

MINUTES OF THE GOVERNMENTAL AFFAIRS COMMITTEE
OF THE METROPOLITAN SERVICE DISTRICT

Council Chamber
July 2, 1992

Committee Members Present: Tanya Collier (Chair), Richard Devlin (Vice Chair), Edward Gronke

Committee Members Absent: Lawrence Bauer, Judy Wyers

Other Councilors Present: Sandi Hansen, Ruth McFarland, George Van Bergen, Ed Washington

Chair Collier called the regular meeting to order at 4:05 p.m.

1. Consideration of Ordinance No. 92-466, For the Purpose of Repealing Metro Code Sections 2.04.100-.180, and For the Purpose of Enacting New Provisions Establishing and Governing Metro's Contracting Procedures for Minority, Women, and Disadvantaged Business Enterprises

Casey Short, Council Analyst, presented the staff report. He gave a history of the development of the Ordinance. He said a task force was developed in 1990 to consider revisions to the Code as it related to contracting. He said an early draft Ordinance was not recommended to Council. He said in March of 1992 Council Staff was asked to assume responsibility for the project. He described the composition of the task force and the process used to develop the Ordinance.

Mr. Short said during the budget process it was noted the proposed Code amendments would require additional funding. He said it was recognized up to \$50,000 in the Support Services Fund contingency might be needed to implement the program.

Mr. Short said the Committee decided to eliminate the Emerging Small Business Enterprises from the program and to have Metro assume more of the good faith efforts.

Mr. Short said the Ordinance created three new sections to the Code: Minority Business Enterprise (MBE); Women Business Enterprise (WBE); and Disadvantaged Business Enterprise (DBE). He said the program was focussed on good faith efforts and described that portion of the Ordinance.

Mr. Short noted four letters were received as testimony to the Ordinance, copies of which are included in the record of this meeting.

Dan Cooper, General Counsel, gave a summary of the court actions leading to the need for revising the Code as it relates to contracting.

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Neil Saling, Regional Facilities Director, discussed areas that needed additional work. He summarized a handout, a copy of which is included in the record of this meeting.

Chair Collier opened the meeting for public testimony.

Kathy Thomas, Thomas/Wright, Inc., appeared to testify. Ms. Thomas spoke to her concerns about Personal Services Contracts and Section 2.04.250(c). She said the section requires prime contractors to use good faith efforts when entering into contracts with sub-contractors. She said this discourages prime contracting by MBE/WBE firms. She said typically MBE/WBE firms are small and therefore would be more likely to subcontract while large firms can do all work in-house no sub-contracting would be required. She said a MBE/WBE contracting as a prime contractor should not have to sub-contract to another MBE/WBE. She said that the prime should also be required to do a specific portion of the work.

Chair Collier asked Ms. Thomas to draft language to address her concerns. Ms. Thomas said she would forward proposed language to Council staff for consideration by the task force.

Henry Pelfrey, 20905 N.E. Sandy Boulevard, Portland, appeared to testify. He said the proposed program was based on good faith. He encouraged Metro to participate in a predicate/disparity study. He said good faith does not work. He said minority contractors should be listed at bid time to reduce bid shopping. He said the liaison officer should verify proof of participation by MBE/WBE firms. He said the program was the best available, but it had no teeth.

Clifford Freeman, 155 Cottage St. N.E., Salem, appeared to testify. He said Section 2.04.135(m) allows the liaison officer to waive requirements if no MBE/WBE firms are on the list. He said any waivers by the liaison officer should be required to be in writing. He said Section 2.04.155 allows the liaison officer to waive minor irregularities. He said these waivers should also be in writing. He said on page 13, section e, requires a certifying statement from the contractor. He said this sometime creates a hostile work environment. He said the plan does not include Emerging Small Business. He referred to a letter from Dan Cooper dated July 2, 1992 and stated he disagreed with item number one. He said the memo also stated the term "negotiate" should be replaced with "capable". He said negotiate is a defined term and should remain, noting it did not relate to Oregon Revised Statute (ORS) 279. He said "capable" requires that the contractor was certified and can provide two references. He said this was not a difficult requirement and should remain. He said an economically feasible unit should remain. Finally, he said listing interested parties was working well and should continue.

Chair Collier asked Mr. Freeman to put his proposed changes in writing. Mr. Freeman agreed to Chair Collier's request. Chair Collier thanked the task force participants.

Chair Collier closed the public hearing.

The Committee instructed Council staff to reconvene the task force to address the issues raised by public testimony prior to recommendation of the Ordinance to the full Council for consideration.

2. Consideration of Resolution No. 92-1650, For the Purpose of Submitting to the Voters the Question of whether Legislation should be Adopted to Authorize the Voters the Question of whether Legislation should be Adopted to Authorize the Voters to Abolish Multnomah, Washington and Clackamas Counties, the Metropolitan Service District, and Tri-Met, and Create a Single Consolidated Government

Rena Cusma, Executive Officer read the title of the Resolution. She said the Resolution would reduce the budget by ten percent. She said the new body would be nine full-time elected Councilors and one Executive Officer. She said it was an advisory vote that would drive a legislative agenda, asking the Legislature to create the government and refer it to the affected voters for consideration. She noted the courts would remain separate. She said the issue would be "hotly debated." She said the issue has existed for several decades already. She said it was time for the voters to decide if the issue should be addressed. She said Ballot Measure 5 has put the State government in disarray. She said tax restructuring would occur. She said the voters have expressed a desire for less government, reduced expenses, and a government more accountable to them. She said the five governments have a combined budget of over one billion dollars and over 8,000 employees.

Chair Collier opened the meeting for public testimony.

Marilyn Wall of Milwaukie, appeared to testify representing both as a private citizen and as Vice President of Governmental Affairs of North Clackamas County Chamber of Commerce. A transcript of her testimony is included in the record of this meeting.

Diane Quick of Happy Valley, appeared to testify. She expressed strong opposition to the resolution. She said she was hopeful that the Charter would pass. She said the resolution was an insult to the Charter Committee members, the counties, and the cities.

Gussie McRobert, Mayor of Gresham, appeared to testify. She said she was supportive of the concept of a consolidated county government. She said the existing county boundaries did not make

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sense and were outdated. In response to a question about interpretation of the vote, Executive Officer Cusma responded by stating if the vote passed by majority of the District's citizens the State Legislature would then be driven to draft the government. Chair Collier stated a second vote would be required to approve the government proposed by the Legislature. Councilor Devlin noted that the Legislature could also choose, based on their interpretation of the vote, not to act on the measure. Mayor McRobert expressed concerns that the Governor's Task Force and the Metro Charter Committee work might be affected by the measure.

Frank Josselson a Portland attorney, appeared to testify. He represented himself as a member of the Metro Charter Committee. He read a statement made by Metro Charter Committee member Mary Tobias, a copy of which is included in the record of this meeting. He expressed strong opposition to the resolution. He questioned the reason the resolution was introduced. He said it was announced because of the work the Charter Committee was doing was not favored by Executive Officer Cusma.

Larry Derr of Portland, appeared to testify. He represented himself as a member of the Metro Charter Committee. A transcript of his testimony is included in the record of this meeting.

Judie Hammerstad, Clackamas County Commission Chair, appeared to testify. She said she was not opposed to the resolution but she said she was concerned about the resolution. She expressed concerns about the effects of the resolution on existing programs. She said she received many calls from citizens who opposed the resolution. She said affected agencies should have been consulted. She noted 91,000 people in Clackamas County live outside the Metro boundaries. She said Clackamas County would have to respond to those citizens by placing their own measure on the ballot. She questioned the definition of the ten percent reduction in expenditures. She noted Multnomah County would benefit, but Clackamas and Washington Counties would not. She said she had concerns about the work of the Governor's Task Force as it would relate to the ballot measure.

Ed Lindquist, Clackamas County Commissioner, appeared to testify. He suggested the issue should be approached through a cooperative effort. He questioned the timing of the resolution. He said the resolution would confuse people and a result would be further loss of faith in government. He said the resolution was incomplete as it did not include consideration of services provided in rural areas.

Darlene Hooley, Clackamas County Commissioner, appeared to testify. She said she had concerns about the process used and the lack of coordination with local jurisdictions. She said the issue of the

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definition of the ten percent savings in expenditures needed to be resolved. She noted the types of services provided by each jurisdiction differed and needed to be carefully examined.

Robert Liddell, Mayor of West Linn, appeared to testify. He commented on his observations of the Mayor of a small city. He noted residents of his city were pleased with their city operations. He discussed West Linn's successful cooperation with other jurisdictions. He discussed Portland General Electric's (PGE) down-sizing. He said PGE's results did not produce economic gain. He favored a cooperative approach to achieving more effective government. He said local government was effective. He said new government was necessary, but not in a monolithic form. He said the Charter should complete their work prior to any other type of consideration.

Dan Fowler, Oregon City Mayor, appeared to testify. He questioned the process used for announcement of the hearing. He said larger government was not necessarily better government. He said the wording in the resolution was not clear. He felt people would interpret it as an automatic savings. He did not support the resolution.

Jerry Krummel, Mayor of Wilsonville, appeared to testify. He said he felt the Council and Executive Officer Cusma were, "running scared from the Charter Committee." He said a need for regional government existed. He said some of Metro's programs add to the quality of life in the region. He said Metro did not contact local jurisdictions to discuss the matter. He did not recommend action on the resolution.

Gary Hansen, Multnomah County Commissioner, appeared to testify. He spoke to the issue of local control. He discussed accountability of jurisdictions to their constituency. He said elected officials were responsible to their constituency. He noted the proposal will return power back to the people of the region. He supported the resolution and recommended the Committee proceed with action on the resolution.

James Nicolai, Tigard, OR, appeared to testify. He said he did not favor the resolution. He noted he had been following the Metro Charter Committee work. He said the proposal was an embarrassment to the Metro Charter Committee members. He noted that some issues were better addressed at a regional level while others were better dealt with locally. He said if the Metro Charter did not pass then the matter should be examined again.

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With no further business before the Committee, Chair Collier adjourned the meeting at 6:50 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Susan Lee". The signature is written in black ink and is positioned above the printed name and title.

Susan Lee
Committee Clerk

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Governmental Affairs Committee
July 2, 1992

Testimony Transcript

Marilyn Wall
500 NE Multnomah Ste 700
Portland, OR 97232

Good afternoon, my name is Marilyn Wall. I live at 3385 SE Aldercrest Road in Milwaukie, Oregon. I am here in an individual capacity and as Vice President of Governmental Affairs of the North Clackamas County Chamber of Commerce. I have submitted to the clerk, who I believe has distributed to you, the written testimony of Robert D. Carnahan, who is Section Fire Chief of Clackamas County Fire District No. 1, as well as President of the Chamber.

Mr. Carnahan has authorized me to speak on behalf of the Chamber here today. The Chamber's position would be essentially that yes, this is an important issue. This is an issue that merits study and determination by the regional government in partnership with the local governments that are affected. Yes, this is an issue that should be voted on. It should be voted on by the electors of not only the region, but all of the affected areas. In our county the area that Metro serves is not co-terminus with the boundaries of the county. Tri-Met and Metro and the County are not the same. There are many different constituencies therefore, that are, or would be affected by this ordinance. The way that this ordinance is proposed, you will not know if people are voting, no they don't want any more Metro, no they don't want anymore Clackamas County, or no they don't want anymore Tri-Met. In that way alone, it is defective if your intent is to give them an option to determine that. This is not the appropriate ordinance to submit to the people on this issue.

We would recommend that this government which has planning authority and which we pay dollars to you for planning services either do one of the following or a combination of them:

You engage a task force which will do a study of it and come up with a real plan that gives us as voters the options, the dates, the costs, and what will actually come out of it. It is well intentioned, but do not throw something that is well intentioned but meaningless at the public at this time. The regional government needs to foster its responsibility, not abrogate by throwing things of this nature to the voters. Second of all, when we were looking to put a regional parks district in our county, the process that was followed proved to be beneficial and it ultimately allowed passage of that type of special district, which if any of you are familiar with Clackamas County will know passing a special district could be somewhat difficult. What they did was they first of all, talked to the people, the people who were going to be affected by this. The people who were going to pay. They called people, they said, "do you want a parks district," not, "do you

want a park or parks district," because such a simple question cannot be answered correctly. They had a list of questions and they went through it with the electors. They said, "if you want one, what are you willing to pay for it, how do you want it structured, what features do you want? If you don't want one, why don't you want one and what can we do to make you want one?" They took that information, they accumulated it and they presented a ballot measure that passed. They got tax dollars for it which in itself is incredible. So, I think you have to look at using the proper method of doing this.

Don't be put-off by the Ballot Measure 5 argument. Constitutional amendment 11-11 is not about necessarily limiting government spending. What the people said is they don't want their property taxes paying for education and they don't want inefficiencies in government. This proposal will not deal with the inefficiencies of government and it will not encourage confidence in the regional government. The regional government needs to have efficiency, professionalism, and proficiency in dealing with these problems. To throw a measure that is this abbreviated at the voters is not as responsible as regional government can be with the planning abilities that it has.

To just simply say we are going to reduce expenditures 10%, what is that? We are going to reduce services 10% because those are expenditures? Are we going to reduce overhead 10% and for how long are we going to do that? That is what the flaw is in putting a question out of this nature.

I would ask that this subcommittee consider appointing a task force or doing some other studies in order to put before the voters an appropriate measure relative to this. The time is now, the Executive is correct, the time for reconsideration of consolidation of governments is here, but this is not the mechanism for doing it.

Questions followed.

Larry Derr
2300 US Bancorp Tower
Portland, Oregon

My name is Larry Derr. I also have been serving on the Charter Committee. The relevance of that to my remarks is the things that I have heard and some thoughts that I have formed during that year's process that I want to share with you.

I want to, well let me make it clear at the outset, I am here to urge you to leave this proposal where it belongs on the table in your committee and not out to the Council, let alone put it on the ballot. The proposal that you have before you, if you feel that it is a real proposal then you're naive. I don't think the reasons for that can be stated any more clearly than they were by Ms. Wall, your first speaker. I had no idea what she was here to say or what she was going to say but I found myself saying, yes that is

absolutely right. You can not take an issue this large and this complicated and reduce it to the measure that is described in this resolution and expect any kind of a meaningful response. Interestingly, I am perfectly convinced that the response you will get will be a resounding no. And yet, I say that you will not get a meaningful response even knowing that's the response you will get. I think you might find that if you did the homework, did come up with a proposal that told people what they were going to get if they said yes, that you might get a different answer. But you are not going to get it from this kind of a measure.

So what are the options that I see before you? To take the label of being naive if you choose to put this out to a vote, thinking that it's going to tell you anything or tell the legislature anything. Or if you're not naive then there has got to be an ulterior motive. You have heard what that ulterior motive might be. I share a concern that might be the case as well. I'm not prejudging because it's not this committee that has brought the proposal forward. You have the opportunity to decide what to do with it. But I will judge based upon what you do with this proposal.

Finally, I want to share with you the tenor of the testimony that we have heard about the role of Metro in the region and its role in the future. It covers the spectrum, there's no question about that. We have heard people who are supportive of the present role of Metro. We have heard a few, Don Clark was one of them, who sees a need for an expanded regional government in place of the counties and perhaps some of the other regional governments within the region. I'd have to say that that testimony was definitely not in the majority. We've heard a lot of testimony from people who have said, coming from a variety of directions, and a variety of backgrounds, "we don't want anymore government, get rid of Metro for us please and we will be quite happy with the result that you come out with with this Charter operation." The Charter Committee has not come up with that kind of proposal and I'm not going to debate that with you although I guess some of you don't share that view.

I want to impress upon you if you haven't been talking to people, not necessarily from Portland and Multnomah County, but from Washington and Clackamas County and particularly from a bit outside of the urban areas of those counties, that not only are they totally opposed to this kind of an idea, but they are emotionally committed, vigorously committed to it. Some of those people are ones, and we heard from a few of them, had a major role in Ballot Measure 5. They are the kind of people who have the time and the energy and the conviction to get out and do something about it at the ballot box. Frankly, what I would expect to see happen if this came out of that Committee is that those kind of people would be going to their County Commissioners. They would be saying, "now wait a minute, this is a vote that is only for those people within Metro's Districts and yet a substantial number of the voters within Washington and Clackamas Counties would be disenfranchised by this

advisory measure because they would not have a chance to vote for it." So they would say to those commissioners, "we've got to have a chance, put something on the ballot from the county," which the counties have the authority to do, and in a general election as I understand it, it isn't all that expensive. Frankly, I suspect that the measure they would like to see on the ballot would be. "Do you agree that Metro should be abolished?" Whatever the measure is, it is going to be one that is probably going to get the same kind of a negative result because it is going to be a gut reaction type of an issue, one that doesn't involve any substance.

For all of those reasons again, I would urge you, this is not the way to go about this issue.

Questions followed.