

MINUTES OF THE METRO COUNCIL FINANCE COMMITTEE

August 1, 1994

Council Chamber

Committee Members Present: Rod Monroe (Chair), Richard Devlin (Vice Chair), Roger Buchanan, Jim Gardner, Jon Kvistad, Susan McLain, George Van Bergen

Other Councilors Present: Sandi Hansen

Chair Monroe called the Finance Committee meeting to order at 6.05 p.m.

1. Ordinance No. 94-556A, An Ordinance Relating to Taxation, Establishing a Construction Excise Tax, Reducing the Metro Excise Tax, Reducing Solid Waste Rates, and Refunding Payments to Local Governments

Chair Monroe summarized the reasons the proposed construction excise tax ordinance was before the Committee, noting the Metro Charter had been passed in 1992 which stated Metro's primary responsibility was long range regional planning. He noted the process outlined in the Charter was followed, a Tax Study Committee had been established and, he said, the proposal before the Committee was intended to implement their recommendation and to provide stable funding for Planning. He indicated the proposal would help prevent another budget with higher excise taxes on garbage, the Zoo, and the Convention.

Chair Monroe referenced the August 1, 1994 version of proposed Ordinance No. 94-556A, and referenced a document labeled "corrected" and entitled "Councilor Monroe Amendment No. 1, Non-profit Low Income Housing Exemption," dated August 1, 1994. This document has been made part of the permanent meeting record. Chair Monroe said the amendment would add non-profits back into the exempt status, with no obligation to pay the tax.

Daniel B. Cooper, Legal Counsel, said the amendment would allow for the rebate process within jurisdictions collecting the tax, but that might not deal with any exemptions other than those provided for government entities.

In response to Chair Monroe, Mr. Cooper indicated that in the case where Metro had to collect the tax because no Intergovernmental Agreement (IGA) could be reached, the Executive Officer would be able to provide for an exemption without prepayment in such a case.

Motion to Amend: Councilor Buchanan moved to include language revisions as documented in Councilor Monroe's Amendment # 1 to proposed Ordinance No. 94-556A.

Vote on Motion to Amend: Councilors Buchanan, Devlin, Gardner, Kvistad, McLain, Van Bergen, Washington and Monroe voted aye.

The vote was unanimous and the motion passed.

Chair Monroe referenced a document dated August 1, 1994, entitled "General Counsel Amendment No. 1." This document has been made a part of the permanent meeting record. Mr. Cooper said the language would clarify that a renovation that did not add square footage and did not change one residential occupancy classification such as single family as defined in the Building Code to another residential occupancy classification, such as duplex or multi-family would not be subject to the tax.

In response to Councilor Devlin, Chair Monroe explained the intent of the amendment was to exempt most remodeling, such as the remodeling of an area of an existing home to accommodate a mother-in-law situation. He

said his intent was that a new building added to the property, such as cottage in back for the mother-in-law, would be subject to the tax.

In response to Chair Monroe, Mr. Cooper said the language revisions would provide assurance that residential construction was only taxed once for each square foot constructed. He noted a change of use from one commercial building code occupancy classification to another, a second tax could be paid on the same square footage at half the rate.

Motion to Amend: Councilor Buchanan moved to include language revisions as documented in General Counsel Amendment No. 1 dated August 1, 1994 in the proposed Ordinance No. 94-556A.

Councilor Devlin commented he would support the amendment, but, he added, he did not see the logic in not taxing an addition to a home that would add square footage.

Mr. Cooper explained that additional square footage would be taxed, and said the amendment would provide that if no square footage was added, no tax would be assessed.

Chair Monroe asked for clarification by example: if a garage was turned into a bedroom, there would be no tax; if a wing were added in the back yard, it would be taxed. Mr. Cooper said that was correct according to the revisions. Chair Monroe said that was his intent.

Councilor Van Bergen said the language could be interpreted to include a fourth bedroom being changed to an office, and thus falling into the category of a "major renovation," and he opposed the amendment.

Vote on Motion to Amend: Councilors Buchanan, Devlin, Gardner, McLain, Washington and Monroe voted aye. Councilors Kvistad and Van Bergen voted no.

The motion passed.

Mr. Cooper referenced a document dated August 1, 1994 and entitled "General Counsel Amendment No. 2." This document has been made a part of the permanent meeting record. He said the amendment inserted new figures for the solid waste disposal fees, which had been supplied by the Finance and Management Information Department as the breakdown to move from the current figures adding up to \$75 to a new rate of \$73.

Motion to Amend: Councilor Gardner moved to recommend General Counsel Amendment No. 2 containing solid waste disposal fees.

Councilor Gardner noted the figures represented in the document did not match mathematically.

Craig Prosser, Financial Planning Manager, noted there was a typographical error on page 2 of the document and said the Total Rate listed should have been \$71.45, not \$73.45.

Mr. Cooper said there was a typographical error of page 1 of the document, and said the figure \$37.60 should read \$37.70.

Councilor Van Bergen asked for evidence justifying the changes in the numbers.

Councilor Devlin asked for justification for each of the user fees relative to the actual costs of the agency.

Mr. Prosser said the information contained in the amendment had been provided by the Solid Waste Department.

Chair Monroe said the Solid Waste Committee had heard the matter and had seen justification for the reduction of the tipping fee by the first \$1, from \$75 to \$74, and he said the justification for the reduction of the second \$1, from \$74 to \$73, was the reduction of the excise tax from 7.5% to 6%.

Councilor Van Bergen did not believe justification for the reduction should be based on action, but rather, he said, should be based on cost allocation according to solid waste needs.

Councilor McLain commented on the reduction noting the matter was discussed in Committee over a six month period.

Chair Monroe said to go below a \$73 rate would cause erosion of reserves.

Councilor Van Bergen asked that a report from the Solid Waste Committee demonstrating the justification be made available.

Councilor Gardner commented regarding the rate review process, and said that \$1 of the reduction was justified by virtue of savings in the solid waste system resulting from amendments to the Oregon Waste Systems disposal contract as well as from a change in computation of the federal excise tax on fuel. He said the second \$1 reduction in the rate was directly attributable to the reduction from 7.5% to 6% in the Metro excise tax. He noted complex analysis setting the rate at \$75 was valid and would be revisited again the next year.

Councilor Devlin noted the Oregon Waste Systems contract was in what he termed was a state of limbo, and commented he did not feel a full representation of the facts and the choices had been made to the Finance Committee.

Vote on General Counsel

Amendment No. 2 as Amended:

Councilors Buchanan, Gardner, McLain, Washington and Monroe voted aye. Councilors Kvistad and Van Bergen voted no.

The motion passed.

Councilor Devlin said he had several amendments to present to the Committee, but, he commented, because of the action just taken to reduce the solid waste disposal fee, some of those amendments would not likely pass as they would take revenue away from the basic package.

Councilor Devlin referenced a document dated August 1, 1994 entitled Councilor Devlin Amendment #1. This document has been made a part of the permanent meeting record. He explained the amendment would have the effect of eliminating the construction excise tax from all residential construction, and said the impact would result in an approximate loss of more than \$1.5 million. He said he believed the tax was narrower than what the Tax Study Committee had in mind because it would tax so few families.

In response to Chair Monroe, Councilor Devlin believed if the construction excise tax were on Commercial Construction only, it would end up being passed on to a larger portion of the general public.

Chair Monroe did not agree with Councilor Devlin's assumptions.

Councilor Devlin said he had not received a response from the Chair as to why it was logical to tax one out of one thousand residents for regional planning.

In response to Chair Monroe, Mr. Prosser if the target of \$2.5 million were to be raised from the non-residential sector only, the square footage rate would be about \$.23 per square foot assuming the Metro excise tax rate was dropped from 7.5% to 6%.

Councilor Devlin commented his amendment was also based on an assumption that the Metro excise tax rate would not be reduced fully to 6%, which he noted had just been voted on.

Councilor Hansen commented that over a 50 year period the construction excise tax, based on 3 persons per unit, would comprise a base of close to 100,000 people, and she felt new housing created need for long term planning and thus it was reasonable to attribute cost of that planning accordingly.

The Committee and Staff discussed the rationale for the figures used in Devlin Amendment No. 1. Councilor Gardner pointed out that without the amendment half of the revenue collected region wide would be commercial and industrial, which he said would be shared by regional residents as the cost of doing business.

Councilor McLain said she would not support the amendment as it narrowed the tax scope.

Councilor Van Bergen commented the amendment would constitute a deterrent to commercial construction, which he felt would in turn serve to limit jobs.

Motion to Amend: Councilor Devlin moved Councilor Devlin Amendment No. 1 dated August 1, 1994.

Vote on Motion To Amend: Councilors Devlin and Van Bergen voted aye. Councilors Buchanan, Gardner, Kvistad, McLain, Washington and Monroe voted no.

The motion failed.

Councilor Devlin referenced a document dated August 1, 1994 entitled Councilor Devlin Amendment #2. This document has been made a part of the permanent meeting record. He said the decision to reduce the tipping fee made it also impossible to pass Amendment #2. He explained Amendment #2 would have created, according to Staff, revenue of about \$361,000 from single family units, about \$296,000 from multi-family units, and, with an increase in Commercial and Industrial from \$.12 to \$.14 per square foot, another \$560,000 from Commercial and \$1.2 million from Other. He said a reduction in the excise tax from 7.5% to 6.75%, which he said would retained about \$613,000 in additional excise tax revenue, for a total package of \$3,042,000, which he said was about \$5,000 less than the package on the table.

In response to Chair Monroe, Councilor Devlin noted under existing provisions a home for under \$100,000 would be exempt from the tax. He added the majority of homes built in the region were from anywhere between \$150,000 and \$225,000 would all be taxed at the same rate.

Chair Monroe asked if Councilor Devlin considered his proposal a regressive tax. Councilor Devlin said he considered the construction excise tax proposal in general to be unfair.

Motion to Amend: Councilor Devlin moved Councilor Devlin Amendment No. 2 dated August 1, 1994.

Vote on Motion to Amend: Councilor Devlin voted yes. Councilors Buchanan, Gardner, Kvistad, McLain, Washington, Van Bergen and Monroe voted no.

The motion failed.

Councilor Devlin indicated he would not bring forward his amendments #3 and #4. These documents have been made part of the permanent meeting record.

Councilor Devlin referenced a document dated August 1, 1994 entitled Councilor Devlin Amendment No. 5. This document has been made a part of the permanent meeting record. Councilor Devlin explained the proposed amendment would provide a sunset clause for the construction excise tax.

Motion to Amend: Councilor Devlin moved to recommend Councilor Devlin's Amendment No. 5.

The Committee discussed the proposed amendment.

Councilor Gardner said he believed that the time of adoption of the Regional Framework Plan would be an appropriate time for Metro to seek a broad base tax to implement that plan, although, he said he hoped that before that time a broader based source of funding could be found for regional planning programs.

Councilor McLain asked that a friendly amendment be included in Councilor Devlin's motion to amend to change the time of the sunset to January 1, 1999 or 2000.

Chair Monroe noted any sunset should coincide with the end of a fiscal year, and commented that the chair of the Metro Policy Advisory Committee supported this tax. He said he would seek an opportunity to have discussion with Mayor McRoberts before the matter came before the full Council.

The Committee discussed the matter further.

Councilor Devlin asked that a friendly amendment to his motion be included to change the date to July 1, 1999.

Motion to Amend Councilor Devlin's Amendment No. 5:

Councilor McLain moved to change the date in Councilor Devlin's Amendment 5 to July 1, 2000.

Councilor Kvistad indicated he would support any amendment on a sunset, the closer to today's date the better.

Vote on Motion to Amend Councilor Devlin's Amendment No. 5:

Councilors Buchanan, Gardner, McLain and Monroe voted aye. Councilor Devlin, Kvistad, Washington and Van Bergen voted no.

The motion failed.

Vote on Main Motion to Amend:

Councilors Devlin, McLain, Kvistad and Van Bergen voted aye. Councilors Buchanan, Gardner, Washington and Monroe voted no.

The motion failed.

Councilor Devlin indicated he had an additional Amendment No. 6 that he would present at the full Council to limit what portion of the existing excise tax could be used for central government functions.

Chair Monroe opened a public hearing.

Estl Harlan, Tri County Council, addressed the Committee and indicated it was her understanding that savings currently existed to justify the \$1 per ton reduction, and said her understanding was that another dollar was possible depending on the outcome with the Oregon Waste Systems contract. She said the haulers would support a sunset on this tax.

John Gronewold, Chief Executive Officer, Portland Board of Realtors, testified in opposition to the tax and said it was not a stable resource for funding. He did not agree with the government exemption from the tax, and said the tax would not be a benefit to affordable housing possibilities.

Roy Walling, Financial and Information Services Director, City of Gresham, advocated for full cost of recovery for local governments for reimbursement for collection costs.

John Rumpakis, Realtor, testified before the Committee and expressed the viewpoint that if a Greenspaces measure could be presented to the voters, a measure proposing a new tax could be presented to the voters as well.

Chair Monroe closed the public hearing.

Councilor Gardner asked if he moved to recommend Ordinance No. 94-556 A as amended to the full Council and that motion failed, would a second motion be necessary.

Chair Monroe indicated a second motion would be in order.

Main Motion as Amended: Councilor Gardner moved to recommend Ordinance No. 94-556A as amended to the full Council for adoption.

Vote on Main Motion as Amended: Councilors Buchanan, Gardner, McLain and Monroe voted aye. Councilors Devlin, Kvistad, Washington and Van Bergen voted no.

The motion failed.

Main Motion as Amended: Councilor Gardner moved to send Ordinance No. 94-556B to the full Council without Committee recommendation.

Chair Monroe noted he was hopeful that the vote to be cast would enable this matter to be sent to the full Council, however, he indicated it was his intent that the proposed construction excise tax come before the full Council.

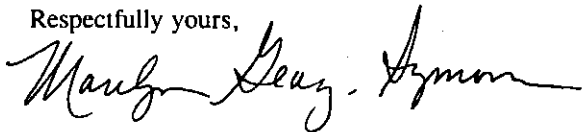
Vote on Main Motion as Amended: Councilors Buchanan, Gardner, McLain and Monroe voted aye. Councilors Devlin, Kvistad, Washington and Van Bergen voted no.

The motion failed.

Councilor Devlin requested an analysis demonstrating how much revenue would be generated under the current configuration of the ordinance for calendar years 1992, 1993 and the first six months of 1994. He asked that such an analysis be made available at such time as the matter would be next heard.

Chair Monroe adjourned the meeting at 8:01 p.m.

Respectfully yours,



Marilyn Geary-Symons
Committee Recorder