the charter, it will be needed.

Wes Myllenbeck said the Metro council will be in a better position to determine a rate limit.

Ken Gervais said there was a model to show that if the rate is increased to a certain point the revenue will go down. If the solid waste rate is increased, the amount of tipping will go down and the revenue will decrease. Metro is theoretically close to that limit.

Bob Shoemaker said service and user charges are different from excise taxes. There can be an excise tax on top of a service charge. Service and user charges might generate enterprise revenues in addition to cost of service revenues. That distinction would be noted in the audit. But it would have to be publicized as such on the bill.

Jon Egge said, in terms of the fund use limitation specific to solid waste, identifying the part that is entrepreneurial in nature doesn't satisfy the capture of the potential for solid waste.

Frank Josselson said it doesn't take care of the dedication of all solid waste funds to solid waste uses.

Jon Egge said that Mike McKeever said that the government prefers to keep the dedication for bonding purposes.

Ken Gervais said that is what had to be done to get the bond approval.

Jon Egge said that releasing the dedication may be solved by identification of the enterprise funds. The excise avenue--releasing the rate limitation--may not have to be used to capture some of the benefit. He said then he was still in favor of a rate limitation on the excise tax.

Wes Myllenbeck asked Frank Josselson if that was a position change for him, to apply a user fee to fund general government.

Frank Josselson said no. He said his problem has been with the accounting of it.



Bob Shoemaker said the matrix should be reviewed with Ray Phelps and John Meek in order to allow them to vote.

Ned Look asked when the finance report would be considered by the full committee.

Hardy Myers said it would be either March 5 or March 12. He said the committee should first get through the powers and functions. He suggested that the report should be out to the committee members by March 6.

Bob Shoemaker adjourned the meeting at 11:20 a.m.

Respectfully submitted,

Janet Whitfield  
Committee Administrator

Reviewed by,

Kimi Iboshi  
Committee Clerk

Materials following this page represent  
Attachments to the Public Record

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David C. Knowles

February 21, 1992

The Honorable Bob Shoemaker  
Chair, Finance Subcommittee  
Metro Charter Committee  
2000 SW First Ave.  
Portland, OR 97201

Dear Bob:

I understand your subcommittee is evaluating the scope of revenue raising authority which should be granted to regional government in a home rule charter. Because I have been deeply involved in the effort to identify a funding source for regional convention, sports and performing arts facilities, I thought it might be helpful to convey some of what I have learned in that process.

An advisory committee appointed by the Metro Council recently released its report on the financial future of the region's convention, sports, performing arts and tourist facilities. I was a member of that Committee and chaired its finance subcommittee. The Committee's report contains a number of recommendations about the operations and funding of our regional facilities which you can review in detail if you wish. I want to review just a few of our conclusions because they illustrate the challenges and potential rewards of a regional approach to providing needed services.

1. The region's convention, sports, and performing arts facilities are used by citizens from all parts of the region. Support for proposed new facilities, such as the End of the Oregon Trail project, is also widespread. Though not a part of our study, visitors to the Metro Washington Park Zoo come from throughout the region.

2. Funding for regional facilities must be equitable; that is, to the extent possible it must fairly spread the burden of supporting such facilities among those who benefit. The funding source must also be sufficient to generate the funds required for these facilities.

3. No single jurisdiction can afford the burden of construction and operation of existing or new facilities. The End of the Oregon Trail project, for example, will require the support of all the region's taxpayers, both for capital and short term



operating needs. (The facility pro formas indicate that it may break even after the first years.) The City of Portland provided capital funding for the Performing Arts Center and Civic Stadium, but lacks the capacity to pay for their operation.

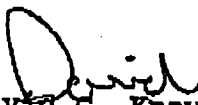
These conclusions support the notion that regional government must be granted broad taxing authority for its authorized activities. For example, if the new charter grants Metro authority to operate and manage regional facilities, then it must have the tools to do so. One of those tools is the ability to utilize public resources to fund such facilities.

Our report recommended that Metro generate the operating funds needed for regional facilities through a regional hotel/motel tax and a regional admissions tax on public and private entertainment facilities. Metro does not have authority to impose such taxes. One can argue that funding our facilities is not a priority, or that the recommended taxes are inappropriate sources of funds. Those are issues that should and will be debated. But such a debate should occur within the framework of a charter which gives government the authority to do the job citizens ask it to perform.

I hope to attend your meeting next Tuesday and would be pleased to discuss these matters with you further.

Very truly yours,

DAVIS WRIGHT TREMAINE

  
David C. Knowles

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